

Minutes of the Work Session held March 7, 2011 at 6:02 p.m. in the Council Chambers.

**MEMBERS PRESENT**

Mayor Rogers and Council Members

Jim McDonald, Vice Mayor

Jim Buster

Stephanie Karlin

Frank Scott

Charles Vierhout

Ken Weise

**ALSO PRESENT**

Charlie McClendon, City Manager

David Fitzhugh, Assistant City Manager

Rogene Hill, Assistant City Manager

Gina Montes, Neighborhood and Family Services Department Director

Shirley Gunther, Intergovernmental Affairs Manager

Andrew McGuire, City Attorney

Carmen Martinez, City Clerk

**1) ROLL CALL BY THE CITY CLERK**

**2) PROPOSED CONSOLIDATION OF SOCIAL SERVICES ADVISORY BOARD AND THE NEIGHBORHOOD AND FAMILY SERVICES COMMISSION**

Staff requests feedback from City Council on the proposed consolidation of the Social Services Advisory Board and the Neighborhood and Family Services Commission .

Ms. Montes acknowledged that both the Social Services Advisory Board and the Neighborhood and Family Services Commission have evolved since their inception. The Commission was established in 2006 with the creation of the department. Their role is to advise on all department activities, including community development block grants, housing and redevelopment efforts, youth development programs, block watch and crime prevention programs, and social services. The commission has 11 members and two alternates.

The Social Services Advisory Board was created in the 1990's as a community action program advisory board; their responsibilities were expanded in 2003. The board is comprised of representatives from social service agencies and members of the community interested in volunteering. They have participated in events such as the Health Resource Fair and Make a Difference Day. Since the Resource Center has become the focal point for many of these types of activities and the Youth Commission has become more involved in events, the board's role has evolved into a more advisory one. Currently the board has seven members and eight vacancies.

Ms. Montes said it has become evident that more overlap exists between the two bodies and they both receive information on social services. Staff recommends that the advisory board be dissolved and that those members be appointed as alternates to the Neighborhood and Family Services Commission during the transition period. They would eventually be absorbed into the Commission.

She explained that staff obtained feedback from both bodies. The advisory board felt that their community emphasis and public outreach was important. They were disappointed by the news, but did not express a tremendous amount of opposition to the proposal. They encourage the City to continue reaching out to the Community and involve them in volunteer events. The commission was not opposed to the proposal and suggested that ad hoc committees could be created, as needed, to deal with task-oriented events. The commission also felt that the Avondale residency requirement for membership should continue, noting that the advisory board allows non-residents as members. The commission also suggested appointing board members in some way, rather than asking them to go through the application process again.

Vice Mayor McDonald proposed appointing all the advisory board members as voting members of the commission rather than asking them to serve as alternates. Eventually the commission will shrink to its normal size through attrition. He felt that volunteers who are willing to serve on these bodies should do so in full capacity. Ms. Montes noted concerns about the increased quorum requirements. Mr. McGuire noted that large quorums have presented problems in the past. He suggested that the advisory board operate as a subcommittee of the commission during the transition period. Ms. Montes noted that two commission vacancies are anticipated in the near future, one member and one alternate. That would absorb two of the seven Board Members into the commission.

Vice Mayor McDonald queried the determining factor in deciding the size of quorums. Mr. McGuire explained that the problem with minority quorums is that a small group of members could pass something that the majority of the body disagrees with. Mayor Rogers opined that ad hoc committees would be an acceptable solution until numbers are reduced through attrition. Mr. McGuire noted that three commission members will term out at the end of the calendar year. Regarding further concerns regarding meeting quorum, Mr. McGuire indicated that members who are unable to attend a meeting may participate by phone.

Council Member Karlin commented that consolidation of the two bodies would reduce paperwork and staff time. In response to a question from Council Member Karlin, Ms. Montes responded that the bylaws would have to be modified and approved by the City Council. Council Member Karlin suggested that the revision of the bylaws be suspended until the end of the year. Ms. Montes commented that staff can pursue that option if that is Council's will, however in her opinion it was better to dissolve the board at this time if that is the final goal. Council Member Karlin noted that there would be three fewer individuals at that time who would be displaced, however, assigning members to ad hoc groups would be acceptable. In response to a question from Council Member Karlin, Ms. Montes reiterated that both groups have been consulted and understood and agreed to the consolidation of the two groups.

Mayor Rogers asked whether the Neighborhood and Family Services Commission would qualify under the criteria set by Maricopa County for community action programs (CAP). Ms. Montes confirmed that they would. Their bylaws would have to be updated to charge them with reviewing CAPs and outreach efforts, as required by the County.

Council Member Scott agreed that Council should show respect for the people who have volunteered to serve by granting them full membership. Attrition and time will eventually solve the problem. Council Member Weise concurred.

In response to an inquiry from Council Member Vierhout, Ms. Montes said Member Gaspar is one overlapping member who is terming out. Member Carlone is not only terming out, but also relocating. Staff could make an extra effort to obtain a large quorum of the members to attend the meetings. Council Member Vierhout advocated either extending full voting rights to the absorbed members or delaying the merger until the end of the year.

Mr. McClendon said staff would prepare a plan to merge the two groups and let attrition reduce it to normal size.

**3) MARCH 2011 LEGISLATIVE UPDATE**

An update to Council on federal and state legislative policies being considered that may have an impact on the City of Avondale.

Ms. Gunther reported on the 56th Legislative Session. Over 1,000 bills have been introduced already. Lawmakers are working at a fast pace to push them through in 100 days. If they stick to that pace, they are more than halfway done. Citizens are most concerned with the state budget and jobs. The State of Arizona has more than \$1 billion in deficit. Revenue numbers appear to be improving. The Governor's budget made significant proposed cuts to AHCCCS, the universities, the community colleges, and would borrow money from First Things First. Fortunately, the budget did not propose any reductions in state-shared revenue. The Legislature is meeting behind closed doors to work out their budget. The Chairmen of the Senate and House Appropriations Committees are planning to roll out their own budgets soon. Their cuts could be much deeper than what the Governor's Office has proposed.

The Governor proposed House Bill 2001, which is known as the Arizona Competitive Package, or the jobs bill. Key components of that measure include lowering the corporate tax rate from 6.9% to 4.9% beginning in 2014. The GOBC estimates that the overall tax cuts in the package would total \$500 million. This would be in addition to \$268 million in lost revenue from other tax reductions. The Governor argues that this bigger hole would eventually improve the State's economy because it would draw businesses into the state that would make up for the losses.

Ms. Gunther said Senate Bill 1041, Invest Arizona, also provides tax credits to new businesses that relocate here or employ at least 25 people. H.B. 2001 and S.B. 1041 have already passed. Bill 1159, the multi-media production tax credit, is up for its third read on March 8<sup>th</sup>.

Other bills making their way through the process address regulatory reform and development fees. S.B. 1525 is a very expansive bill that would impose an unprecedented number of changes to development fee statutes. It would limit what impact fees cities could charge, modifies how fees are calculated, and creates new advisory committees in each city. At least 60% of the membership of these new committees would have to consist of representatives from the real estate and homebuilding industries. The bill would set up

extensive offset provisions for other taxes and revenues collected, making it unlikely that any impact fees could be assessed. It would establish a new refund provision, and greatly extend the timeline for adoption of fee schedules. Basically these changes would move cities substantially away from the fundamental principle that new growth must pay for itself.

Mr. McGuire reported on a meeting he attended with the Homebuilders Association, House Representatives, and Senator Pierce in which the cities presented a laundry list of concerns with the bill. The Governor's Office has directed that negotiations take place. He stated that the bill takes back all of the gives cities have made over the last six years. He said homebuilders are lying when they claim that cities have made no meaningful concessions in negotiations. In fact, cities have made massive concessions. For instance, S.B. 1423 from 2009 contains pages of changes that cities made at the request of the homebuilding industry. It is disconcerting that the first attempt at consensus-building in this case came about after the House already approved the bill. Cities are planning to present a list of changes next week that they feel are necessary to make the bill even marginally palpable. This will be a very strong uphill battle, in any case.

Ms. Gunther reported that S.B. 1286 would require mandate approval or denial of permits within 60 days. The language is very vague and does not define what a complete permit is. The industry claims that cities are not working expeditiously to turn permits around in a timely manner. S.B. 1598 is a regulatory reform measure that aims for more uniformity in the way cities and counties process license permits. Cities were not invited into the process until after the bill was drafted, but are working hard to see that the bill is improved.

There are two big bills addressing employee pension plans, S.B. 1609 and H.B. 2726. Both bills would impact the four retirement systems. Contribution rates would be increased for employees, except for ASRS. Cost of living increases would either be frozen or eliminated. The average time that employees would have to work would increase. It is very clear that there will be some type of pension reform. There has been a lot of opposition from the unions on them.

There are about 75 significant public safety bills currently in play. Bill 1201 is the firearms omnibus bill which prohibits local government agencies from adopting laws more restrictive than state laws, would allow people to sue for damages if local ordinances violate the bill's provisions, and would repeal existing statutes prohibiting people from bringing firearms into public buildings or events after being requested to surrender them for storage. Gun-free zones could only be established in public buildings that have scanners and armed guards. Implementation costs are estimated to be anywhere between \$45,000 to \$90,000 per door. Funding the measure presents a big hurdle.

Ms. Gunther advised that Bill 2193 would modify legislation passed last year requiring municipalities to have a contract with anybody they collect water fees from. Realtors requested a change requiring that contracts only be made with people who physically reside at the property. The bill has passed the House, though its sponsor is open to an amendment.

In the U.S. Congress, the House and Senate worked to approve a continuing resolution. They are looking to make significant cuts to the FY2012 budget. Staff recommends that

the Mayor and Council Members support the continuation of the UZA for another two years, and advocate for the transit facility, and preserving the CDBG Program.

Mayor Rogers suggested that cities should begin looking into nullifying state laws the way the state is looking to nullify federal laws.

Council Member Buster inquired about the potential cuts being proposed in the alternatives to the Governor's budget. Ms. Gunther said she heard the possibility that \$150 million could be cut from cities and counties. Council Member Buster noted that Bills 1286 and 1598 were inspired by Maricopa County and problems with air quality permits. The Legislature often responds to problems in one area by applying state law to everyone, but these efforts are mostly aimed at the counties. Council Member Buster inquired about the motion picture tax credit. Ms. Gunther responded that the coalition is very solid this year, and the votes are there to get the bill out of the Senate. Council Member Buster noted that the last week to hear bills is March 21, which leaves little time.

Vice Mayor McDonald said S.B. 1525 is part of a pattern that has developed where businesses expect to grow on the backs of citizens. Cities cannot build neighborhoods without streets and sewers, and schools, etc. and questioned where builders expect this money to come from. Businesses also don't want to take responsibility for their tenants' water bills or false alarms, so they expect taxpayers to pay for them. The cities are paying for these things instead of the people who are profiting from the end result. Ms. Gunther responded that it comes down to politics. The current Legislature has taken a very conservative position and few of them understand what it takes to run a city. It is part of her job to educate them so that when they do make decisions, they have all the information. Vice Mayor McDonald said conservatives in general want a smaller government, but this Legislature is requiring cities to pay for things that businesses should be paying for, which is moving in the opposite direction.

Council Member Weise said these measures are just the beginning and he expects homebuilders and realtors to get involved in other areas as well. He inquired about the cause of the extreme reaction by the state government. Ms. Gunther said it has been a very difficult year for cities. Legislators are intent on reining them in.

Council Member Karlin noted that S.B. 1388 would negate the city's recent ordinance regulating fireworks. Ms. Gunther said the bill might have died already.

Council Member Scott inquired about the chances that the handgun bill would pass. Ms. Gunther responded that it has a great deal of momentum and has already passed out of the Senate. The cities have been opposing it. Ms. Gunther confirmed for Council Member Vierhout that Bill 1201 would apply to any public building.

Mayor Rogers said the Legislators need to understand how cities are run. Their efforts are undermining cities and make mayors and city councils superfluous. She reiterated her belief in local control and growth that pays for itself.

4) ADJOURNMENT

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

Meeting adjourned at 7:00 p.m.

  
\_\_\_\_\_  
Mayor 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 7th day of March 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 March 7, 2011 at 7:08 p.m. in the Council Chambers.

**MEMBERS PRESENT**

Mayor Rogers and Council Members

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

**ALSO PRESENT**

Charlie McClendon, City Manager  
David Fitzhugh, Assistant City Manager  
Rogene Hill, Assistant City Manager  
Ken Galica, Development Services Department  
Lynn Parking, Assistant Police Chief  
Andrew McGuire, 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) UNSCHEDULED PUBLIC APPEARANCES**

There were no requests to speak.

**3) 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 22, 2011
2. Regular Meeting of February 22, 2011

**b. LIQUOR LICENSE SERIES 12 (RESTAURANT) - THERESA'S HACIENDA**

A request from Mr. Johnny Andrew Chayrez for a Series 12 Restaurant License to sell all spirituous liquors at Theresa's Hacienda located at 1109 N Dysart Road in Avondale.

**c. MAP OF DEDICATION - GATEWAY PAVILIONS**

A request to approve the Map of Dedication for Gateway Pavilions, accepting right-of-way for the west side of 99th Avenue north of McDowell Road, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

**d. CHANGE ORDER NO. 1 - CONSTRUCTION CONTRACT WITH CS CONSTRUCTION, INC.**

A request to approve Change Order No. 1 to the Avondale Boulevard and I-10 Traffic Interchange Improvement Construction Contract with CS Construction, Inc., authorize the necessary transfer of funds and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

**e. FIRST AMENDMENT TO THE ECONOMIC DEVELOPMENT AGREEMENT WITH EARNHARDT AVONDALE, INC.**

A request to approve the first amendment to the Economic Development Agreement between the City of Avondale and Earnhardt Avondale, Inc. and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**f. PROFESSIONAL SERVICES AGREEMENT - ABSOLUTE, INC. FOR LAWSON PAYROLL SOFTWARE UPGRADE SERVICES**

A request to award a Professional Services Agreement to Absolute, Inc. to install a major upgrade to the Lawson Payroll System software and limited support services in an amount not to exceed \$92,800 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**g. PROFESSIONAL SERVICES AGREEMENT - ENTELLUS, INC. FOR GPS MAPPING AND VERIFICATION SERVICES**

A request to approve a Professional Services Agreement with Entellus, Inc. to improve the accuracy and update water and sewer assets in the GIS database for an amount not to exceed \$149,399.

**h. PURCHASE AGREEMENT - PSC ENVIRONMENTAL SERVICES, LLC FOR HOUSEHOLD HAZARDOUS WASTE COLLECTION AND DISPOSAL SERVICES**

A request to approve a purchase agreement with PSC Environmental Services, LLC for the collection and disposal of household hazardous waste and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**i. BID AWARD - VISUS, INC. FOR AVONDALE BOULEVARD AND MCDOWELL ROAD INTERSECTION IMPROVEMENTS**

A request to award a bid to Visus, Inc. to provide construction services for the Avondale Boulevard and McDowell Road Intersection Improvements project in the amount of \$561,236.84 and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

**j. RESOLUTION 2958-311 - AMENDMENT TO THE CITY COUNCIL RULES OF PROCEDURE**

A resolution amending the Council Rules of Procedure Section 15 Boards, Commissions and Committees relating to membership.

**k. RESOLUTION 2959-311 - RATIFICATION OF AVONDALE CITIZEN CORPS COUNCIL AND ADOPTION OF BYLAWS**

A resolution ratifying the establishment of the Citizen Corps Council and adopting their bylaws.

**l. RESOLUTION 2960-311 - GOVERNOR'S OFFICE OF HIGHWAY SAFETY GRANT PROGRAM FOR DUI TASKFORCE OVERTIME**

A resolution authorizing the application and acceptance of grant funding in the amount of \$22,000 for the Avondale Police Department's Driving Under the Influence Task Force Overtime through the Governor's Office of Highway Safety and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**m. RESOLUTION 2961-311 - GOVERNOR'S OFFICE OF HIGHWAY SAFETY GRANT PROGRAM FOR RADAR GUNS**

A resolution authorizing the application and acceptance of grant funding from the Governor's Office of Highway Safety for the purpose of purchasing radar guns and training officers in the use of such equipment in the amount of \$10,665 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**n. RESOLUTION 2962-311 - GOVERNOR'S OFFICE OF HIGHWAY SAFETY GRANT PROGRAM FOR FIRE DEPARTMENT RADIOS**

A resolution authorizing the application for and acceptance of grant funding in the amount of \$85,500.00 for the Avondale Fire Department to purchase interoperable radios through the Governor's Office of Highway Safety Program and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**o. RESOLUTION 2963-311 - ARIZONA DEPARTMENT OF TRANSPORTATION 2011 MOBILITY MANAGEMENT GRANT**

A resolution authorizing the submission and acceptance of a grant application to the Arizona Department of Transportation 2011 Elderly Individuals and Individuals with Disabilities Transportation in the amount of \$8,000 for Parks and Recreation Department's Mobility Management Software and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**p. ORDINANCE 1450-311 - ABANDONING A PUBLIC UTILITY EASEMENT AND ACCEPTING THE DEDICATION OF REAL PROPERTY FOR PUBLIC USE**

An ordinance accepting a public utility easement within the former Jefferson Street right-of-way and approving the abandonment of a PUE along the former right-of-way of Jefferson Street on the west side of Eliseo C. Felix Jr. Way, south of Van Buren Street, and authorize the Mayor or City Manager, City Clerk to execute the appropriate documentation.

City Attorney Andrew McGuire informed the Council that for that the Item 3f, the business is in the process of registering with the AZ Corporations under the name of Business Systems Information Consulting, Inc. but the final name to be approved by the AZ Corporation Commission is unknown at this time.

Vice Mayor McDonald moved to approved the consent agenda as presented including Resolutions 2958-311, 2959-311, 2960-311, 2961-311, 2962-311 and 2963-311 and Ordinance 1450-311 and adding flexibility to accommodate the final business name for the vendor in item 3f. Council Member Weise seconded the motion.

**ROLL CALL VOTE AS FOLLOWS:**

Vice Mayor McDonald	Aye
Council Member Scott	Aye
Council Member Vierhout	Aye
Mayor Rogers	Aye
Council Member Weise	Aye

Council Member Karlin                   Aye  
Council Member Buster                 Aye

Motion carried unanimously.

**4) PUBLIC HEARING AND ORDINANCE 1446-311 – ZONING REVERSION FOR PAPAGO COMMERCE CENTER FROM PAD TO AG FOR AN EXPIRED PAD (PL-11-0001)**

A public hearing and an ordinance reverting the Planned Area Development (PAD) zoning of Papago Commerce Center, which expired October 15, 2010, to its previous zoning classification of Agricultural (AG). As an alternative, the City Council may reconsider a one year extension of the time condition for the Papago Commerce Center PAD through October 15, 2011.

Mr. McClendon recalled that this item was initially an action on the February 22<sup>nd</sup> agenda to revert the zoning of the Papago Commerce Center PAD because the request for extension had been denied at a previous meeting. At its February 22<sup>nd</sup> meeting the Council voted to continue this item to tonight's meeting. He introduced Ken Galica to present this item.

Mr. Galica said the property is 11.1 acres at the corner of I-10 and El Mirage Road. The General Plan designation is employment. It was originally rezoned from agricultural to PAD in October of 2007. The PAD expired on October 15, 2010, and on December 6 of 2010, the Council denied the applicants a one-year extension request. On February 22, Council voted 4 to 2 to continue the item to this meeting. The permitted uses in the development plan include professional office, manufacturing distribution, educational, research, medical/dental labs, wholesaling with limited commercial uses. The PAD refers to the zoning ordinance in terms of setting development standards.

There are three areas of non-conformance. The PAD contains its own set of specific building and site design standards that are less thorough than the City Design Manual. The PAD was also approved prior to adoption of the Public Art Ordinance. It also does not refer back to the zoning ordinance for outdoor lighting.

Staff recommends approval of PL-11-0001 reverting the property zoning from PAD to agricultural. If Council reconsiders, the recommendation is to approve the extension through October 15, 2011 with following four stipulations:

1. Unless listed below, all standards, requirements, and stipulations of the Papago Commerce Center PAD approval from October 15, 2007 shall remain in full force and effect.
2. Site and building design shall be in conformance with the City of Avondale Design Manual for Commercial, Industrial, and Multi-Family Residential Development. Where there are conflicts between the PAD's "Design Standards" and the City's Design Manual, the standards contained within the Design Manual shall supersede.
3. Outdoor site lighting shall be in conformance with City of Avondale Zoning Ordinance Section 707, Outdoor Lighting. Where there are conflicts between the PAD's lighting language and Zoning Ordinance Section 707, the language contained within Section 707 shall supersede.

4. Public art shall be provided in accordance with the Avondale Zoning Ordinance Section 11, Public Art.

Council Member Weise inquired about building size limits. Mr. Galica responded that building size is typically limited by the amount of landscaping and parking required. Land not occupied by landscaping and parking could be occupied by one large or a series of smaller buildings. Council Member Weise observed that larger buildings would attract larger users who would benefit from I-10 corridor exposure. Mr. Galica said it is conceivable that a large building could be built there, but he was uncertain of the plans. Council Member Weise said he voted against the extension because he felt some developers treat Avondale like a second class city. After speaking with the representatives, he understands the work they put into the buildings and have marketed the land. They have convinced him to change his mind on an extension, especially if it could attract a large user. Mr. Galica clarified that nothing in the PAD establishes a minimum building size.

Council Member Buster expressed support for a one-year extension. During the economic downturn, Avondale needs to stay competitive. The developers are trying to make the project work and the City should meet them halfway.

Mayor Rogers opened the public hearing.

Mr. Curley, on behalf of the applicant, said the current economy does not support anything getting built on spec. Projects have to be user driven. Virtually all the users considering the corridor are large users. He anticipates that the development could include a 130,000 square-foot building. The marketing effort on the property includes a website and open houses. He indicated that since the developer took over the property, the floors on two of the buildings have been finished, and 13 spec spaces have been built. By providing an extension on the vacant space, users could have the option of coming into an existing space or building a build-to-suit project on the vacant space. iStar has the ability to provide financing which is a benefit in this economy.

Mayor Rogers closed the public hearing.

Vice Mayor McDonald moved to grant the time extension for the Papago Commerce Center Planned Area Development (PAD) for one year from the date of expiration, until October 15, 2011, subject to the staff recommended stipulations; Council Member Karlin seconded the Motion.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried 5-2.

**5) ENHANCED CALL VERIFICATION - UPDATE ON CONVERSATION WITH ALARM REPRESENTATIVES**

Information to Council and direction to staff regarding a request from the Alarm Industry to amend the current City of Avondale Alarm System Ordinance (Chapter 20) dated January 03, 2011.

Mr. McClendon noted that Avondale opted to go with a compromise solution suggested by the alarm industry, employing an enhanced call verification system coupled with the use of a third party vendor to manage the program. Alarm industry representatives have requested the opportunity to provide additional comment and input.

Assistant Police Chief Parkin acknowledged that the ordinance has yet to be implemented and clarified that the program is strictly for burglar alarms, not panic or robbery alarms. Council selected a third party vendor on November 1, 2010. On January 3, 2011, Council adopted the ordinance. The alarm industry had no representatives present at either of these meetings, however they have subsequently indicated that staff failed to incorporate their suggestions into the ordinance adopted by Council. Chief Parkin indicated that staff had indeed incorporated the industry's comments and suggestions into the Ordinance and furthermore, the use of a third party vendor was suggested by the industry. Avondale never received correspondence from the alarm industry suggesting that they had any concerns with the program, even though they knew that the vendor would be responsible for administering the program and charging all fines and fees to the company rather than the user. It was staff's belief that all their concerns and questions had been met.

In light of the fact that the referendum period has already lapsed, staff and the Attorney's Office recommend that no change be made to the current alarm ordinance except to clarify one section.

Assistant Chief Parkin addressed alarm industry concerns for each ordinance section:

1. Alarm companies feel they should not be held responsible for systems that are altered after they are sold. Staff recommends no changes to this section, but suggest that alarm companies add a contract clause stating that nobody is permitted to modify alarm systems other than the company that installed it.
2. Alarm companies argued that they should not be responsible for inactivating alarms that sound for more than 15 minutes, since they are not available 24/7. Staff recommends no changes.
3. The alarm companies said they should not be held responsible if their two attempts to contact customers go unanswered. Staff recommends no changes, because it is reasonable to expect that responsible parties are not always going to be able to respond in 30 minutes.
4. The alarm industry asked that Avondale add a checklist similar to one used by Phoenix. Staff recommends no changes. Staff will work with Legal to develop a form that best meets the needs of the City.
5. The alarm industry was concerned that every location would need to have an alarm business license. Staff recommends no changes because the requirement is only for

- alarms to be registered for the purpose of allowing officers to verify that the person at an alarm site is indeed the homeowner.
6. Staff recommends amending the language of this section to read, "or to test an alarm system when the PD has *not* been given advanced notice."
  7. The alarm industry requested that the third party vendor correspond with the alarm owners as well as the company. Staff recommends no change because the third party vendor is only to deal with the alarm company.
  8. The alarm industry is concerned that an individual who has had a false alarm activation will never get out of the 365 day period. Staff recommends no changes because false alarms are actually tracked from the first alarm activation. The industry also felt that they should not be held responsible for the behavior of their customers. Staff counters that the alarm companies are free to choose whether or not to pass fines along to the customer.
  9. The alarm companies again feel they should not be held accountable for false alarms. Staff recommends no changes to this section.

Assistant Chief Parkin summarized that staff recommends maintaining the current alarm system ordinance as is, other than amending Section 6 to include the word "not."

Assistant Chief Parkin confirmed for Council Member Scott that nothing in the ordinance would prevent alarm companies from discontinuing monitoring in order to avoid fines. She also noted that the PD would still respond to calls about alarms. Enhanced call verification would be used to attempt to verify whether the alarm is false or not.

Vice Mayor McDonald said this is another example of industry groups trying to change the rules so that they can profit on the backs of taxpayers. Landlords don't want to pay for their tenants' delinquent water bills so they expect the citizens to pay for them. Homebuilders don't want to pay impact fees, so they expect citizens to pay for them. Now alarm companies don't want to pay for the costs associated with false alarms so they are asking the taxpayers to spend money sending the police out to check on the very high number of false alarms. This ordinance is the correct way to move forward.

In response to an inquiry from Council Member Weise, Assistant Chief Parkin said normal police dispatch times for injury calls are about one minute. Burglar alarm calls are dispatched in 7 to 10 minutes, unless someone is calling with a direct report of a break-in in progress. In response to a question from Council Member Weise, Chief Parkin indicated she did not recall any incidents within the past seven years where a burglar has been caught in the act.

Council Member Weise noted that in the year before Salt Lake City started a verified alarm response program, they responded 10,200 times to false alarms and caught only five people in the act. The year after they started the program there were only 720 police responses to false alarms, which were called by alarm security, while seven people were caught. A small percentage of residents in Avondale feel the need to have alarm service, yet they are being backed up by citizen tax dollars. Two officers are essentially out of action for up to 20 minutes each time there is a false alarm.

Council Member Vierhout agreed with the staff recommendations.

Council Member Karlin acknowledged that the City has spent much time trying to reach a compromise on this issue. The ordinance is fair and reasonable. The alarm companies are providing a service to customers at a cost, and they have a responsibility to those customers. City Council has responsibility for all citizens, whether they are alarm customers or not.

John Sargent of the Security Industry Alarm Coalition (SIAC), focused his attention on Section 8, which fines alarm companies for false alarms caused by residents and businesses in Avondale. The ordinance charges innocent parties for violations by an entirely different party who controls the security system. If a user's system sends a false alarm, they should be held responsible. Speeding tickets are not given to car dealers, they are given to the person driving the car. Alarm systems work the same way. By not fining the user, the burden is shifted away from those triggering the false alarms and removes the incentive for them to operate their system properly. Third party vendor Cry Wolf collects fines from alarm users in every other city in the Valley. They specialize in billing and collections. He noted that the alarm industry was forced to litigate the City of Fontana for fining companies for false alarms. The judge ruled that it violated substantive due process when fines are imposed for the non-wrongful conduct of an alarm company. Cities often feel that they have to punish alarm companies. Alarm systems deter crime and provide peace of mind.

Council Member Weise recalled that the Fontana lawsuit was filed in 2007 by the Alarm Association because the Chief of Police changed the policy internally without going through the ordinance process required by that city. Avondale has done everything required, including taking public input. He countered that while car dealers certainly would not be expected to pay drivers' speeding tickets, alarm companies are not being expected to get stuck with the final bill. They can pass those fines onto their customers. An industry that makes products that malfunction up to 99% of the time should probably take a closer look into the cause of that problem. The technology is available today to help solve verification issues.

John Jennings of Safeguard Security Services, said his company has 322 customers in Avondale. He warned that it would be difficult to administer this program. Many logistical questions remain. He is inclined to either cancel service for Avondale residents, or raise all rates in the city to pay the fines. Neither will reduce false alarms. The customers have to feel the pain. His company has had productive discussions regarding this issue with other cities and he expressed disappointment that he wasn't involved earlier in the conversation.

Council Member Scott noted that he has an alarm installed and views this service as a business like any other. Companies will have to work out deals with their customers to get them to pay the fines, or they can drop them as customers. There is no secret agenda. The answer is simple. False alarms waste more police time than any other type of call and rarely do they lead to active alarms. City Council owes it to the police and the citizens to eliminate as much busy work as possible.

Council Member Vierhout said companies must take responsibility for making faulty products. Certified installers should ensure that the equipment is working properly. The police officers cannot be expected to assume that role.

Council Member Buster observed that Avondale police should not be responsible for following up on every false alarm and residents should not incur that expense. The advertisements for the alarm companies practically imply that the police work for the companies. They are selling peace of mind and security to homeowners, but are not telling them that more than 95% of calls are false alarms. Whatever the cause of the high rate of false alarms, it should not be the City's problem to pay for. This ordinance should be given a chance to work. The industry did not respond when they were given a chance. Government should not be overly burdensome to businesses, but neither should businesses be overly burdensome to communities.

Mayor Rogers said Avondale has taken the alarm industry's proposals into account.

City Manager indicated that staff will bring back the ordinance to correct the word that was omitted and instruct the vendor to take the necessary to implement the ordinance.

## 6) ADJOURNMENT

### ROLL CALL VOTE AS FOLLOWS:

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

Motion carried unanimously.

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

Meeting adjourned at 8:18 p.m.

  
Mayor 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 7<sup>th</sup> day of March, 2011. I further certify that the meeting was duly called and held and that the quorum was present.

  
\_\_\_\_\_

City Clerk