

Minutes of the Special Meeting held June 10, 2013 at 6:00 p.m. in the Council Chambers.

MEMBERS PRESENT

Vice Mayor Frank Scott and Council Members

Jim Buster
Stephanie Karlin
Jim McDonald
Charles Vierhout
Ken Weise

ABSENCE EXCUSED

Mayor Lopez Rogers

ALSO PRESENT

Charlie McClendon, City Manager
David Fitzhugh, Assistant City Manager
Rogene Hill, Assistant City Manager
Charles Andrews, P.E., City Engineer
Cheryl Covert, Economic Development Specialist
Rob Lloyd, CIO/IT Director
Andrew McGuire, City Attorney
Carmen Martinez, City Clerk

1) ROLL CALL BY THE CITY CLERK

Carmen Martinez, read a statement of participation regarding public appearances.

2) UPDATE ON THE CITY CENTER PHASE 3, TRANSIT CENTER AND OFF-SITE IMPROVEMENTS PROJECT

An update on the City Center Phase 3, Transit Center and Off-Site Improvements project.

Charlie McClendon, City Manager, said the City is prepared to move forward with Phase 3 of City Center, which consists of extending 114th Avenue and Park Avenue to Roosevelt Street, as well as construction of the Transit Center parking area, pedestrian facilities, lighting and landscape improvements.

Charles Andrews, City Engineer, provided an update on the build contract that is expected to come before City Council for approval next week. The project will provide a permanent parking lot for American Sports Center and environs, replacing the leased parking lot currently in use. The Transit Center itself will be able to accommodate up to five large buses. Future plans include the potential for a five-story office building to be connected to a parking structure via a pedestrian bridge. Phase 3 improvements will turn Avondale into a significant transportation node regionally and provide improved multi-modal circulation within the City Center.

Mr. Andrews noted that the City Center site was laid out with great care to ensure that all future power, sewer, water and communications fiber optics infrastructure would be installed in advance to avoid digging up the streets again in the future. The urban theme introduced in Phase 1 will continue in Phase 3. Sidewalks will meet all ADA requirements. Circulation will work for both pedestrians and vehicles. Streets and sidewalks will be lit to avoid dark spots. Roosevelt Street will accommodate both buses and light rail transit. The streets surrounding the Transit Center will allow buses enough space to maneuver without jeopardizing pedestrians. A shade structure will provide a canopy for transit riders waiting for connections.

Mr. Andrews stated that the City Engineer estimated Phase 3 to cost \$3.8 million. Combs Construction won the contract with a \$3.4 million bid. They have done quality work for the City of Avondale before. Construction will begin the first week of July and should be completed by early December.

Council Member McDonald inquired about previous plans to build the parking structure up to a four level garage in three phases. Mr. Andrews explained that the current plan is based on an efficient model used by the City of Phoenix. Under this model, the surface parking area is built with a foundation in place to support a second level during a later phase.

Council Member McDonald noted that federal transit funds cannot be used for private projects, which could conflict with the plan to connect the parking and the office building with a pedestrian bridge. He also expressed concern that such a plan would mislead transit users into believing that the structure is not available for non-office related parking.

Mr. McClendon said City Center so far has been built using only local funding, which gives the City complete flexibility. The City is working with the Maricopa Association of Governments (MAG) and the Regional Public Transportation Authority (RPTA) on the Transit Center. The Avondale Express shuttle is expected to start operating in 2020, but could be accelerated if the transit facility is in place.

Council Member McDonald stated that when City Center is fully developed, it will need a lot of parking. The idea behind building the parking structure up first before expanding out in future phases was to avoid having new construction interfere with existing parking operations. He proposed using federal transit dollars for the first phase, with local money paying for the subsequent phases including the pedestrian bridge to the office building. Mr. McClendon explained that nothing in the plan would preclude that from happening.

3) QWEST BROADBAND SERVICES LICENSE AGREEMENT AND RELATED WAIVER REQUESTS

Information regarding a request submitted by Qwest Broadband Services d/b/a CenturyLink for a License Agreement to provide "Prism" branded services in the community and will consider whether to schedule a public hearing to consider Century Link's waiver requests on its cable license application.

Rob Lloyd, CIO/IT Director, said Prism is CenturyLink's video on demand service. Their parent company, Qwest, acquired AT&T's land rights from a time when Arizona was still a territory. The company wants to build upon the existing telecommunications structure to bundle video services along with other services. Part of their request requires Avondale to waive five portions of the City Code. CenturyLink justifies the waivers because they are a public entity, and a second entrant that is building on another network. Avondale has 120 days to decide whether to grant the license.

CenturyLink is requesting waivers to avoid submitting:

1. A detailed financial statement, because they are already a public entity that has to file with the FCC

2. Projections of revenues and customers, because they are not building a whole new infrastructure
3. Cost of completion numbers, because this information is unknown
4. Operational full build out requirements, because as a second entrant they cannot agree to any mandatory build schedule associated with the provision of cable services in the City
5. A detailed statement on all agreements and undertakings

Mr. Lloyd reviewed the benefits of the agreement for both parties. CenturyLink would benefit from additional revenue gained through service offerings without having to incur the expense of a full build out. In return, Avondale would get 5% of gross revenues from new customers who convert from satellite service, the possibility of increased competition and more options for consumers, and the growth of high speed access in Avondale.

Since CenturyLink is requesting waivers, they have opened the possibility for the City to negotiate additional services. The City is limited by state statutes on the terms that can be negotiated. Cheryl Covert, Economic Development Specialist, reported on the negotiations process. Currently staff is considering a six-year license agreement, with the possibility of a ten-year agreement under certain circumstances. CenturyLink would share basic infrastructure maps with the City, provide internet services at public facilities, ensure the availability of ultrafast fiber optics to the Avondale Health Tech Corridor, partner with the City on economic development activities, and participate in joint trenching.

Ms. Covert reviewed the proposed timeline for the agreement. The 120-day clock began on May 2. Negotiations are set to complete June 18. The public hearing of the waiver process would begin on August 12. A public hearing to grant or deny the license application and cable license agreement is set for September 9. Staff recommends proceeding with negotiations.

Council Member Buster inquired whether Cox Communications would raise objections if Avondale granted these waivers to CenturyLink. Andrew McGuire, City Attorney, responded that this arrangement is consistent with those that have emerged in other Valley cities. He speculated that anything that causes Cox to lose market share would be of concern to them, though he does not know how they view this particular proposal. The request for financial information was added to the City Code to ensure that an entrant is financially capable of building out the service. However, that provision was drafted in 2001, at a time when there were many more cable providers than at present.

Council Member Buster inquired whether the request for financial information was standard in other communities. Mr. McGuire explained that it is fairly standard for second and later entrants to not want to give up that type of information, as it impairs their ability to compete with the primary entrant. When Cox's renewal comes up in a few years, they will likely request similar waivers if the CenturyLink proposal is approved. Mr. Lloyd noted that federal law requires consistency.

Council Member Karlin queried about the alternatives to not granting the waiver. Mr. Lloyd said the status quo would be maintained without an agreement, but CenturyLink would have some appeal rights under federal and state laws. Mr. McGuire added that under

federal law, secondary entrants are at a disadvantage, and he speculated that denial would result in an appeal. While the City does not stand to gain much money from the deal, approval could increase competition, and provide better service to currently underserved areas. CenturyLink's proposal is an attempt to compete with Cox to provide telephone, internet, and cable services all through a single carrier. Cox currently has an advantage over all other providers because they control the pipeline into the house. This agreement would change that. Avondale's current City Code requirements made more sense when cable companies were smaller, but they were written for a type of entity that disappeared years ago.

Council Member Weise felt that the extra competition would be good for residents. While the waivers do cause some concern, they seem to be common practice. He inquired about the cooperation on trenching. Mr. Lloyd responded that staff is negotiating to be able to coordinate as much trenching as possible. CenturyLink is willing to cooperate as long as their plans are not impeded.

Council Member Weise inquired about the challenges that cable companies face in older neighborhoods. Mr. Lloyd said the older neighborhoods used copper, which will have to be replaced over the long term anyway. Cable companies are moving towards using passive optical fiber, but are noncommittal on how soon and where.

Council Member Vierhout said he is in favor of improving competition and bandwidth in the city. Council Member McDonald concurred that increased competition is a good reason to approve the waivers. CenturyLink is not new, and there is no need to confirm their financial stability. Residents will benefit from being able to tap into Wi-Fi at City facilities. Council Member McDonald stated that Avondale Channel 11 does not exist in his neighborhood. Mr. McGuire said Cox is required to provide it under the current license agreement. In response to Vice Mayor Scott's request for feedback, Mr. McGuire said he is not comfortable with the Wi-Fi waivers as they currently stand, but he is looking to improve them.

Council Member Buster moved to schedule a public hearing for August 12, 2013, to consider a waiver request for CenturyLink's cable license application. Council Member Weise seconded.

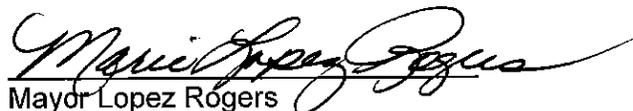
ROLL CALL VOTE AS FOLLOWS:

Mayor Lopez Rogers	Excused
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 6-0.

4) ADJOURNMENT

There being no further business before the Council, Council Member McDonald moved to adjourn the Special Meeting; Vice Mayor Scott seconded the motion. Meeting adjourned at 6:54 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 Special Meeting of the Council of the City of Avondale held on the 10th day of June 2013. I further certify that the meeting was duly called and held and that the quorum was present.


City Clerk