

Minutes of the Work Session held November 7, 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
Charles Vierhout
Ken Weise

EXCUSED ABSENCE

Frank Scott

ALSO PRESENT

Charlie McClendon, City Manager
David Fitzhugh, Assistant City Manager
Rogene Hill, Assistant City Manager
Paul Lopez, Engineering Project Manager
Andrew McGuire, City Attorney
Carmen Martinez, City Clerk

1) ROLL CALL BY THE CITY CLERK

2) UPDATE ON THE NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM

An update from staff regarding the status of the NPDES Phase II MS4 Permit and the implementation of the Stormwater Management Plan (SWMP).

Charlie McClendon stated that as part of the National Pollution Discharge Elimination System (NPDES) permit process, staff is required to provide periodic updates to City Council at a public meeting. Paul Lopez explained that NPDES is a federally mandated program that was established by the Clean Water Act. Under the program, each city is required to develop a stormwater management program to minimize stormwater pollution in MS4 municipal storm sewer systems.

Mr. Lopez said Avondale's original NPDES permit was issued in 2001 and was administratively continued in 2005. Since 2005, the permit has been continued every year. The Arizona Department of Environmental Quality (ADEQ) and Environmental Protection Agency (EPA) have noted that Avondale's permit is coming up for renewal again. As part of the most recent renewal process, larger cities in the Valley have been subject to increased monitoring and compliance requirements. The agencies now expect larger cities to provide separate private property inspections, industrial inspections, and increase their monitoring of outfalls. This has produced a significant increase in operational staff and equipment requirements.

Mr. Lopez said Avondale's update will occur in 2012, and staff anticipates similar, if smaller, changes. Changes are expected to include additional outfall inspections and an increased focus on tracking down sources of illicit discharge. Staff anticipates the need to establish good business relationships with small business and industry owners as part of an educational outreach effort. The City's management plan will also have to be updated.

The current management plan consists of six minimum control measures: public education and outreach; public involvement and participation; illicit discharge detection and elimination; working with contractors to help them formulate a plan for minimizing pollution

into the public right of way; determining what to do about post construction monitoring; and establishing good housekeeping to ensure that the City is not discharging pollutants.

Mr. Lopez said Avondale has been falling short in the areas of illicit discharge detection and elimination, and post-construction runoff and control. Staff anticipates having to increase response rates to detections. The Code Enforcement Department will help develop code revisions, which they plan to bring to Council. Staff is maintaining about 250 catch basins a year in an effort to control post-construction runoff. It generally takes a two to three person crew about 20 days to clean about 10% of the City's catch basins. ADEQ would prefer that percentage to be about 25% in the future.

Mr. Lopez said the post-construction inspection program is currently unfunded. There are two accepted methods for funding. The impervious method is used to determine how much of a development site is impervious to water. The per-meter method has been adopted by many Valley cities, and assesses a per-meter fee. Several Valley cities are proposing fee increases because of the additional permit requirements. Fee increases have ranged anywhere from \$1 to \$3 per meter. Staff intends to present a \$1 per meter fee recommendation to Council in the near future. This increase would accommodate the current budget limitations and anticipates additional changes that might arise.

Council Member Karlin asked whether Avondale's location at the confluence of three rivers complicates NPDES compliance. Mr. Lopez responded that it does, but since Avondale has not annexed all the way down to the Gila River, the annual inspections are limited to the Agua Fria River for the time being. The Gila River is classified as an impaired river, and is regulated by ADEQ. In response to a further inquiry from Council Member Karlin, Mr. Lopez explained that City crews do not focus exclusively on cleaning catch basins. They normally do street maintenance, but must allocate 20 days per year for basin cleaning. No equipment is dedicated to the program, since it is an unfunded mandate.

Council Member Weise asked about the types of pollutants found during the testing of the Agua Fria River. Mr. Lopez responded that staff typically tests for pH and phenols. At this time, little has been found apart from water discoloration. The simple fact that water is found flowing during dry periods, however, indicates that illicit discharge is occurring. Council Member Weise asked whether the State is doing anything to help the cities fund the program. Mr. Lopez said ADEQ has increased fees charged to the cities for permit reviews, but neither the State nor ADEQ earmarks money for cities to use.

Council Member Weise inquired about the time and number of people required to trace illicit discharge sources. Mr. Lopez explained that Phoenix has installed monitoring devices for that purpose. It can take several months to track an illicit discharge, but typically those who commit them continue to do so repeatedly. Once tracked down, the industries are educated and possibly penalized.

Council Member Vierhout inquired whether Avondale has installed monitors similar to those in Phoenix. Mr. Lopez said Avondale has no monitors, because that requirement was previously limited to Phase 1 municipalities. Budget limitations will determine how long it takes for the City to procure monitors. Staff intends to strategically locate them once the known issues become apparent.

Council Member Buster said he sponsored a bill in the State Legislature in 1996 to get primacy for the NPDES program because it was felt that the State would be more responsive and have more control over the situation. That bill was defeated because cities were concerned that they would be charged a fee, and no General Fund money was available. In 2001 there was another effort to get primacy, but this time a General Fund appropriation was secured to pay for it so that cities would not be charged a fee. Because of subsequent budget cuts, the program found itself having to charge fees in order to continue. He felt that the program is best run by the State, because it leads to quicker response and better relationships with municipal leaders. The downside of this arrangement is the need to charge fees, an unfortunate consequence of budget cuts.

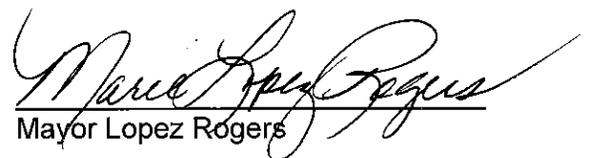
Mayor Lopez Rogers expressed concern about the impact that the requirements would have on City staff, considering the budget limitations. Mr. McClendon responded that the request for a \$1 fee recognizes that staff cannot continue to be pulled in so many directions ad infinitum. As Avondale moves towards the renewal process and learns more about the requirements, it will be easier to decide whether to budget supplemental resources to meet them. Mayor Lopez Rogers said it is unfortunate that the fees have to be passed on to residents, but there really is no other choice. She inquired about the public outreach and education effort. Mr. Lopez explained that other cities have met with the industries who are typically the biggest polluters. They are taught better discharge methods. Proactive efforts have been found to produce the best and most cost-effective results.

Mayor Lopez Rogers inquired how businesses in the old town area could have their costs mitigated. They have been discharging for many years, and now will be expected to conform to the new rules. Mr. Lopez responded that businesses are generally more open to change once they realize there are cost-effective ways to discharge. It is important for the City to partner with them to get their buy-in.

3) ADJOURNMENT

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

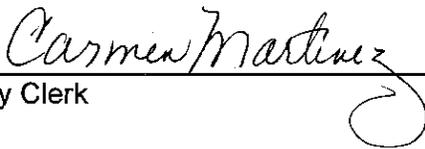
Meeting adjourned at 6:53 p.m.


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 7th day of November. 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 November 7, 2011 at 7:03 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

EXCUSED/ABSENT

Frank Scott

ALSO PRESENT

Charlie McClendon, City Manager
David Fitzhugh, Assistant City Manager
Rogene Hill, Assistant City Manager
Sue McDermott, Development Services Director and City Engineer
Eric Morgan, Planner II
Ken Galica, Planner II
Stacy Bridge-Denzak, Development Services Department
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 RECOGNITION ITEMS (MAYOR PRESENTATIONS)

a. Resolution 3012-1111 - In recognition of Art Snapp on occasion of his retirement

Vice Mayor McDonald moved to adopt Resolution 3012-111; Council Member Karlin seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried 6-0.

3 UNSCHEDULED PUBLIC APPEARANCES

(Limit three minutes per person. Please state your name.)

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 October 10, 2011
2. Visioning Session of October 15, 2011
3. Regular Meeting of October 17, 2011

b. RESCHEDULING OF CITY COUNCIL MEETINGS

A request to reschedule the regularly scheduled council meetings of January 2, January 16 and February 20, 2012 in observance of holidays.

c. SPECIAL EVENT LIQUOR LICENSE - AMERICAN LEGION POST #61 - FAMILY DAY

A request from Ms. Constant Joy Parrish for a Special Event Liquor License to be used in conjunction with a Family Day event to be held at the Post located at 35 N. 8th Street in Avondale starting on Saturday, December 10 at 10:00 a.m. and ending at 2:00 a.m. on Sunday, December 11, 2011.

d. LITIGATION SETTLEMENT - SLT EXPRESS WAY, INCORPORATED

A request to approve a settlement agreement related to the City of Avondale v. SLT Express Way, Incorporated No. CV2009-009337 matter and authorize City Manager and City Clerk to execute all the settlement documents and all other necessary documents and authorize the City Attorney to take all steps necessary to conclude this lawsuit.

e. COOPERATIVE PURCHASING AGREEMENT - GILBERT PUMP & EQUIPMENT CO

A request to approve a Cooperative Purchasing Agreement with Gilbert Pump & Equipment Co. for preventative and corrective maintenance services in an annual amount not to exceed \$100,000 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

f. COOPERATIVE PURCHASING AGREEMENT - GRAINGER

A request to approve a Cooperative Purchasing Agreement with W.W. Grainger, Inc. to purchase industrial, maintenance, repair and operating products in an annual amount not to exceed \$75,000 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

g. PROFESSIONAL SERVICES AGREEMENT - VERTECH INDUSTRIAL SYSTEMS, LLC

A request to approve a Professional Service Agreement with Vertech Industrial Systems, LLC for SCADA Support Services in an annual amount not to exceed \$75,000 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

h. CONSTRUCTION CONTRACT AWARD - TECHNOLOGY CONSTRUCTION, INC. FOR VAN BUREN STREET BRIDGE REPAIRS

A request to approve a construction contract with Technology Construction, Inc. to provide construction services for the repair of the Van Buren Bridge over the Agua Fria River in the amount of \$100,610, authorize the transfer of \$100,610.00 from 304-1260-00-8420 to 304-1012-00-8420, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

i. RESOLUTION 2989-1111- INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF GOODYEAR FOR FY10/11 AND FY11/12 TRANSIT SERVICES

A resolution approving an Intergovernmental Agreement with the City of Goodyear for FY10/11 and FY11/12 Transit Services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

j. RESOLUTION 3011-1111 - INTERGOVERNMENTAL AGREEMENT WITH AGUA FRIA UNION HIGH SCHOOL DISTRICT FOR THE SRO PROGRAM

A resolution approving an Intergovernmental Agreement with Agua Fria Union High School District No 216 to share the cost of providing a School Resource Officer during the 2011/2012 school year at Agua Fria High School at an annual cost to the City of \$56,012 and authorize the Mayor or City Manager and the City Clerk to execute the necessary documents.

Vice Mayor McDonald moved to approve the consent agenda as presented including Resolution 2989-111 and 3011-1111. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried 6-0.

5 CONSTRUCTION CONTRACTS AWARD - GONZALEZ & ASSOCIATES, LLC AND J.E. BOWEN CONSTRUCTION LLC FOR AVONDALE FORMER CITY HALL PROJECTS

A request to approve construction contracts with Gonzalez & Associates, LLC in the amount of \$61,209 and J.E. Bowen Construction LLC in the amounts of \$43,850.82 and \$57,194.10 respectively to provide construction services for the Avondale Former City Hall projects and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

City Manager Charlie McClendon introduced City Engineer Sue McDermott to present this item. Sue McDermott reviewed the particulars of this items as more specifically described in the Council report.

In response to a question from Council Member Vierhout Ms. McDermott indicated the drive-through window will not be replaced or removed.

Vice Mayor McDonald moved to award Construct Contracts to Gonzalez & Associates, LLC and J.E. Bowel Construction LLC for renovation of the former Avondale City Hall. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

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

Motion carried 6-0.

6 PUBLIC HEARING – TIME EXTENSION FOR AVONDALE GATEWAY CENTER PAD ZONING - ALTERNATIVELY ORDINANCE 1471-111 - ZONING REVERSION

A public hearing and a request by Mr. Mike Withey, Withey Morris PLC, for a one year extension of PAD zoning for Avondale Gateway Center, located on approximately 84 acres of land at the southwest corner of 107th Avenue and Interstate 10. Alternatively, City Council will consider an ordinance reverting the zoning from PAD zoning to its previous zoning classification of Agricultural (AG).

Eric Morgan, Planner II reviewed the particulars of this item as more specifically described in the Council report. Regarding the high capacity transit corridor, Mr. Morgan explained that the alignment that had been proposed is not part of the City's transit plan so the City would need to abandon the right of way that is already there. He added that should the applicant request another extension next year they would be required to dedicate 100 ft of right of way for a major collector plus an additional 30 ft of right of way for high capacity transit.

Charlie McClendon clarified that the high capacity transit is designated in the 2030 General Plan, so whenever this property develops it will be required to dedicate the necessary right of way.

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

Vice Mayor McDonald moved to approve the request for a one year extension of PAD zoning for Avondale Gateway Center. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried 6-0.

7 PUBLIC HEARING AND RESOLUTION 3010-1111 – 2002 GENERAL PLAN TEXT AMENDMENT

A public hearing and a resolution amending the 2002 General Plan, reclassifying General Plan Land Use Map amendments for properties located within Specific Area Plan boundaries from major to minor if the request does not conflict with the goals and policies of the General Plan as determined by the Zoning Administrator.

Charlie McClendon introduced Planner II Ken Galica to present this item. Mr. Galica reviewed the particulars of this item as more specifically described in the Council report. He added that what constitutes a major or minor text amendment is not defined in statute, but rather it is up to the community to establish those guidelines.

Council Member Weise commented that council has implemented several measures to speed up the process but asked what measures will be taken so that when the economy improves; projects don't get bogged down at the staff level once approved by Council. Mr. Galica responded that in this case fast tracking is meant to reduce the time that developers will have to wait before they can submit the application. Once submitted, it will be sent through the regular process.

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 3010-1111 approving application PL-11-0118, a City initiative to amend the 2002 General Plan, reclassify Land Use Map amendments for properties located within Specific Area Plan boundaries from major to minor if the request does not conflict with the goals, objectives, and policies contained within the General Plan. Council Member Vierhout seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried 6-0.

8 ORDINANCE 1473-1111 - AMENDMENT TO CITY CODE CHAPTER 1 - CIVIL PENALTY PROVISIONS

An ordinance amending Chapter 1 of the City Code adopting civil penalty provisions for violations of the Avondale City Code.

City Attorney Andrew McGuire reviewed the particulars of this item as more specifically described in the Council report.

In response to a question from Council Member Weise, Mr. McGuire indicated that when an appeal is filed on a civil matter, a civil hearing officer is appointed by the City Manager based on the nature of the appeal. He added that the process used for property maintenance code violations is to give property owners the opportunity to comply with a notice of violation before a civil citation is issued; a criminal infraction is issued if there is a pattern of non-compliance.

Mr. McGuire noted that based on recent case law, there is a small risk that the City may be responsible for paying attorney fees if it were to be unsuccessful on a code enforcement matter. He added he believes this to be a small risk but should be pointed out nonetheless.

Vice Mayor McDonald moved to adopt Ordinance 1473-1111 and amendment to City Code Chapter 1 – Civil Penalty Provisions. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried 6-0.

9 ORDINANCE 1474-1111 - AMENDMENT TO THE CITY CODE, CHAPTER 21, STREETS AND SIDEWALKS

An ordinance amending Chapter 21 of the City Code, Street and Sidewalks relating to the use of uniformed off-duty Avondale Police Officers.

Charlie introduced City Engineer Sue McDermott and Police Chief Kevin Kotsur to present this item. Ms McDermott reviewed the particulars of this items as more specifically described in the Council report.

Council Member Vierhout asked how we make sure that the City's rates are competitive. Chief Kotsur responded that the rate was recently increased by \$3.00 to bring it up to par with what other cities in the valley cities charge.

Vice Mayor McDonald moved to adopt Ordinance 1474-1111 and amendment to the City Code, Chapter 21 Streets and Sidewalks. Council Member Vierhout seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried 6-0.

10 EXECUTIVE SESSION

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

Vice Mayor McDonald moved to adjourn into executive session; Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried 6-0.

11 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 8:28 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 7th day of November 2011. I further certify that the meeting was duly called and held and that the quorum was present.


City Clerk