

Minutes of the Regular Meeting held February 21, 2012 at 7:00 p.m. in the Council Chambers

**MEMBERS PRESENT**

Mayor Lopez Rogers and Council Members

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

**ALSO PRESENT**

Charlie McClendon, City Manager  
David Fitzhugh, Assistant City Manager  
Rogene Hill, Assistant City Manager  
Sue McDermott, Director of Development Services/City Engineer  
Kevin Artz, Finance & Budget Director  
Kevin Kotsur, Police Chief  
Paul Adams, Fire 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) RECOGNITION ITEMS (MAYOR PRESENTATIONS)**

**a. RECOGNITION OF FUTURE CITY COMPETITION FINALISTS**

Charlie McClendon announced that two Avondale schools were recently named top finishers in the Future City Competition. Sue McDermott, Director of Development Services, explained that the Future City Competition is a national program held in conjunction with National Engineers Week.

Jason Fort, of the Future City Executive Committee, stated that the competition features teams of sixth, seventh and eighth graders who submit research essays, scale models, and computer simulations, and in the process learn about the importance of civic engineering. Over 300 teams and 1,000 students participated in Arizona this year. The competition enjoyed great support from Avondale schools, and the city sent approximately 30 teams, two of which placed within the top five. Garden Lakes Elementary School finished second and Canyon Breeze Elementary School finished third.

Mayor Lopez Rogers noted that both schools are Kids at Hope schools, and said their performance in the competition is a huge deal to the city. She commended the students on behalf of the City Council. Sue McDermott introduced second place winners from Garden Lakes ES, Amanda Flores, McKenna Byrné, Abbie Prescott, and their teacher Jill Helland. The third place finishers from Canyon Breeze ES were Ian Balsler,

Dominique Danache, and Mikayla Dean, and their teachers were Kerry Pohlmeier and Autumn Castillo.

Council Member McDonald thanked the teachers for motivating and inspiring the students. Vice Mayor Karlin recognized Dr. Harold Waltman for his leadership in bringing this program to the schools.

**3) UNSCHEDULED PUBLIC APPEARANCES**

There were no unscheduled appearances.

**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 6, 2012
2. Regular Meeting of February 6, 2012

**b. COOPERATIVE PURCHASING AGREEMENT – SHI INTERNATIONAL CORPORATION**

A request to approve a Cooperative Purchasing Agreement with SHI International Corp. for the purchase of software licenses and maintenance services for an annual amount not to exceed \$340,000 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**c. PURCHASE AGREEMENT – HACH COMPANY**

A request to approve a sole source purchase agreement with HACH Company for the purchase of laboratory supplies, reagents and analytical instruments in an aggregate total amount of \$375,000 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**d. RESOLUTION 3030-212 – INTERGOVERNMENTAL AGREEMENT WITH ADOT FOR 99<sup>TH</sup> AVENUE/MCDOWELL ROAD FIBER OPTIC PROJECT**

A resolution approving an Intergovernmental Agreement with the Arizona Department of Transportation for the administration of design and construction of the 99th Avenue/McDowell Road Fiber Optic project, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**e. RESOLUTION 3029-212 – INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX FOR FEDERAL TRANSIT FUNDING**

A resolution approving an Intergovernmental Agreement with the City of Phoenix for Federal Transit Administration Funding to pass through grant funding for \$1,002,118 and authorize the Mayor or City Manager and City Clerk to execute this agreement.

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

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried unanimously.

**5) PUBLIC HEARING – PROPOSED EXTENSION OF THE ALTERNATIVE EXPENDITURE LIMITATION (HOME RULE)**

A Public Hearing on the proposed extension of the Alternative Expenditure Limitation (Home Rule).

City Manager Charlie McClendon stated that the Arizona Constitution places an expenditure limit on every municipality in the State, but provides a mechanism for local jurisdictions to maintain control over their budgets. This Home Rule mechanism must be renewed every four years.

Kevin Artz, Finance & Budget Director, said this is the first of two required public hearings for the extension of the Alternative Expenditure Limitation (Home Rule). The limitation uses expenditures from FY1979/1980 as a baseline. Annual adjustments are made for population growth and inflation. Certain revenues are excluded from the limitation, including bond proceeds, interest earnings, or intergovernmental revenue that is subject to another entity's expenditure limitation.

Mr. Artz noted several flaws in the policy. It assumes that the 1980 budget provided sufficient levels of service, which is a big assumption depending on where cities were in their growth cycle at the time. It does not account for any new sources of local revenue, including two voter approved sales tax increases that have been implemented since then. The policy does not account for any new commercial activity that is not factored into population increase. Nor does it account for any CIP projects, making it difficult to complete something substantial like the expansion of the wastewater treatment plant.

Mr. Artz said since 1980, Avondale has two new dedicated revenue sources, and new revenue from development impact fees. Current residents demand different services now than they did in 1980. Avondale has emerged as a regional shopping destination in the meantime. The wastewater treatment plant was built with excess capacity to account for future growth, but an expenditure limitation would make it difficult to plan ahead since the expenditures would all hit in one year.

Mr. Artz reviewed that the State-imposed limitation for Avondale for FY2011/12 will be a little over \$46 million, and there are about \$50 million of exemptions. Avondale's current budget for FY2011/12 is \$163 million, making spending about \$67 million over the limitation. The Home Rule option allows the City to set the limitation at whatever the City

Council adopts for the budget. Home Rule essentially takes control away from the State and gives it back to the local community. Avondale has been on Home Rule since 1981, and has been approved seven subsequent times by the voters. Voters last approved Home Rule by 76% in 2009.

Mr. Artz said that after the two public hearings, City Council will be asked to adopt a resolution proposing the extension of Home Rule. It must be submitted to voters for approval on the August 28, 2012 election date.

In response to an inquiry from Council Member Buster, Mr. Artz explained that in 1981, Avondale's base budget was \$1.525 million, and it has been adjusted for population and inflation over time. Council Member Buster noted that the adjusted budget does not account for the different types and levels of service that a larger city might provide. He inquired about the percentage of cities in Arizona that are on Home Rule. Mr. Artz estimated that at least half are. Some cities had budgets great enough, back in 1980, that they have not required Home Rule.

Council Member McDonald inquired whether enterprise funds are included in the exemptions. Mr. Artz said they are not exempt, even though they are self-funded. Council Member McDonald said it would be difficult to imagine the reductions in services that would be necessary to cut \$66 million from the budget. Council Member McDonald inquired whether unforeseen CIPs, such as an emergency bridge repair, could be included in the exemptions. Mr. Artz explained that even if the City had money in the bank to pay for it, under the expenditure limitation the City would have to issue a short-term bond to repair the bridge, since those sources are exempt. Voters could also approve a one-time limitation override should something like that occur.

Council Member Vierhout noted that cities cannot bond for payroll expenditures. Mr. Artz said there may be creative ways to bond for operating costs, but doing so is not advisable. Mayor Lopez Rogers said it is critical that the public understands that Home Rule would not create a new tax, not increase the budget, and will not cost any more. A \$66 million cut would be extremely difficult for the city to bear.

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

**6) MEMORANDUM OF UNDERSTANDING – AVONDALE POLICE OFFICERS ASSOCIATION**

A request to approve an inaugural Memorandum of Understanding between the City of Avondale and the Avondale Police Officers Association (AvPA) developed pursuant to Ordinance 1323-808 and authorize the City Manager and City Clerk to execute the documents related to this agreement.

Mr. McClendon announced that the City has come to agreement with both the Police Officers Association and the Professional Firefighters Association. He introduced Assistant City Manager David Fitzhugh to present this item.

Mr. Fitzhugh indicated that in 2008 City Council adopted an Ordinance that allowed for the recognition of employee organizations.

Mr. Fitzhugh reviewed the process followed in the negotiations with the Avondale Police Association (AvPA) which employed a method-based bargaining methodology, focusing on the interests of the two groups in an effort to reach consensus, as opposed to using an opposing argumentative approach. The parties found the process to be a productive one, and both sides were able to learn much about the issues affecting the other. The City Manager with input from City Council, established a baseline from which to work. The parties met weekly, and negotiations concluded on January 31. Consensus was reached by all participants. Association members ratified the agreement during the week of February 6.

Mr. Fitzhugh reviewed the key points of the agreement. Wages and the establishment of a wage step plan were a key issue for the Association. They wanted to move to a step plan based on years of service, and wanted scale separation between the police officers and the sergeants. The City was able to agree to move into the nearest step without loss in pay, plus a maximum of three steps to help them reach their goal. Each step represents an average of 2.5%. The City also agreed to new specialty pay for sergeants who supervise the field training officers, and they will get a 3% increase. K-9 officers also receive a stipend of \$175 per month.

Mr. Fitzhugh said another issue was comp-time accrual limits, which were increased from 60 hours to 75 hours. The accrued balance is cleared out at the end of every fiscal year, or if the employee is promoted to a higher position. The allotment for ballistic vests increased from \$600 to \$690 per employee. Existing policies for the calculation of holiday and overtime pay and on-call status were brought into the contract.

Mr. Fitzhugh said the Association wanted to have a say in how the internal affairs investigation process was developed. The City agreed to formalize the Internal Affairs Investigation Policy Committee, and the agreement also specifies its makeup, purpose and minimum meeting requirements. The language also preserves the Chief's right to make the final decision.

Mr. Fitzhugh said the agreement becomes effective July 1, and would last for two years, should the City Council approve it. The contract will be re-opened in December of 2012, to conduct additional negotiations for wages in FY2013/14. Staff recommends approval of this item.

Council Member Scott commended both parties and said he heard positive things from both sides. The City Council in 2008 took a leap of faith, and he is proud of the way the negotiations went. It is important that the Association is heard and respected. He thanked City Council for giving police officers and firefighters a voice.

Council Member Weise said he had reservations in 2008, because it was a huge step for the City to take. It is important for police and fire to have a voice, because their jobs are unique. The ability to work out issues through the Committee is important. He inquired whether Avondale has developed a reputation for being used as a training ground for other

police agencies in the Valley, due to the pay structure. Chief Kotsur agreed that the perception has been true, and currently Avondale is short 11 positions. This contract is a step in the right direction to deter turnover, and will make the agency more competitive. It costs roughly \$130,000 to train each officer before they get out on the street. Council Member Weise said Avondale should retain the officers and firefighters it trains, and this agreement would help do that. His reservations from 2008 have been addressed.

Council Member Buster said he also had reservations in 2008, but he respected the firefighters and police officers enough to take a leap of faith. He asked what would occur should the parties not agree on the wage negotiations in December. Mr. Fitzhugh said the Ordinance contains provisions to deal with their inability to come to an agreement. The parties would go through a mediation process, and the situation can escalate from there.

Vice Mayor Karlin said she has no reservations about unions and has supported them for many years. She is impressed by how smoothly the process was handled. More can be accomplished through mediation than through adversarial methods. This is an example of how all parties can win. Council Member McDonald said the agreement came to a good conclusion for all parties, and that officers became part of the negotiations.

Council Member Vierhout said he is a union supporter, is happy to vote of the first MOU with the Police Department, and is glad that the negotiations went well.

Mayor Lopez Rogers invited members of the Association to speak.

Sgt. Paul Hermann on behalf of the Police Department, extended thanks for Council's support and patience throughout the process. This is a great step forward for the officers, many of whom contributed significant hours to the process. It will help retain officers after the City spent valuable money on training them.

Vice Mayor Karlin moved to approve the inaugural Memorandum of Understanding between the City of Avondale and the Avondale Police Officers Association (AvPA) developed pursuant to Ordinance 1323-808. Council Member Scott seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried unanimously.

**7) MEMORANDUM OF UNDERSTANDING – AVONDALE PROFESSIONAL FIREFIGHTERS ASSOCIATION LOCAL 3924**

A request to approve a Memorandum of Understanding with the Avondale Professional Firefighters Association, International Association of Firefighters Local 3924, developed pursuant to Avondale Ordinance 1323-808 and authorize the City Manager and City Clerk to execute the documents related to this agreement.

~~Mr. Fitzhugh requested City Council's approval of a MOU between the City and the Avondale Professional Firefighters Association (APFA). This is the second agreement the City has entered into with the APFA. They met all the requirements of the Ordinance prior to the deadline. Staff met with them beginning on November 2, and concluded discussions on February 8. The Association ratified that agreement during the week of February 12. This agreement process also utilized an interest-based bargaining method.~~

Mr. Fitzhugh said the employees' primary concern was establishing a step plan based on years of service. The City was unable to accommodate a full implementation. The firefighters felt it was in their best interest to work on a 3% merit increase across the board, and the City agreed. The MOU will be reopened in the second year of the agreement to discuss wages based on then current financial information. The move up pay for captains was increased from 5% to 10%. Consensus was reached on an increase in specialty pay for paramedics and technical rescue teams, who have not received an increase in a number of years.

Mr. Fitzhugh reviewed modifications to the language in the current agreement. The City Manager has the right to declare a fiscal crisis and reopen the contract. It includes language to describe how laid off employees can be rehired in the event of a RIF. The benefits section was changed to allow the conversion of three hours of sick leave into one hour of vacation time, provided the employee maintains a minimum of 672 hours of sick time. The fitness exam article was modified to allow an option for the employee to accept light duty assignments if their annual examination results in work restrictions. If the employee is no longer fit for duty, the Chief would work with HR on appropriate steps. Mr. Fitzhugh said the two year agreement would begin on July 1, 2012 and terminate on June 30, 2014. Staff recommends Council approval.

Council Member Weise inquired about the City's responsibility to an employee who, in the course of their normal work duty, discovers that they cannot work anymore. Chelene Penilla, HR Director, explained that the agreement says that when a firefighter discovers something wrong during their annual physical, the City would offer a light duty option. If at some point a physician determines that the firefighter can no longer do their job, then a permanent decision would have to be made, because there are no permanent light duty positions. Council Member Weise inquired about a worker compensation situation. Ms. Penilla responded that the employee would have recourse through the Industrial Commission. The City might also be able to accommodate the employee in another type of job.

Council Member Weise asked Chief Adams if the Fire Department is perceived as a training ground for other communities. Chief Adams responded that it is not. Turnover is very low, and the Department has tried to maintain competitive salary structures over the

years. Council Member Weise said the agreement makes sense for the firefighters and the City.

In response to an inquiry from Council Member Buster, Chief Adams explained that Avondale currently has 24 technical rescue employees and 29 paramedics. Council Member Buster inquired whether they are paid the specialty differential all the time they are working, or just when they are responding to certain events. Mr. Fitzhugh said they earn specialty pay whenever they are earning wages. The differential amounts to a 20-cent increase per hour.

Council Member Scott commended the two negotiating teams for coming to an agreement, and the City Council for taking a leap of faith. Council Member Vierhout thanked police and fire personnel for their hard work. Mayor Lopez Rogers said the agreements are critical for public safety employees, and a reminder that their voices are being heard. The negotiations are time consuming, and coming to a consensus is not always easy. She invited association members to speak.

Nate Franco, President of Avondale Local 3924, thanked Mayor Lopez Rogers and Council for the opportunity to discuss terms with the City Manager and staff.

Vice Mayor Karlin moved to approve the Memorandum of Understanding between the City of Avondale and the Avondale Professional Firefighters Association, The International Association of Firefighters, Local 3924, developed pursuant to Ordinance 1323-808. Council Member Scott seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried unanimously.

**8) EXECUTIVE SESSION**

- a) The Council may hold an executive session pursuant to ARIZ. REV. STAT. § 38-431.03 (A)(1) for discussion regarding the City Judge's annual evaluation.

Vice Mayor Karlin moved to adjourn into executive session. Council Member Scott seconded.

ROLL CALL VOTE AS FOLLOWS:

Council Member Vierhout	Aye
-------------------------	-----

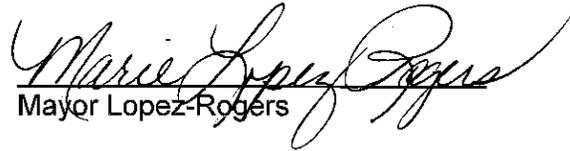
Council Member Scott	Aye
Council Member Weise	Aye
Mayor Lopez Rogers	Aye
Vice Mayor Karlin	Aye
Council Member McDonald	Aye
Council Member Buster	Aye

Motion carried unanimously.

9) **ADJOURNMENT**

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

Meeting adjourned at 8:37 p.m.

  
Marie 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 21st day of February 2012. I further certify that the meeting was duly called and held and that the quorum was present.

  
Carmen Martinez  
City Clerk