

Minutes of the Special Meeting held July 16, 2012 at 6:00 p.m. in the Council Chambers.

MEMBERS PRESENT

Mayor Lopez Rogers and Council Members

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

ABSENT/EXCUSED

Frank Scott

ALSO PRESENT

Charlie McClendon, City Manager
Rogene Hill, Assistant City Manager
Andrew McGuire, City Attorney
Carmen Martinez, City Clerk

1) ROLL CALL BY CITY CLERK

2) EXECUTIVE SESSION

- a. An executive session pursuant to Ariz. Rev. Stat. § 38-431.03 (A)(7) for discussion or consultation with City representatives in order to consider its position and instruct its representatives regarding negotiations for the acquisition of real property.

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

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried 6-0.

3) ADJOURNMENT

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

Meeting adjourned at 6:18 p.m.


Marie Lopez Rogers

Carmen Martinez

Carmen Martinez
City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Special Meeting of the Council of the City of Avondale held on the 16th day of July. I further certify that the meeting was duly called and held and that the quorum was present.

Carmen Martinez

City Clerk

Minutes of the Regular Meeting held July 16, 2012 at 7:03 p.m. in the Council Chambers.

MEMBERS PRESENT

Mayor Lopez Rogers and Council Members

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

ABSENT/EXCUSED

Frank Scott

ALSO PRESENT

Charlie McClendon, City Manager
Rogene Hill, Assistant City Manager
Cindy Blackmore, Public Works Assistant Director
Kevin, Kotsur, Chief of Police
Kevin Artz, Finance and Budget Director
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 calls for unscheduled public appearances.

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. Special Meeting of June 18, 2012 - Revised
2. Work Session of July 2, 2012
3. Regular Meeting of July 2, 2012

b. RESCHEDULING OF CITY COUNCIL MEETINGS

A request to reschedule the regularly scheduled council meetings of August 20th to August 13th and September 3rd to September 10th to allow for a summer break and in observance of the Labor Day holiday.

c. COOPERATIVE PURCHASING AGREEMENT - RICOH AMERICAS CORP.

A request to approve a cooperative purchasing agreement with Ricoh Americas Corporation, for multifunction copiers, software, and services in an maximum aggregate amount of \$435,000 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

d. CONSTRUCTION CONTRACT AWARD - GREEN LANDSCAPING AND IRRIGATION, INC. FOR DYSART ROAD SIDEWALK AND LANDSCAPE IMPROVEMENT PROJECT

A request to award a contract to Green Landscaping and Irrigation, Inc. for construction services for the Dysart Road Sidewalk and Landscape Improvement project in the amount of \$95,562.70 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

e. COOPERATIVE PURCHASING AGREEMENT - BANNER OCCUPATIONAL HEALTHARIZONA, LLC

A request to approve a Cooperative Purchasing Agreement with Banner Occupational Health-Arizona, LLC to provide medical and drug testing services in a maximum aggregate amount of \$102,500.00 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

g. PROFESSIONAL SERVICES AGREEMENTS - CIBER, INC. AND RPI CONSULTANTS, LLC FOR LAWSON FUNCTIONAL SUPPORT

A request to approve two Professional Services Agreements with Ciber, Inc. and RPI Consultants, LLC to support the City's Lawson human resources management system in an annual amount not to exceed \$40,000 for each consultant and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

h. PROFESSIONAL SERVICES AGREEMENT - ANDRITZ SEPARATION INC.

A request to approve a Professional Services Agreement with Andritz Separation Inc., to perform Centrifuge Repairs in order to meet the biosolids removal permit requirements, for a price not to exceed \$98,000.00 and to authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

i. SECOND AMENDMENT TO THE AMENDED AND RESTATED PROFESSIONAL SERVICES AGREEMENT - TIGHTLINE SERVICES, INC.

A request to approve the second amendment to the Amended and Restated Professional Services Agreement with Tightline Systems, Inc. (d.b.a. Goosebump) for a one-time increase of \$5,250 and authorize the Mayor or the City Manager and City Clerk to execute the necessary documents.

j. RESOLUTION 3056-712 - INTERGOVERNMENTAL AGREEMENT - JOINT REPRESENTATION IN SETTLEMENT EFFORTS

A Resolution approving an Intergovernmental Agreement among the cities of Avondale, Chandler, Glendale and Scottsdale for joint legal representation in proceedings related to claims made by the White Mountain Apache Tribe for surface water to be diverted from the Salt River Watershed and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

k. RESOLUTION NO. 3057-712 - CONTRACT FOR LEGAL SERVICES WITH ENGELMAN BERGER, P.C..

A resolution approving a contract for legal services among the cities of Avondale, Chandler, Glendale and Scottsdale and Engelman Berger, PC to provide joint representation in the settlement efforts related to the water rights claims of the White Mountain Apache Tribe and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

I. RESOLUTION 3061-712 - AUTHORIZING GRANT ACCEPTANCE FROM GOHS FOR DUI ENFORCEMENT

A resolution authorizing the acceptance of a grant from the Governor's Office of Highway Safety for overtime pay related to DUI enforcement and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

m. RESOLUTION 3062-712 - THIRD AMENDMENT TO INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY

A resolution approving the third amendment to the Intergovernmental Agreement with Maricopa County relating to the provision of financial and crisis case management services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

n. ORDINANCE 1498-712 - AUTHORIZATION FOR THE ACQUISITION OF REAL PROPERTY FOR PUBLIC USE

An ordinance authorizing the City of Avondale to participate in the bank auction related to 125 South Avondale Boulevard and to acquire the property if the City is the successful bidder and authorize the Mayor or City Manager, City Attorney, City Budget and Finance Director and City Clerk to execute all the necessary documents and to take all the steps necessary to carry out the purpose and intent of the Ordinance.

Council Member Buster requested to pull Item 3f to be considered separately.

Council Member Weise moved to approve the consent agenda as presented including Resolutions 3056-712, 3057-712, 3061-712 and 3062-712 and Ordinance 1498-712. Vice Mayor Karlin seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried 6-0.

f. PROFESSIONAL SERVICES AGREEMENT - FRIEDMAN RECYCLING COMPANY, CORP.

A request to approve a Professional Services Agreement with Friedman Recycling Company, Corp. for recyclable materials processing services utilizing a fixed revenue structure and authorizing the Mayor or City Manager and City Clerk to execute the necessary documents.

Council Member Buster questioned why Friedman is being selected and asked for an explanation of how the decision was made.

Cindy Blackmore, Deputy Public Works Director explained that the selection committee discussed the different pricing structures offered by the different companies. She indicated that the fixed revenue structure is being recommended in order to take the volatility out of the revenue stream to assist in budgeting and when setting the rate structure.

Council Member Buster commented that the guaranteed rate offered by Friedman is only \$6.00 more than the rate offered by Waste Management. He added that Waste Management also offers rebates of at least \$10.65. Ms Blackmore commented that there are fluctuations in the market and when those considerations were taken into account, Friedman was ranked higher by the selection committee. Council Member Buster asked what other items were considered in making the selection. Ms Blackmore explained that Friedman was ranked higher regarding the general information about the company they provided, their experience and qualification and their project approach such as the service they will provide to customers and how they fit in the overall needs of the city's program.

In response to a question from Council Member Vierhout, Ms Blackmore indicated that there is a two mile difference in the distance between each of the facilities and City Hall and added that while distance to the facility is important, the committee also considered the fact that once a load is taken to the Waste Management facility, it is then transported to another facility 22 miles away. She added that while that does not directly affect cost, it impacts the sustainability of the city's program. In response to a follow up question from Council Member Vierhout, Ms Blackmore confirmed that the trucks carry material from other cities, so Avondale's sustainability is not the only one that is impacted.

In response to a question from Council Member Weise, Ms Blackmore indicated that Friedman would be able to provide specialty containers for different uses and events which the City does not have, she added that these items were not specifically called out so she was not aware whether Waste Management could provide them as well. Ms Blackmore indicated that in order to keep rates down, a partner to assist with educational and promotional materials is welcome and Friedman has indicated they could assist with providing promotional materials. She concluded by saying that Friedman was selected because their presentation fit with the needs of the community.

In response to a question from Council Member Weise, Ms Blackmore indicated both proposals offered a flat rate with the market, but Waste Management's proposal caused the rates to fluctuate depending on contamination which could result in a decrease in revenues. The committee felt that a flat rate would allow staff to spend more time with education rather than enforcement. She added that in the past contamination has been a problem.

In response to a question from Mayor Rogers, Ms Blackmore indicated that the committee was made up of the sanitation supervisor, recycling supervisor, the community relations director, a finance department representative and herself. She added that a member from procurement division was present to oversee the process but did not have a vote on the decision. She explained the proposals were scored and the pricing was scored separately. Overall Friedman scored higher and was selected.

Maurice Friedman of Friedman Recycling Company thanked the Council for the opportunity to address the council. He indicated Friedman was established in 1977 by his father and has become one of the largest recycling facilities in the area. He indicated that recycling is all they do and believes they provided the strongest proposal. There are a lot of fluctuations in the market, so the fixed rate will give the City the best option and will also further the city's efforts on the commercial side because they have the necessary equipment. His company also has the capability to assist with the educational materials and resources to enhance the program. He explained that the difference in the distance is negligible and it is more important that the load is not transferred from one unit to the other as the contamination rate increases due to glass breaking during the transfer.

Council Member Weise commented he would definitely be interested in exploring possibilities for offering recycling services to businesses. In response to a question from Council Member Weise, Mr. Friedman indicated that his company has been very successful in providing single stream commercial recycling in El Paso and would replicate those efforts in Avondale for businesses and for schools. He added that their contract with El Paso and Las Cruces is also flat rate while their contract with Albuquerque is a market rate. Friedman provides services through Republic Services to Buckeye, Anthem, Fountain Hills and Paradise Valley.

Regarding capital investment, Council Member Buster asked what is the value of the commercial containers Friedman would provide. Mr. Friedman replied that the value varies depending on the size needed and number, but a traditional front low container runs between \$800 and \$900. Ms Blackmore clarified that staff has not worked out the details regarding a commercial program, however, the city is piloting commercial recycling services at some locations. She added that staff can only collect side load containers, so having Friedman as a partner to help develop the commercial program would be of great benefit to the city.

In response to a question from Council Member Vierhout, Mr. Friedman indicated that monthly average is 400 tons, but hopes to increase volume through education and development of the commercial program.

Rodney Glassman from Waste Management indicated that with him was John Drucker, Director of Recycling. He commented that Waste Management is North America's largest recycling company and employs 406 west valley residents of which 38 are Avondale residents. Regarding the discussion regarding fluctuations and his company's proposal, he indicated that the committed base rate could only increase based on the cleanliness of the collected materials and added that there would have also been a \$1.50 per ton payment to go towards a recycling education fund to be used at the city's discretion. He further clarified that the transfer facility in Goodyear is LEED certified and is also used by Litchfield Park, Goodyear and Peoria. Regarding the procurement and evaluation process, he pointed out that there was only one member from the finance department in the selection panel. He asked the Council to delay decision on this contract to be able to analyze and compare the data which in his opinion would show that the city would benefit more from using the market rate offered by his company.

In response to questions from Council Member Weise, City Attorney Andrew McGuire indicated that the procurement process was concluded on June 5th and the contract has been in the negotiation process since then. Finance and Budget Director Kevin Artz explained that once a decision is made, negotiations move forward with the selected vendor and all other vendors are notified after the contract is officially awarded.

In response to a question from Council Member Weise, Mr. Glassman indicated that the purpose for addressing the Council is to ask a policy question regarding how Council is to award contracts. He indicated that in his opinion staff only presented some of the data and Council does not have all of the facts necessary to make a decision that is most financially beneficial to the city. He indicated that at this time Waste Management is not planning to file a protest, however he pointed out that they do believe that the process at the recommendation stage is flawed as Council has not been provided with all of the facts in a similar fashion as they have been provided in other similar items in tonight's agenda.

City Manager Charlie McClendon reviewed the rating process for all contract awards. He emphasized that all of the proposals are rated in the same fashion in order to ensure that everyone is treated fairly. He pointed out that this was a Request for Proposals which considers other variables in addition to price and is permitted under the city's code. He indicated that staff selected this process in order to allow for the best level of competition and the recommendation considered a variety of factors. He added that Council could choose to direct staff to use a process that only considers price.

Council Member Weise indicated that an RFP inherently considers a variety of criteria and while additional information would have been useful, he trusts the staff to make the recommendation that is best for the city and stated he would vote in favor of the staff's recommendation.

Prompted by Council Member Buster, Mr. Drucker explained that the base price is \$35.00 and the revenue share would go up as contamination is reduced. He added that the proposal includes a contamination level of 25% which is higher than other vendors may provide. Council Member Buster indicated that while he is comfortable with using the RFP process for this contract, there is enough disparity that the data should be looked at more closely.

Council Member McDonald asked what the "revenue lost" amount is based on. Mr. Glassman replied that his calculations use a published index price and are based on actual numbers of the city's recycling experience for the past three years. He indicated that his intention is not to accuse staff of anything, however, in his opinion the city could lose as much as \$100,000 by awarding a contract to a vendor who uses a fixed revenue structure, and that is the reason why he felt he should bring it to Council's attention. Mr. Glassman reiterated that all he is asking is for Council to not take action on the contract award tonight and review the numbers more closely before making a decision.

7:51 p.m. Council Member Weise exited the meeting; Council Member Weise returned at 7:54 p.m.

Council Member McDonald agreed with Council Member Weise regarding the trust that he has on staff and opined that this is not a decision that should be based entirely on financial information and would not be in favor of having only finance people in the panel.

In response to a question from Council Member McDonald, Mr. Drucker indicated that during audits, the facility is able to segregate the material coming from each city to accurately determine contamination.

Council Member Vierhout indicated he would be interested in seeing all the information before making a decision.

Council Member Vierhout moved to table decision on this item until a later date; Council Member Buster seconded the motion.

City Attorney Andrew McGuire reminded Council that comments at this time should be limited to the motion on the table.

ROLL CALL VOTE AS FOLLOWS:

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

Motion failed 2-4.

City Attorney Andrew McGuire commented that he is still working with the vendor on a couple of operational requirements included in the contract and the final document to be executed will be slightly different from the one included in the agenda packet. The changes are minor and not substantive.

Council Member Buster moved to award the contract to Waste Management; Council Member Vierhout seconded the motion.

City Attorney clarified that a contract with Waste Management has not been negotiated and therefore the Council cannot vote on awarding a contract to Waste Management at this time.

Based on the City Attorney's clarification, Council Member Buster and Council Member Vierhout withdrew their motion and second respectively.

Council Member Weise moved to approve the Professional Services Agreement with Friedman Recycling as presented and including the minor corrections mentioned by the City Attorney. Vice Mayor Karlin seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

Motion passed 4-2.

Mr. Glassman indicated that this is a one year contract with the option of four one-year renewals and added that Waste Management plans to reach out to Council Members individually because they would like the opportunity to partner with the city in future years.

Mayor Rogers called a five minute recess at 8:04 p.m.

Mayor Rogers resumed the meeting at 8:08 p.m. Council Member Buster was not present.

4 RESOLUTION 3060-712 - INTERGOVERNMENTAL AGREEMENT FOR THE SOUTHWEST FAMILY ADVOCACY CENTER

A resolution approving an intergovernmental agreement with the Town of Buckeye, the City of Goodyear and County of Maricopa for the design, construction and operation of the Southwest Family Advocacy Center and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

Charlie McClendon indicated Police Chief Kevin Kotsur would present this item. Chief Kotsur reviewed the particulars of the item as more specifically described in the Council report.

Council Member Buster re-entered the room at 8:10 p.m.

Chief Kotsur explained the benefits of adding Maricopa County as a partner at the SWFAC.

In response to a question from Council Member Weise, Chief Kotsur clarified that all participating agencies will work cohesively on every case. Council Member Weise asked if more cities could join. Chief Kotsur replied that other cities such as Tolleson and Surprise use the facility on an as needed basis and on occasion are able to provide funding to offset the cost, however, at this point the center is fully staffed and cannot take a full time partner.

Council Member McDonald and Council Member Vierhout commented that this is a great partnership.

In response to a question by Council Member Buster, Chief Kotsur explained that the increase in conviction rate is due to the professionalism and quality of the interviews that staff is able to conduct at the center.

Mayor Rogers thanked Chief Kotsur and the staff at the Advocacy Center for the work that they do to assist the victims of violence.

Council Member Weise moved to adopt Resolution 3060-712 approving the Intergovernmental Agreement with the Town of Buckeye, the City of Goodyear and County of Maricopa for the design, construction and operation of the Southwest Family. Council Member Buster seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried 6-0.

5 UPDATE ON THE STATE OF ARIZONA WATER RESOURCES FUND.

City Council will receive an update on the elimination of the State of Arizona Water Resource fee and seek direction for an effective date to remove the water resource fee.

Kevin Artz, Finance and Budget Director indicated that the legislature removed the fee it had imposed the previous year. The City paid the entire amount of \$95,000 and decided to pass the fee on to the water customers at a rate of \$0.33 per month. Since the city has already paid the fee, staff is seeking direction regarding whether to continue collecting the fee until January to finish recovering the amount that has already been paid, or whether to stop collecting the fee at this time and absorb the balance of \$45,000.

Vice Mayor Karlin commented that the city has options and would rather have the state reimburse the city for the amount it has already paid.

Council Members McDonald, Weise and Vierhout agreed that the fee is kept in place until all the monies are recouped.

Council Member Buster commented that it's an enterprise fund and should be treated as such so the city should continue to collect the money. He indicated he is glad the fee was repealed and thanked Shirley Gunther for her efforts to get it repealed.

City Manager commented that Council will consider a resolution in August to repeal the fee with an effective date. He added that the Arizona Municipal Water Users Association was instrumental in getting the fee repealed by the legislature.

9) **ADJOURNMENT**

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

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried 6-0.

Meeting was adjourned at 8:25 pm



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 16th day of July 2012. I further certify that the meeting was duly called and held and that the quorum was present.



City Clerk