

Minutes of the Work Session held June 6, 2011 at 6:30 p.m. in the Council Chambers.

MEMBERS PRESENT

Mayor Lopez 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
Kevin Artz, Finance and Budget Director
Andrew McGuire, City Attorney
DeAnn Franklin, Administrative Assistant

- 1) **ROLL CALL BY THE ADMINISTRATIVE ASSISTANT**
- 2) **REVIEW OF DRAFT FUND BALANCE REPORTING POLICY TO COMPLY WITH GASB 54**

Review of the draft City of Avondale's Fund Balance Policy to comply with the implementation of Statement No. 54 of the Governmental Accounting Standards Board (GASB). For information, discussion and direction.

Kevin Artz, Finance and Budget Director, said the fund balance consists of the City's assets minus its liabilities and does not include fixed or capital assets. A fund balance provides a good indication of an organization's health. GASB felt there were some inconsistencies and misunderstanding in the way fund balances were being reported, so they issued Statement No. 54. with the goal of improving the usefulness of the fund balance number. Traditionally, funds have been allocated as either reserved or unreserved. Reserved funds are those not available to be budgeted in the next fiscal year; while unreserved funds are available.

Under GASB 54, there are now five classifications of fund balance: non-spendable, restricted, committed, assigned, and unassigned. Non-spendable assets are those that cannot be easily converted to cash. Restricted fund balance assets are amounts that are externally constrained for a specific purpose, for example the Highway-User Revenue Fund or the gas tax. Committed funds are those that are internally constrained for a specific purpose by the City Council. Assigned fund balances are amounts that are intended to be used for a specific purpose, and can either be handled by City Council or their designee. Everything else falls under unassigned funding.

Mr. Artz explained that GASB 54 also addresses stabilization arrangements. Working capital needs or any type of rainy day funds are used for a specific purpose, and would fall under the committed fund balance. Avondale's current policy is to reserve 20% of estimated revenues for the budget year, which is approximately \$10 million this year. This reserve provides necessary working capital so the City does not have to borrow money to cover payroll or operating expenses. It provides stability during an economic downturn,

and provides the ability to respond to economic opportunities. It also reduces the cost of borrowing.

Staff recommends adopting a fiscal stabilization arrangement at 35% of budgeted General Fund expenditures of the prior fiscal year. Staff also recommends that it be divided into two different tiers: an emergency reserve and a rainy day reserve. Stabilization reserves should only be used if all other opportunities or funds have been exhausted. The first tier of the emergency reserve would put aside 25% to provide for working capital needs. The second part of the emergency reserve should only be used if Avondale experiences a natural disaster or urgent event that jeopardizes public safety, when a state of emergency is declared, and there are no other budget adjustments available to provide services. The rainy day reserve would be set aside to help the City through economic downturns.

Mr. Artz noted that Council would have the ability to change the numbers, the percentage of each fund, or the qualifying events if something changes in the future. Staff recommends that if the funds ever have to be used, that the emergency fund be replaced within two years, and that the rainy day reserve be replaced within five years. The progress of the replenishment shall be reported in the City's Annual Budget and Financial Plan.

Staff requests that the City Council delegate the City Manager with the authority to assign fund balances for specific purposes. Any assignments of fund balance must be reported to Council at their next regular Council meeting, and Council has the authority to remove or change the assignments with a simple majority vote. If the City Council accepts the 35% proposal, they would commit \$16 million of fund balance to the emergency and rainy day fund, leaving a little over \$4.5 million of unassigned fund balance for the next budget year.

Council Member Buster stated that the City has positioned itself very well in comparison to some other cities, and is better off because of it. He inquired about the policies of other cities. Mr. Artz explained that Flagstaff and Tucson implemented GASB 54 early. The GFOA recommends an absolute minimum of two months. The staff proposal sets aside four months.

Vice Mayor McDonald asked whether Avondale spends more money in certain months of the year than others. Mr. Artz clarified that the fund balance represents what is available at the end of the year. He explained that City revenues are fairly consistent from month to month. Vice Mayor McDonald said it would take a significant emergency to dip into the fund. Mr. Artz agreed, adding that the specific items listed in the committed fund balance are those that should not occur frequently or routinely. Vice Chair McDonald inquired whether the City would have the ability to obtain a line of credit in the event of an emergency. Mr. Artz said the City currently does not have such a line of credit established, but could line something up quickly if necessary.

Council Member Vierhout queried whether the fund would generate money as it sits in the bank. Mr. Artz responded that the majority of the fund balance would be invested in U.S. government obligations, which currently return 2%. The money from that interest goes into the General Fund and is available for appropriation.

3) 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 6:51 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 6th day of June 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 June 6, 2011 at 7:00 p.m. in the Council Chambers.

MEMBERS PRESENT

Mayor Lopez 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
Paul Adams, Fire Chief
Shirley Gunther, Intergovernmental Affairs Manager
Cherlene Penilla, Director of Human Resources
Andrew McGuire, City Attorney
DeAnn Franklin, Administrative Assistant

1) ROLL CALL AND STATEMENT OF PARTICIPATION BY THE CITY CLERK

DeAnn Franklin, Administrative Assistant, read a statement of participation regarding public appearances.

2) RECOGNITION ITEMS (MAYOR PRESENTATIONS)

- a. **Resolution 2977-611 - In recognition of Don Foley on occasion of his retirement**
- b. **Resolution 2978-611 - In recognition of Leo Gardunio on occasion of his retirement**

Fire Chief Adams stated that Leo Gardunio was with the Fire Department for 29 years, and Don Foley for 25 years. Both recently retired. Chief Adams said Mr. Foley was the Interim Fire Chief when he came to Avondale and helped him get acclimated to the City and has always been very supportive. He said Mr. Gardunio was very instrumental in developing Avondale's code enforcement process and fire codes. He is also known for his community education efforts.

Mayor Lopez Rogers read the resolution recognizing Don Foley for his service to the City of Avondale, and presented it to him. She noted that Leo Gardunio was unable to attend the meeting.

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 May 9, 2011
2. Work Session of May 16, 2011
3. Regular Session of May 16, 2011

b. RESCHEDULING OF CITY COUNCIL MEETINGS

A request to reschedule the regularly scheduled council meetings of July 4 and September 6 in observance of holidays and the meeting of August 15 to allow for a summer break.

c. SPECIAL EVENT LIQUOR LICENSES – RACEWAY ELKS – LUAU DINNER DANCE

A request to approve a special event liquor license application from Mr. Gary Bruce on behalf of the Raceway Elks #2852 for a Luau Dinner Dance Charitable Fundraiser to be held on Saturday, June 25, 2011 from 5 to 11 pm at the Masonic Temple located at 1015 North 8th Street in Avondale.

d. LIQUOR LICENSE SERIES 12 (RESTAURANT) – CARLOS O'BRIEN'S MEXICAN RESTAURANT

A request from Mr. Sean O'Brien for approval of a Series 12 Restaurant License application to sell all spirituous liquors at Carlos O'Brien's Mexican Restaurant located at 765 N. 114th Avenue in Avondale.

e. LIQUOR LICENSE SERIES 12 (RESTAURANT) – PALERMO'S PIZZA

A request from Mr. Nuredin Tabaku for approval of a Series 12 Restaurant License application to sell all spirituous liquors at Palermo's Pizza located at 11107 W Buckeye Road in Avondale.

f. COOPERATIVE PURCHASING AGREEMENT – BAKER & TAYLOR, INC.

A request to approve a Cooperative Purchasing Agreement with Baker & Taylor, Inc. for the purchase of library materials in an amount not to exceed \$100,000 and authorize the Mayor or the City Manager and City Clerk to execute the necessary documents.

g. FIRST AMENDMENT TO CONTRACT AGREEMENT – FSL HOME IMPROVEMENTS, INC.

A request to approve the First Amendment to the Contract Agreement with FSL Home Improvements, Inc. increasing the contract amount to include a grant from the Arizona Department of Housing for substantial rehabilitation of single-family homes and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

h. COOPERATIVE PURCHASING AGREEMENT – HYDRO CONTROLS & PUMP SYSTEMS, INC.

A request to approve a Cooperative Purchasing Agreement with Hydro Controls & Pump Systems, Inc. for the purchase of electrical parts and services in an amount not to exceed \$240,000.00 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

i. CONSTRUCTION CONTRACT AWARD – COMBS CONSTRUCTION COMPANY, INC.

A request to award a construction contract to Combs Construction Company, Inc. to provide construction services for the 107th Avenue, Roosevelt Irrigation District canal to Indian School Roadway and Traffic Signal Improvements and Thomas Road, Avondale Boulevard to 107th Avenue Improvements project in the amount of \$1,597,231.11 and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

j. CONSTRUCTION CONTRACT AWARD – STANDARD CONSTRUCTION COMPANY, INC. FOR THE CDBG STREET & SIDEWALK IMPROVEMENT PROJECT

A request to award a construction contract to Standard Construction Company, Inc. for the construction of water and paving improvements for the CDBG Street and Sidewalk Improvement Project in the amount of \$706,503.19 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

k. RESOLUTION 2979-611 – AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY LIBRARY DISTRICT

A resolution approving the Fourth Amendment to the Intergovernmental Agreement with the Maricopa County Library District relating to the Reciprocal Borrowing Program to extend the agreement to June 30, 2012 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

l. RESOLUTION 2981-611 – INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX FOR FIXED ROUTE TRANSIT SERVICES

A Resolution approving an Intergovernmental Agreement with the City of Phoenix for fixed route transit services and authorize the Mayor and City Clerk to execute the appropriate documents.

Vice Mayor McDonald moved to approve the consent agenda as presented. Council Member Karlin seconded.

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.

5) **2011 RESOLUTIONS OF THE LEAGUE OF ARIZONA CITIES AND TOWNS**

Review of the 2011 League of Arizona Cities and Towns proposed Resolutions and appoint a Council Member to serve on the League's Resolution Committee.

Shirley Gunther, Intergovernmental Affairs Manager, discussed the upcoming League of Arizona Cities and Towns Annual Conference. The theme of this year's conference is "Cities Mean Business," with a focus on economic development and creating job opportunities in Arizona. Ms Gunther indicated that resolutions are a key component of the conference and explained that they are ideas for a legislative change that must have broad application to all cities and towns in the state; two other cities have to sign onto a resolution proposal. A subcommittee looks at all the submitted resolutions, and can either recommend, not recommend, or amend resolutions. These then go to the Resolution Committee where they are discussed and voted on.

The Committee considers four requirements:

- The purpose and effect of the resolution
- The relevance of the municipal policy
- The fiscal impact on cities and towns
- The fiscal impact on the state

Ms. Gunther stated that no other city asked Avondale to sign on to their resolutions, and Avondale has no resolutions moving forward. The Resolution Committee typically consists of mayors from cities and towns. This year Chair Smith appointed all mayors to the committee, but these appointments require confirmation by their respective councils.

Council Member Weise inquired about the difference between a League of Cities resolution and a policy statement. Ms. Gunther explained that a league resolution is specific legislation that a city wants to move forward with. A league policy statement defines the League's overall mission. Council Member Weise inquired about potential resolutions that might have an impact on Avondale. Ms. Gunther said she has not heard of any resolutions so far. Cities are hesitant to move forward with resolutions this year because the current State Legislature has been hostile towards cities.

Mayor Lopez Rogers said cities are primarily concerned about state shared revenue and local control, the same issues as last year. Vice Mayor McDonald asked whether Avondale would have the ability to kill a resolution that it proposed, but was radically altered by the committee. Ms. Gunther said that if the proposed legislation morphed into something unintended, Avondale would simply not support it. Normally, however, resolutions have to be bills that all cities can get behind and support.

Vice Mayor McDonald moved to confirm the nomination of Mayor Lopez Rogers to the League Resolution Committee. Council Member Karlin seconded.

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.

6) RESOLUTION 2980-611 AND ORDINANCE 1460-611 – AMENDMENT TO THE PERSONNEL POLICIES AND PROCEDURES MANUAL, CHAPTERS 3, 4, 5, 6, 8, 18 AND 19 AND DECLARING AN EMERGENCY

A resolution declaring as a public record the document entitled "June 6, 2011 Amendment to the City of Avondale Personnel Policies and Procedures Manual" and an ordinance adopting the same by reference and amending the Personnel Policies and Procedures Manual, Chapters 3, 4, 5, 6, 8, 18 and 19 and declaring an emergency.

Mr. McClendon said periodically, staff presents proposed changes to personnel rules. Most of the proposed changes are the result of three things: court actions, the MOU adopted with the Firefighters Association, and the implementation of automation changes that impacted how job applications and payroll are handled.

Cherlene Penilla, Director of Human Resources, reviewed changes by chapter. Chapter 3 deals with applications to City employment. Paper applications are no longer accepted, as everything is done online. Rules concerning the Pregnancy Protection Act, and Protections Against Discrimination for Genetic and Family Medical History have been added. Drug screening used to be conducted on all new hires, but a Ninth Circuit Court ruling in Lanier v. City of Woodburn stated that drug screenings are a violation of the Fourth Amendment of the U.S. Constitution, which covers search and seizures. The Court ruled that only safety sensitive positions can be tested for, such as police officers who carry guns, detention officers, and fire personnel. Rules have also been added to Chapter 3 due to the passing of Prop 203, which protects against employment discrimination due to medical marijuana use.

Council Member Weise inquired whether employees who drive City vehicles would be considered safety sensitive personnel for drug screening purposes. Ms. Penilla responded that the Court specified that testing could occur for drivers of vehicles weighing at least 26,000 pounds.

Council Member Buster queried what would happen if a current employee develops a verified or suspected drug problem. Ms. Penilla responded that if an employee is suspected of being under the influence of drugs on the job, then testing would be allowed under reasonable suspicion. Council Member Buster inquired how the Pregnancy Protection Act would affect employment law. Ms. Penilla explained that employers cannot discriminate against people when they apply for a job or in the course of employment because they are pregnant.

Ms. Penilla said Chapter 4, Recruitment and Selection, states that new hires are required to provide proper I-9 documentation or be subject to termination. This chapter also touches on the drug screening and discrimination against applicants based on their medical history

or medical marijuana use. Fingerprinting of all new hires and volunteers is now done by Human Resources and not the Police Department. Department directors are also responsible for notifying HR when they have part-time employees who work more than 20 hours a week for more than 20 weeks in a fiscal year. When departments extend the original probation for an employee, it now has to be in writing and acknowledged by both the employee and HR.

Chapter 5, Classification and Compensation, was impacted by technology changes. Policy terminologies have been changed to mirror what is found in the Kronos time system. Paper time sheets are no longer used. The City has the right to pay out compensatory time at any time during the year. Avondale pays out at the end of the fiscal year.

Ms. Penilla said Chapter 6, Benefits, changes the way employees call in when they are going to be absent. Now employees are required to call at a time when they can actually talk to their supervisor, instead of simply sending a text message. When people are on intermittent leave, they are encouraged to make doctor appointments so that it does not disrupt operations. If they are unable to return to work after FMLA leave, they are required to give notice two weeks in advance. The short-term disability program now restricts payment of benefits if the employee accepts other employment during the leave. All references to firefighters were removed because they are now covered in the MOU. Language in Chapter 6 was changed to reflect workers compensation law as noted in the Arizona Revised Statute.

Council Member Karlin inquired about specific language regarding injured service members under the FMLA. Ms. Penilla explained that it refers to a specific act that the federal government added under the FMLA regarding military personnel and their family. Council Member Karlin inquired whether people who return from FMLA are required to demonstrate that they are fit. Ms. Penilla explained that they must have a release from their physician.

Ms. Penilla said Chapter 8 has only one change that adds a restriction for employment if it interferes with the employee's position while they are on active FMLA or workers comp. Chapter 18 covers grounds for termination. Changes were made based on the MOU with firefighters, multiplying by 1.4 the number of hours that would correspond to them. Arrest has been added as a reason for terminating employees, if it would be impossible for them to perform the duties of their job. Clarification was added to note that the City does not have a progressive disciplinary policy. Each case is considered individually, weighing the severity of the infraction and the public's expectation. Temporary and probationary employees do not have appeal rights for any actions outlined in the chapter. Information on pre-hearings for disciplinary matters are now included in the policy so employees understand what is taking place.

Council Member Weise queried how the City would handle cases when an employee is arrested but the charges were later dropped or they were charged incorrectly. Ms. Penilla explained that the City has the ability to suspend employees without pay if they are arrested. They can be reinstated once the charges are dropped or they are found not guilty. They would be paid for that lost time.

Council Member Vierhout asked about the length of time that employees are given after an arrest before they are fired. Ms. Penilla said it would depend on the situation. The policies are kept general, as it would be impossible to anticipate every situation.

Council Member Scott inquired about steps HR takes to ensure consistency in how suspensions are handled. Ms. Penilla said that no two cases are exactly the same. Mr. McClendon clarified that no department can issue discipline without going through the HR Department, which ensures consistency.

Ms. Penilla said Chapter 19 deals with grievances and the appeals process. One change deals with the firefighter MOU. Employees who are established under a certified employee group have to file grievances through their group representative. Employees who lack a department director would have their grievances go through HR. Employees who fail to follow the informal grievance process will not be eligible to proceed through the formal procedure. Appeals to the Personnel Board can be made by email, and have to be done within 10 days. The Board cannot consider any additional information outside the original appeal.

Ms. Penilla noted that Avondale has not had a Personnel Board hearing in almost four years. A description of the entire hearing process, including what happens during a hearing has been added. The Board counsel serves as an advisor and makes sure that the hearings are kept orderly. They are also responsible for taking the Board recommendation, putting it in writing, and presenting it to the City Manager for a final decision on the matter.

Mr. McGuire noted that the Board of Appeals terms under the amendments to the personnel policy rules, are inconsistent with Council's rules. He requested that the motion amend what is contained in the packet and that the current terms be left as they are.

Vice Mayor McDonald moved to adopt the resolution declaring as public record the document filed with the City Clerk entitled "June 6, 2011 Amendment to the City of Avondale Personnel Policies and Procedures Manual," with the exception of the terms of the Board Appeals and declaring an emergency. 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.

Vice Mayor McDonald moved to adopt by reference the document known as "June 6, 2011 Amendment to the City of Avondale Personnel Policies and Procedures Manual," and

amending the Personnel Policies and Procedures Manual, Chapters 3, 4, 5, 6, 8, 18 and 19 with the exception of the terms for the Board of Appeals, and declaring an emergency. 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.

7) EXECUTIVE SESSION

An executive session pursuant to ARIZ. REV. STAT. § 38-431.03 (A)(4) for (i) 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 the SLT Expressway litigation and (ii) 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 Intergovernmental Agreement with the City of Litchfield Park regarding a potential annexation.

Council Member Weise moved to adjourn into executive session. Council Member Scott 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.

8) ADJOURNMENT

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

Meeting was adjourned at 8:33 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 6th day of June 2011. I further certify that the meeting was duly called and held and that the quorum was present.


City Clerk