

Minutes of the Regular Meeting held March 4, 2013 at 7:00 p.m. in the Council Chambers.

MEMBERS PRESENT

Mayor Lopez Rogers and Council Members

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

ALSO PRESENT

Charlie McClendon, City Manager
David Fitzhugh, Assistant City Manager
Rogene Hill, Assistant City Manager
Lynn Parkin, Assistant Police Chief
Shirley Gunther, Intergovernmental Affairs Manager
Ken Galica, Development Services
Kevin Artz, Finance and Budget Director
Andrew McGuire, City Attorney
Carmen Martinez, City Clerk
Tom Belshe, Arizona League of Cities and Towns
Barbara Lukowicz, YMCA
Matt Sandoval, YMCA

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.

Council Member Vierhout requested separate consideration of Item C.

a. APPROVAL OF MINUTES

1. Work Session of February 19, 2013
2. Regular Meeting of February 19, 2013

b. RESOLUTION 3093-313 – AMENDMENT TO THE WESTCAPS MULTI-PARTY AGREEMENT

A resolution to amend the WESTCAPS Multi-Party Agreement to lengthen the existing term of the agreement and delegate the City Manager the authority to approve further extensions without Council approval and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

d. ORDINANCE 1514-313 – WATERLINE EASEMENT AND ABANDONING PORTIONS OF WATERLINE EASEMENT AT GATEWAY CROSSING

An ordinance accepting the dedication of a waterline easement and abandoning portions of a waterline easement at Gateway Crossing and authorize the Mayor or City Manager, City Clerk and City Attorney to execute the necessary documents.

Council Member McDonald moved to approve consent agenda items A, B, and D as presented. Council Member Weise seconded.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried unanimously.

c. RESOLUTION 3094-313 AND ORDINANCE 1513-313 – DECLARING AS A PUBLIC RECORD THE DISPOSITION OF UNCLAIMED PROPERTY IN POLICE POSSESSION AND AMENDING CHAPTER 20 TO INCORPORATE THE SAME

A resolution declaring as a public record the document filed with the City Clerk titled "City of Avondale Disposition of Unclaimed Property in Police Possession Policy, March 4, 2013" and an ordinance amending the Avondale City Code, Chapter 20 by adding a new article IV relating the disposition of unclaimed personal property in the possession of the Police Department and adopting the policy.

Council Member Vierhout stated that the Ordinance contains much that he likes, but he disagrees with the gun sell back rules. Guns carry serial numbers that could be traced back to specific crimes. These types of "trophy" guns could potentially fall into the hands of people with bad intentions.

Richard Childress, a resident, commented that the Ordinance would allow the Police Department to sell 1,000 guns back to the public, and he felt the City should not be in the gun business. He commented that the recent tragedy in a school was only the latest in a series of incidents that demonstrate the need to address gun control in the U.S. He had always been under the assumption that Police Department destroyed weapons, but it appears that is not the case. He added these weapons should be destroyed but cannot do that due to recent laws adopted by the state. He called for the City to store the weapons until this issue is resolved by the courts. The community must take responsibility and keep these weapons out of the hands of people who could do harm.

Council Member Buster inquired about the current procedures regarding firearm seizures. Assistant Police Chief Parkin explained that firearms in police custody for evidence are not released until the case has been tried. Per state law, firearms used in

a homicide or sexual assault cannot be released for more than 50 years. Other firearms are placed with the Police Department for safekeeping or when they cannot be returned to their owners.

Council Member McDonald said money from the gun sales could be used to purchase equipment for the Police Department. They would be sold by licensed and legal gun dealers. Destruction of guns would not stop criminals from obtaining them. The City should not restrict anyone's Second Amendment rights.

Council Member Vierhout inquired whether the City could opt to destroy guns on its own as an exception. Andrew McGuire, City Attorney, responded that the statute is directive in how cities are to dispose of firearms. They are to be sold through licensed gun dealers, or maintained for use by the Police Department. Council Member Vierhout inquired whether the serial numbers could be removed before sale. Mr. McGuire said that would be a federal offense, and would create an untraceable gun. Council Member Vierhout said the logic of the Ordinance suggests that it would also be okay for the Police Department to sell seized marijuana to licensed dealers. Mr. McGuire responded that after marijuana's evidentiary value is utilized, it is destroyed, but under federal law it is still considered an illegal narcotic, rather than a legal firearm.

Council Member Weise commented this type of law strikes at the heart of what people consider right and wrong. The State made a rule that the City must follow. The City would have no power to decide who a gun dealer sells a weapon to. The only other option is to store them. Mr. McGuire clarified that the language in the statute is permissive, and disposal is not a mandatory directive. Guns can only be disposed of in one of two ways. The resolution pushes Avondale's code provisions in line with State law. Council Member Weise suggested that City Council vote for the Resolution as presented, and to direct the Police Department to hold onto the weapons and not dispose of them. Charlie McClendon indicated that either option for disposal is available at this time but he would first like to talk to the Police Department regarding storage issues before committing to anything; perhaps only a subset of weapons should be destroyed. In response to a question from Council Member Weise, City Attorney indicated that the recommendation would bring the city into compliance with state law and added that were the City Council not to adopt the ordinance, the police department would continue following current procedures.

Vice Mayor Scott felt the money from gun sales would be valuable to the City. He proposed that Council could pass the Ordinance as presented and amend it later to direct the Police Department not to sell any firearm that could be considered a "trophy" gun, if that becomes an issue. Mr. McGuire said the only discretion being removed by the statute is the discretion to destroy the weapons, not the discretion to hold or sell the weapons. Council Member Buster said destruction is an uncommon practice and the Police Department is running out of storage space. He does not like State mandates, but the options provided in the law are good.

Council Member Vierhout inquired about the number of guns the Police Department could sell versus those it would hold for evidentiary reasons. Assistant Chief Parkin responded that the Police Department has approximately 1,000 weapons in the property

room that have the potential to be sold to a licensed dealer or traded. She surmised that only a few firearms would be held for more than 50 years.

City Manager clarified that if it is the Council's will, he can work with the police department to develop a proposal for the disposal of guns based on certain criteria before the ordinance becomes effective 30 days after adoption.

Vice Mayor Scott noted that a municipal court judge would have to sign the order to either sell or trade the weapons. Mayor Lopez Rogers said this State law brought forward by Representative Eddie Farnsworth is yet another example of the loss of local control.

Council Member Weise moved to adopt Resolution 3094-313, which pertains to the disposition of unclaimed property in police possession. Vice Mayor Scott seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried 5 to 2.

Council Member Weise moved to adopt Ordinance 1513-313 amending the Avondale Code, Chapter 20 by adding a new Article IV – Disposition of Unclaimed Property in Police Possession – to comply with the amended State law. Vice Mayor Scott seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried 5 to 2.

4 SUMMARY OF LAWS 2012, CHAPTER 332 TPT PORTAL

An update from Tom Belshe, Executive Director of the League of Arizona Cities and Town regarding Laws 2012, Chapter 332, which was enacted to allow the state and cities and towns to work together to create an online portal for taxpayers to pay municipal TPT and affiliated use taxes.

Tom Belshe, Arizona League of Cities and Towns, said Arizona has a unique Transaction Privilege Tax (TPT) system that is difficult for taxpayers to comply with, especially if their businesses work in multiple jurisdictions. Representative Rick Gray sponsored HB 2466, creating a portal for taxpayers to pay TPT and affiliated use taxes. The portal would allow businesses to upload their tax information, and one payment would cover all the jurisdictions they do business in. The portal is flexible enough to accept software from individual cities, as well as generally available proprietary software. Self-collecting cities like Avondale would still be able to gather the information they need, even if the State has no use for it. The Marketplace Fairness Act being considered in Washington D.C. requires a single remittance location for taxpayers who work in multiple jurisdictions. The portal would help comply with that bill, should it pass.

Vice Mayor Scott said local control allows the City to get its money when it is paid each month. He inquired about the anticipated delay the City could expect in receiving money from the State. Mr. Belshe responded that currently, payment comes within two to six weeks. With the increased workload, it would take some investment to maintain that time frame. Since there would be no need for staff to open envelopes, the turnaround time should improve. Vice Mayor Scott said the City has already invested money in a tax collection system that it now has to give up before knowing whether the State's replacement system will work.

Council Member Weise expressed concern that the State could collect the money, and then later decide to use it to balance the budget. Mr. Belshe agreed that concern has been raised before. Mayor Lopez Rogers noted that Rep. Gray consulted cities before forwarding the bill. The portal would make the tax collection process easier for businesses, and would prepare the way for the Marketplace Fairness Act.

5 VALLEY OF THE SUN YMCA PRESENTATION

A presentation by staff from the Valley of the Sun YMCA regarding its educational programs and the impact of those programs on Avondale and other youth participants.

Assistant City Manager Rogene Hill introduced Barbara Lukowicz from the Valley of the Sun YMCA. Ms. Lukowicz said the YMCA is the largest provider of childcare in the nation and is very much involved in preschool and early childhood education. The YMCA transmits values like responsibility, respect, and caring to children, youth and families. The public is largely unaware of the full extent of services the YMCA offers, which includes the Youth Leadership Program, the Teen Action service program, and many community volunteer opportunities.

Matt Sandoval described the YMCA's community initiatives across the State of Arizona, which serve youth who are disconnected from opportunity. They provide linkages to academics, work readiness, and college readiness for youth aged 16 to 21. The Building

Futures Mentoring Program serves 120 youth per year in a one-year match with a trained adult mentor. The I Learn Program offers tutoring for more than 400 youth in partnership with Arizona Virtual Academy. The Phoenix Workforce Development Program provides case managers for over 200 youth who help them finish school, raise their grades, and begin the transition to college or a trade or technical school. Las Artes de Maricopa combines a half-day GED program for dropouts, with an art studio instruction program. Students learn to work in project teams on large scale mural projects, and earn stipends for daily attendance and for the sale of their artwork. Over 200 youth are served each year, and the program enjoys an 83% success rate.

Council Member Karlin said the YMCA is a valuable asset to many communities, providing services otherwise unavailable. This is an older institution that always manages to innovate and keep up with the times. Mayor Lopez Rogers encouraged the YMCA to participate in the Education Summit on April 25.

6 DISCUSSION OF THE BIDDING PROCESS TO BE USED FOR THE RECYCLING MATERIALS PROCESSING CONTRACT

Information regarding the bidding options for the City's recycling materials processing contract. Staff is seeking direction on the preferred bidding process for this contract.

Mr. McClendon said City Council requested more information before deciding which approach to take for the next recycling contract. Kevin Artz, Finance and Budget Director, explained that the City has two procurement options available for the recycling materials bid process. The new contract begins on July 1. The first option is a Request For Proposal (RFP) where an award is based on an overall program proposal as well as price. This is typically used when a service component has to be evaluated. The second option is an Invitation For Bid (IFB) process where an award is based on price and price-related factors. This is used whenever the City purchases a commodity such as a car. In an RFP, the bidder typically gives a description of the business, experience and qualifications, explains the price structure, and how their service differs from services offered by other vendors. In an IFB, the City could establish minimum requirements that the bidder would have to meet. An IFB can also set certain contract requirements. In either case, the price proposal can take many different forms, but must be very clearly explained in the documentation.

Mr. Artz stated that with recycling materials, the situation is different. The City has no way of knowing what future revenues are going to be for recycling, so pricing has to be based on historical information. Staff recommends an IFB process since recycling is like a reverse commodity, and the City is looking to get the best overall price for materials.

Council Member Buster felt that last year's RFP process was too subjective and led to too much misunderstanding. The IFB can specify the City's criteria and provide a more concrete process. Council Member Karlin said the RFP is more flexible and can include more components. The lowest bid is not necessarily the best, because quality can be an issue. An RFP allows for more flexibility in decision making.

Mayor Lopez Rogers inquired whether an IFB contract could contain requirements that the City is concerned with. Mr. Artz responded that the City could include some additional requirements in the IFB. Andrew McGuire added that much like the towing contract, the City

could stipulate that the repositories have to be within a certain radius. Items that can be reduced to objective criteria can be put in an IFB. Typically, companies that buy recyclable materials are out of state. The IFB allows direct comparison of like bids, free from variables in calculation. Mayor Lopez Rogers queried the inclusion of an education component. Mr. McGuire explained that as opposed to the RFP, the IFB actually is the contract, so staff with outline all of the requirements, such as education component, in the contract.

Council Member Weise said that for vendors, RFPs are much more complicated than IFBs, but RFPs benefit the City more than IFBs do. An RFP allows for more employee input, and encourages dialogue between the City and the vendor. There are so many components involved in the recycling process that it would benefit the City more to use an RFP.

Council Member Vierhout said the RFP created much confusion last year. Council approved a contract with one vendor, only to return the following meeting to rescind it and pick a different one. He would prefer a more straightforward method of picking a vendor. The IFB can include everything the City wants, and incorporate staff input. Council Member Weise inquired whether it would be easier for staff to clear up the confusion under an RFP or an IFB. Mr. Artz responded that in terms of procurement, the IFB is a cleaner process for determining which vendor can return the most revenue to the City.

Council Member McDonald said he is in favor of the RFP. It provides the City with a way to evaluate the vendor as well as the bid. Vice Mayor Scott asked whether the City could include the same performance criteria in both an RFP and an IFB. Mr. Artz responded that the City could establish requirements under both. Vice Mayor Scott suggested that regardless of which process is used, the contract should state requirements very clearly, like the towing contract does. He favors the IFB process.

Council Member Karlin suggested establishing a base minimum, so that if the market goes lower, the City doesn't lose out. Mr. Artz noted that the current contract contains base minimum that the City receives regardless of what commodity prices are. Council Member Weise stated that an IFB would not allow the City to take into account past performance.

Mayor Lopez Rogers noted that the majority of Council supports using an IFB. Mr. McClendon stated that City Council would have an opportunity to review the IFB before it is issued.

7 PUBLIC HEARING AND ORDINANCE 1515-313 – COLDWATER DEPOT III PAD REZONING (PL-12-0205)

A public hearing and a request by Ms. Cathy Thuringer, Trammell Crow Company, to adopt an Ordinance amending the zoning atlas for 12.86 gross acres of real property by adopting the Coldwater Depot III Planned Area Development (PAD) Development Plan and Program. The undeveloped property is located approximately 190 feet north of the northeast corner of Van Buren Street and 127th Avenue.

Ken Galica, Development Services, said the proposed PAD is bordered on the north by the Avondale Commerce Center, on the west by Coldwater Depot Phases I and II, on the east by the Legacy Charter School, and on the south by a 190-foot wide parcel that will become part of the City's future Van Buren drainage and recreational corridor. South of Van Buren is

undeveloped City-owned property that could potentially be High-Density Residential. The subject property is designated as Business Park, which is an Employment Industrial land use. The application request is to adopt the PAD for 12.86 acres of land. The PAD contains a conceptual site plan and renderings for development of the site. Permitted uses are limited to Light Industrial, including such uses as distribution facilities, cross-dock distribution and light manufacturing. Phase III is a sister project to Phases I and II, with the same developer and property owner, and the same aesthetics.

Mr. Galica explained that the 190-foot wide drainage channel will be a cooperative project with Maricopa County Flood Control. The PAD site itself will consist of a single cross-dock building, with east and west elevations as the office entries, while the north and south elevations have the truck bay doors. Views from Van Buren will be aesthetically concealed. The buildings feature a contemporary style and a neutral color palette. The entry areas are strongly emphasized. Parapet heights vary on all sides of the building, and color changes and scoring help break up the long walls. The building will incorporate green elements and locally procured materials. The loading bays will be depressed from the natural grade of the site, which will help with the view screening.

Mr. Galica said the development standards for the PAD are similar to the City's CP or A-1 standards, but an exception allows for a 33% larger sign to scale with the size of the building. The adjacent streets, 127th Avenue and Corporate Drive, are mostly complete. A traffic impact analysis will be required at the site plan stage. The City Engineer is confident that the development will work. The PAD is consistent with the General Plan for this area. The Planning Commission recommended approval of the application by a vote of five to one, subject to six staff recommended stipulations, plus an additional stipulation to emphasize the need to aesthetically screen the view from Van Buren. Construction is expected to begin late 2013 or early 2014.

Mayor Lopez Rogers said the screen wall would be an appropriate place for a mural. Council Member Weise suggested that higher walls are not always the answer for screening. He would prefer a creative landscape buffer and a mural there. He inquired about screening on the north side. Mr. Galica responded that the concern for the north is smaller, as it faces the interior towards a business park. Council Member Weise inquired about truck impacts on the road. Mr. Galica responded that 127th Avenue and Corporate Drive are not built to arterial standards, and so might wear faster. Van Buren and El Mirage are built to higher standards.

Council Member McDonald stated that the screening for the existing Coldwater Depot building conceals the truck bay doors adequately. He endorsed a creative solution for the new screen wall. Mr. Galica said the drainage channel and recreational corridor will include landscaping on a berm. There will be an interim condition before the vegetation matures enough. The project will be required to participate in the City's public art fund.

Mayor Lopez Rogers opened the public hearing. Hearing no requests to speak, she closed the public hearing.

Council Member McDonald moved to accept the findings, and adopt Ordinance 1515-313 approving Application PL-12-0205, a request to amend the zoning atlas for approximately

12.86 gross acres to Planned Area Development (PAD), subject to the seven stipulations recommended by the Planning Commission. Council Member Weise seconded.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried unanimously.

8 ADJOURNMENT

Council Member Weise moved to adjourn the meeting; Council Member Vierhout seconded the motion. All ayes.

Meeting adjourned at 8:45 p.m.



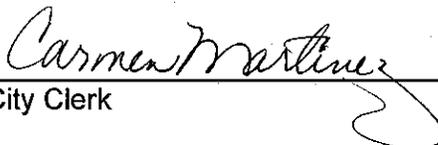
Mayor Lopez-Rogers



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 March 2013. I further certify that the meeting was duly called and held and that the quorum was present.



City Clerk