

Minutes of the Work Session held February 4, 2013 at 6:00 p.m. in the Council Chambers.

**MEMBERS PRESENT**

Mayor Lopez Rogers and Council Members

Jim Buster  
Stephanie Karlin  
Jim McDonald  
Charles Vierhout  
Ken Weise

**ABSENCE EXCUSED**

Frank Scott, Vice Mayor

**ALSO PRESENT**

Charlie McClendon, City Manager  
David Fitzhugh, Assistant City Manager  
Rogene Hill, Assistant City Manager  
Wayne Janis, Public Works Director  
Shirley Gunther, Intergovernmental Affairs Manager  
Andrew McGuire, City Attorney  
Carmen Martinez, City Clerk

**1 ROLL CALL BY THE CITY CLERK**

**2 UPDATE ON THE CITY'S RECYCLING PROGRAM**

An update on the City's recycling program and seek direction on the process for bidding the recycling materials processing contract.

Wayne Janis, Public Works Director, explained that the City's recycling program just turned ten years old. Initially 14,500 cans were distributed, but now the city has 25,000. In total, the program has diverted 50,000 tons of recyclable material away from the landfills, which are becoming increasingly harder to site and access. The City has collected \$750,000 in revenue from the program and has avoided paying \$1.15 million in landfill fees. The program focuses on educating the public rather than issuing penalties for noncompliance.

Mr. Janis said Avondale entered into a one-year agreement with Friedman Recycling in August of 2012. In this year's bidding process, Avondale could choose to either use a Request for Proposals (RFP) process or an Invitation for Bid (IFB) process. Mr. McClendon explained that both process have strengths and weaknesses. The RFP allows the City to rate companies on factors besides just price, but it also leads to more second-guessing on the scoring method. The IFB process is much more concrete, and based solely on price.

Council Member Weise said he prefers an RFP since it gives the City more flexibility. The RFP should contain language protecting the City from being penalized for contamination. He requested information on what other local cities are doing about composting. The addition of styrofoam and cardboard to the list of recyclable materials has made a significant difference. Council Member Karlin concurred that an RFP process was preferable.

Council Member Buster felt that last year's RFP process contained too many variables and left too much room for interpretation. An IFB would be more straightforward and still allow the City to make specific requests based on the existing program.

Council Member McDonald said when it comes to evaluating bids, some factors are subjective. Just because a company comes in with the lowest bid does not mean they are the best one for the job. Company reputations in dealing with Avondale and other local cities should be taken into account. An RFP process would allow City Council to grade the best bids and decide what is best for the City.

Council Member Vierhout preferred an IFB, especially considering what happened with the RFP in 2012. He inquired whether Friedman has started a campaign to educate the public on contamination, per the terms of their contract. Mr. Janis responded that Friedman has never notified the City that the contamination rate is in non-compliance. If they are supposed to start an educational campaign, staff will ensure that they comply. Council Member Vierhout questioned whether it would be better to stay with the flat commodity rate or switch to the base plus market share rate. Mr. Janis said staff looked at four months of data and noticed little difference between the two. Mr. McClendon said Friedman has hauled an average of 400 tons per month since the contract began.

Council Member Karlin said a 20% contamination rate is still high. She felt the City should encourage Friedman to start their educational program. Mr. Janis said staff would review the contract and work with Friedman if necessary. Council Member Karlin suggested the educational campaign notify citizens that styrofoam is now recyclable, and that plastic bags can be recycled at stores. They also need to know that larger branches and palm fronds should go in the bulk trash program.

Council Member McDonald suggested that residents be sent new recycling information cards, since the old ones are now out of date. Council Member Vierhout asked whether Friedman has pursued any commercial recycling contracts as they indicated they would. Mr. Janis responded that commercial waste management vendors that haul for businesses and multi-family housing are allowed to do their own recycling programs. Many schools have begun participating in Avondale's program. Council Member Vierhout suggested providing recycling information on water bill stuffers. Mr. McClendon said the City has several different options for spreading the word.

Council Member Weise stated that in order for the commercial recycling program to work, the onus must fall on the City, because commercial vendors want to keep their clients. He felt that the evaluation process should avoid recycling companies that own landfills, since there is a conflict of interests.

Mayor Lopez Rogers requested that staff return with proposals for both an RFP and an IFB, since City Council seems to be evenly split.

### **3 2013 STATE AND FEDERAL LEGISLATIVE AGENDA AND NLC UPDATE**

An update regarding the proposed 2013 State and Federal legislative agenda and provide guidance to the Intergovernmental Affairs Manager regarding the City's state and federal legislative priorities which will guide the City's advocacy activities in 2013. Staff will also provide an update on the activities and policy priorities of the National League of Cities and Towns (NLC).

Shirley Gunther, Intergovernmental Affairs Manager, reported that the makeup of the Arizona legislature has changed significantly, which impacts Avondale's strategy. While the Republican Party holds the executive branch and both houses of the legislature, they no longer hold a supermajority. This makes dealing with the legislature more manageable. So far, 998 bills have been introduced in 22 days. Redistricting has also altered the situation. Avondale is now entirely in one district, represented by Sen. Anna Tovar, who besides being the Minority Whip, is also on the Appropriations Committee, the Judiciary Committee, the Joint Legislative Budget Committee and the Joint Committee on Capital Review. Rep. Lupe Contreras is on the House Federalism and Fiscal Responsibility Committee, and Judiciary Committee. Rep. Mark Cardenas is on the Public Safety, Military and Regulatory Affairs, and the Ways and Means Committee.

Ms. Gunther said the guiding principle of the Arizona League of Cities and Towns is to maintain and enhance fiscal sustainability and protect local control. Maintaining this principle has been difficult recently, as the legislature has frequently tried to pass unfunded mandates and acquire local revenues. The Governor established the Tax Reform for Arizona Citizens Committee, which is designed to simplify sales tax collections. The Committee made a number of recommendations, and the League has voiced serious concerns about three of them:

- State administration of sales tax for all municipalities through the Department of Revenue (DOR) is a problem because local administration allows Avondale to collect sales taxes more quickly, and collect more data.
- A single point of audit through the DOR would prevent Avondale from auditing businesses to obtain quick resolution to delinquencies.
- The elimination of the construction sales tax, and moving all local governments to a point of sale material-based tax, would be a significant policy shift that does not necessarily simplify anything.

Ms. Gunther said the Governor understands the League's opposition. No bill exists yet, and the momentum seems to be growing against inclusion of these three items.

Ms. Gunther said that on the federal level, the November election changed very little. Democrats retained the executive branch and the senate, while Republicans retained the house. Avondale's district number has changed, though the City is still in Rep. Raul Grijalva's district. He sits on two powerful committees in Washington D.C. She recommended that Avondale continue to support the effort to preserve the mission of Luke Air Force Base. She said Mayor Lopez Rogers attended the Board Meeting of the National League of Cities, where they determined their top three legislative priorities.

- The NLC opposes the elimination of the federal income tax exemption provided to the interest paid on state and municipal bonds, which is under threat as Congress tries to find ways to reduce the federal budget deficit. If it is eliminated, bond taxes will increase, and cities will find it harder to build big infrastructure projects.
- The NLC supports the Marketplace Fairness Act, which is designed to overturn a 1992 Supreme Court Ruling requiring retailers to have a physical presence in a state in order to collect the sales tax on goods.

- The NLC also supports an immigration reform policy with five components: border enforcement, workforce verification, legal avenues for immigration, a path to legal status and citizenship, and better coordination between the local and federal governments.

Council Member McDonald noted that Phoenix gets to charge municipalities an administration fee for distributing federal transportation money locally. He inquired whether Phoenix would also charge a fee to collect sales tax money under the Governor's plan. Ms. Gunther responded that the Committee never discussed the item. Council Member McDonald said he prefers local control and opposes the changes to the construction sales tax, as one community could profit from materials sales, while another has to pay all the related expenses. The NLC's municipal bond priority is important, but the internet sales tax will have a difficult time controlling worldwide commerce. Ms. Gunther responded that Louisiana is pioneering a method to track internet sales. Council Member McDonald expressed concern that the proposed internet legislation would lead to government monitoring of every internet sale in order to ensure fair distribution. He said the immigration proposal makes much sense, but the top priority is for border enforcement.

Council Member Vierhout requested an explanation for the motivation behind centralized collection of taxes. Ms. Gunther explained that all cities require different types of fees and renewals for different types of licenses. The idea initially was to create a one-stop shop for business licenses, but quickly evolved to include tax collections. Council Member Vierhout said he supports the NLC priorities.

Council Member Buster inquired about the new motion picture bill. Ms. Gunther explained that some of the provisions have been modified, but it faces the same opposition as previous bills did, and will struggle to find support in the legislature. Council Member Buster said he has always favored local control, but pointed out that Arizona is one of only four states to have not adopted centralization. Protecting Luke AFB is an obvious priority. He supports the NLC's municipal bond priority, but the internet sales tax issue is tricky. Local businesses have to be protected, but there are many problems associated with collecting that tax. The immigration issue has to be solved sooner rather than later.

Mayor Lopez Rogers said all of the priorities point towards jobs and the economy. She reminded City Council Members that they should refer to Ms. Gunther as their point of contact whenever they communicate with legislators at the state or federal level.

#### **4 ADJOURNMENT**

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

Meeting adjourned at 7:05 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 4th day of February 2013. 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 February 4, 2013 at 7:11 p.m. in the Council Chambers.

**MEMBERS PRESENT**

Mayor Lopez Rogers and Council Members

Jim Buster  
Stephanie Karlin  
Jim McDonald  
Frank Scott  
Charles Vierhout  
Ken Weise

**ABSENCE EXCUSED**

Frank Scott, Vice Mayor

**ALSO PRESENT**

Charlie McClendon, City Manager  
David Fitzhugh, Assistant City Manager  
Rogene Hill, Assistant City Manager  
Christopher Reams, Director of Parks, Recreation & Libraries  
Barbara Chappell, Regulatory Compliance Manager  
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 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 January 14, 2013
2. Regular Meeting of January 22, 2013

**b. LIQUOR LICENSE TEMPORARY EXTENSIONS OF PREMISES - AMERICAN SPORTS CENTER**

A request from John Shields for two Temporary Extensions of Premises of the Series 05 Government License to sell all spirituous liquors at ASC located at 755 N 114th Avenue in Avondale to be used in conjunction with two Out and About events on February 8 and March 8, 2013.

**c. DESIGN SERVICES CONTRACT - SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT**

A request to approve a Design Services Contract with Salt River Project Agricultural Improvement and Power District for the design of the required electrical improvements for the City Center Phase III Project in the amount of \$270,870.68 and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

**d. CONTRACT AWARD - U.S. PEROXIDE, LLC**

A request to award a contract to U.S. Peroxide, LLC, to provide odor control chemicals and application services, for a maximum aggregate amount not to exceed \$1,250,000 and to authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action

**e. CONTRACT AWARD - REPUBLIC SERVICES, INC., FOR BIOSOLID REMOVAL SERVICES**

A one-year contract to Republic Services, Inc., for Biosolid Removal Services at the Wolf Water Reclamation Facility, in an amount not to exceed \$345,000, with the option of four annual one-year renewals, for a total possible five-year term and a maximum aggregate amount not to exceed \$1,725,000, and to authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**f. SECOND AMENDMENT TO PURCHASE AGREEMENT - SPILLMAN TECHNOLOGIES, INC.**

A request to approve the second amendment to the Purchase Agreement with Spillman Technologies, Incorporated, for additional policing software licensing in the amount of \$49,170 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**g. PROFESSIONAL SERVICES AGREEMENT – HARRINGTON PLANNING + DESIGN, LLC – CENTRAL AVENUE IMPROVEMENTS**

A request to approve a Professional Services Agreement with Harrington Planning + Design, LLC to provide landscape design services for the Central Avenue Improvement project in the amount of \$52,920, authorize the necessary transfer and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

**h. THIRD AMENDMENT TO FINANCIAL ASSISTANCE AGREEMENT - CARE1ST HEALTHPLAN ARIZONA, INC.**

A request to approve the third amendment to the Financial Assistance Agreement with Care1st Health Plan of Arizona, Inc. to receive continuing funds for operation of the Care1st Avondale Resource and Housing Center and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**i. RESOLUTION 3091-213 – INTERGOVERNMENTAL AGREEMENT WITH CITY OF GOODYEAR FOR CONSTRUCTION INSPECTION SERVICES**

A resolution authorizing an Intergovernmental Agreement with the City of Goodyear for the purpose of providing construction inspection services, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

**j. ORDINANCE 1509-213 - AUTHORIZING THE ACQUISITION OF REAL PROPERTY FOR PUBLIC USE AND CONTRACT FOR PURCHASE AND SALE**

An ordinance authorizing the acquisition of real property for public use and a contract for purchase and sale with Lennar Arizona, Inc. for the property located in the Desert Springs Village subdivision for the amount of \$180,000 and authorize the Mayor, or City Manager, City Clerk and City Attorney to execute the necessary documents.

**k. ORDINANCE 1510-213 - ACCEPTING THE DEDICATION OF REAL PROPERTY AND A RELATED EASEMENT FOR MUNICIPAL WATER AND WASTEWATER PURPOSES FOR PHOENIX INTERNATIONAL RACEWAY LIFT STATION**

An ordinance accepting the dedication of real property and a related easement for the Phoenix International Raceway Lift Station and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**l. ORDINANCE 1511-213 - ACCEPTING DEDICATION OF WATERLINE EASEMENT AND APPROVAL OF A LICENSE AGREEMENT WITH PHOENIX INTERNATIONAL SPEEDWAY**

A request to adopt an ordinance accepting the dedication of a waterline easement for the Phoenix International Raceway Lift Station, a License Agreement with Phoenix Speedway Corp. and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

Council Member McDonald moved to approve the consent agenda as presented including Resolution 3091-213 and Ordinances 1509-213, 1510-213 and 1511-213. Council Member Weise seconded.

**ROLL CALL VOTE AS FOLLOWS:**

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

Motion carried unanimously.

**4 PROFESSIONAL SERVICES AGREEMENT – ISS GROUNDS CONTROL, INC.**

A request to approve a Professional Services Agreement with ISS Grounds Control, Inc. to provide landscaping services for city facilities, parks, medians and easements in the amount not to exceed \$710,000 annually and a total contract amount of \$3,550,000 over a contract term of five (5) years and authorize the Mayor or the City Manager and the City Clerk to execute the necessary documents.

Christopher Reams, Director of Parks, Recreation & Libraries, requested approval of a service agreement with ISS Grounds Control. The new contract would replace two existing contracts for landscaping services covering all City facilities, ten parks, and all medians, easements and well sites, but not sports fields. The cost of this service is \$710,000 annually. Avondale began privatizing portions of its landscaping services in 2008, contracting with two companies for a total of \$917,000 per year. At that time, it was thought to be in the City's best interest to have two contractors. By 2009, the City landscaping was fully privatized.

Mr. Reams said the use of only one contractor reduces costs, increases efficiency, and provides for better oversight. A Request for Proposal (RFP) went out in October 2012. A panel evaluated submissions based on quality of information provided by the vendors, the ability of the contractors to successfully perform the work, and contractor experience, qualifications, and price. ISS Grounds Control was selected. The term of the contract will be for one year, with four optional one-year terms. Staff will analyze the contract performance each year, and recommend to City Council whether to extend the contract each year. The extension agreement may include negotiated price adjustments as necessary. The cost of the contract will be shared between Building Maintenance Parks, and Water Resources. Staff recommends approval of the PSA.

Council Member Weise inquired about contractor performance evaluations. Mr. Reams explained that the first few days are spent touring every facility with the contractor to explain City standards and expectations. Contractors are evaluated quarterly, and staff meets with them once a month.

Council Member McDonald inquired whether the fundraising effort and associated trust fund still covers the cost of maintaining the cemetery. Mr. Reams said it does, and that money from the trust fund is used to pay that portion of the contract. Council Member Vierhout asked about the RFP process. Mr. Reams explained that the RFP was evaluated by a panel consisting of representatives from several departments. Council Member Buster requested an analysis of the cost difference between the privatized service and the in-house service. Mr. Reams said the City saved \$100,000 in the first year of privatization.

Council Member Weise moved to approve the Professional Services Agreement with ISS Grounds Control for landscaping services for facilities, parks, medians, and easements. Council Member Vierhout seconded.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried unanimously.

**5 RESOLUTION 3090-213 – AMENDED AND RESTATED WHITE MOUNTAIN APACHE TRIBE WATER RIGHTS QUANTIFICATION AGREEMENT**

A resolution approving the Amended and Restated White Mountain Apache Tribe Water Rights Quantification Agreement and exhibits thereto and authorize the City Manager and City Clerk to execute the necessary documents.

Mr. McClendon noted that in 2009, Avondale worked with several other cities to quantify a settlement of the White Mountain Apache Tribe's water rights related to the Salt River Watershed. The federal government approved the settlement with modifications.

Barbara Chappell, Regulatory Compliance Manager, explained that part of the settlement describes how water providers could lease Central Arizona Project (CAP) water from the Tribe to secure a water source for the Valley. In March of 2009, City Council voted to approve the agreement, which eventually passed through the U.S. Congress. The Bureau of Reclamation intends to build a dam on Tribal land to utilize the water resources, and seven major revisions to the agreement were made. If City Council approves the agreement, the City will lease 882 acre-feet of CAP water for 100 years from the White Mountain Apache Tribe. Of this, 242 acre-feet will be Municipal and Industrial (M&I) priority and the last to be cut in years of shortage. The second to last tier cut will be 640 acre-feet of agricultural priority. Avondale can begin leasing the water in 2015, and payment will be due at that time.

Ms. Chappell said that in 2015, the one-time total cost is anticipated to be about \$2.3 million. Once the water is secured, it can be recovered in City wells. Two million dollars have been identified in the FY 2015/16 five-year CIP to pay for the lease, though more will be required. Leased water will also be subject to ongoing CAP delivery costs, and that money will come from the Water Resources operating budget. Staff recommends approval of the resolution.

Council Member Karlin queried why each city individually negotiated with the Tribe directly, rather than through a central bidder like Salt River Project (SRP). Andrew McGuire, City Attorney, explained that the main reason cities entered into the litigation was to secure a reliable source by avoiding the introduction of an intermediary into their water stream.

Council Member Karlin inquired if the agreement includes a contingency for when prolonged drought conditions produce less water than the City paid for. Mr. McGuire said the water is tiered in priorities, and Avondale is in the two best tiers. Little can be done in a true drought situation, and cities will be forced into conservation regardless of their contractual rights. Council Member Karlin queried whether other cities had priority over Avondale. Mr. McGuire responded that the agreement only affects cities within watersheds managed by SRP within the State of Arizona. Water rights between the states along the Colorado River probably will remain in litigation for decades.

Council Member McDonald said the cost of the water seems high, but the cost per gallon over 100 years is actually pretty small, and the need for it is crucial. Ms. Chappell added that the water can also be used anywhere in the service area, which is not the case for all Avondale water. Council Member Buster said the 1980 Groundwater Management Act requires cities to secure a 100-year water supply, which has always been a challenge for Valley cities. Because of growth and the chance for draught, it is always important to plan ahead when it comes to water rights.

Council Member Weise moved to approve Resolution 3090-213, the amended and restated White Mountain Apache Tribe Water Rights quantification agreement. Council Member Vierhout seconded.

ROLL CALL VOTE AS FOLLOWS:

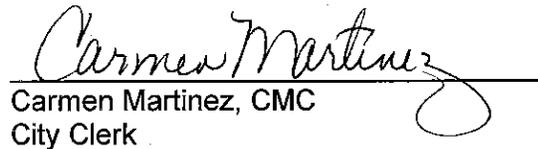
Mayor Lopez Rogers	Aye
Vice Mayor Scott	Aye
Council Member Buster	Aye
Council Member Karlin	Aye
Council Member McDonald	Aye
Council Member Vierhout	Aye
Council Member Weise	Aye

Motion carried unanimously.

**6 ADJOURNMENT**

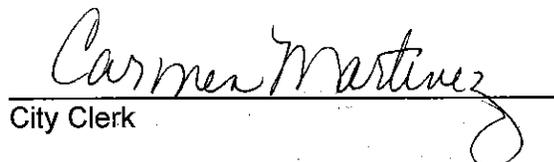
Meeting adjourned at 7:40 p.m.

  
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 4th day of February 2013. I further certify that the meeting was duly called and held and that the quorum was present.

  
City Clerk