

Minutes of the Work Session held October 14, 2013 at 6:03 p.m. in the Council Chambers.

**MEMBERS PRESENT**

Mayor Lopez Rogers and Council Members

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

**ALSO PRESENT**

Charlie McClendon, City Manager  
David Fitzhugh, Assistant City Manager  
Paul Adams, Fire Chief  
Christopher Reams, Director of Parks, Recreation, and Libraries  
Christina Underhill, Recreation Manager  
Charles Andrews, City Engineer  
Andrew McGuire, City Attorney  
Carmen Martinez, City Attorney

**2. RECOGNITION OF SIX NEW FIRE-RESCUE PERSONNEL**

Paul Adams, Fire Chief, introduced the first six of fifteen new personnel hired to staff Fire Station 174. All six individuals were certified before hire, and have completed their training. Mayor Lopez Rogers administered the oath of office to Matthew Artibey, Travis Lambert, Marlin Nightengale, Calen Smith, Raymond Smith, and Cory Whigham.

**3. COOPERATIVE AGREEMENT FOR YOUTH RECREATION PROGRAMMING**

Charlie McClendon, City Manager, said the City has been partnering with non-profit organizations that carry much of the burden of providing sports and recreation programs. Christina Underhill, Parks and Recreation Manager said the City started using cooperative agreements during the recession when staff cuts became necessary, and participation rates dropped. At the same time, outside agencies increasingly approached the City with partnership offers. In order for an organization to qualify for a cooperative agreement, the City requires that they:

- Be organized under 501(c)(3) status
- Hold all activities within Avondale's borders
- Hold insurance
- Create a formal plan for implementation of the agreement
- Sign a letter of agreement with renewal options

Ms. Underhill said program expenses are recoverable through participation fees, sponsorships, and donations. Net revenue is split between the organization and the City of Avondale. The benefit to Avondale is that the City saves money and can offer many more programs and activities. Local organizations that have entered into an agreement with the City include World Net Soccer, Next Level Basketball, Avondale Little League, Right Touch Basketball, Urban Youth Athletic Association (RBI) and the YMCA. The City is open to forming partnerships with sports, recreation and competitive leagues, tournaments, out of

school programs, skill camps, developmental courses, and leisure programs, among others. These cooperative agreements are in line with City Council's goals for community involvement and quality of life.

Ms. Underhill said the City of Avondale is obligated to provide:

- A staff member to help with marketing and promotions
- Oversight of City employees and volunteers
- Facility space

Partnering organizations are obligated to:

- Provide a representative
- Administer day-to-day operations of the program
- Provide the coaches, staff, officials and volunteers, along with the necessary training
- Provide all uniforms and equipment
- Promote the City of Avondale's Let's Move Initiative

Ms. Underhill said the City's agreement with RBI has been the most successful cooperative agreement to date. Over 500 youth have been served through the spring and fall baseball seasons this year. Ages range from four to 12 years old. RBI has free clinics associated with Major League Baseball. Ninety percent of participants are Avondale residents, and 150 participants have received full or discounted scholarship programs through RBI. Income received by the City doubled, and only one-third of the previous staff was required. The cost to the City has not increased. Avondale has submitted an application for a grant through the Arizona Diamondbacks that if awarded would provide a baseball field at Festival Fields.

Council Member Karlin said special events bring residents of the city together, and expose Avondale to visitors from other communities. She would like to see Avondale become known for a unique event such as the Tres Rios Festival. The collaboration with Goosebumps has been very successful. There are many good opportunities for music and art programs as well.

Council Member McDonald noted that the City had to make many tough choices during the budget cuts, but this change was truly beneficial. Council Member Weise inquired about the frequency of audits to ensure that contractors are doing what they are supposed to. Ms. Underhill responded that audits occur each season. Council Member Weise encouraged background checks whenever agencies deal with children. He suggested finding an organization that would partner with the City to offer wheelchair sports, and felt the City Council should consider an expansion of the Sports Center to allow for more basketball and volleyball.

Mayor Lopez Rogers commended RBI for allowing all children to participate, not just those who can afford to pay. She encouraged initiatives to minimize costs for residents, and welcomed partnerships with other cities. Staff has done a great job with limited resources.

**4. FEASIBILITY OF UNDERGROUNDING THE EXISTING POWER ALONG DYSART ROAD FROM VAN BUREN STREET TO MAIN STREET (MC85/BUCKEYE ROAD)**

Charles Andrews, City Engineer, said 38 power poles are located on the east side of Dysart Road, and five on the west side over the one-mile stretch from Van Buren to Main Street. Power poles are located in the sidewalk, which hinders compliance with the Americans with Disabilities Act (ADA), and causes problems for vehicular traffic. The right-of-way (ROW) on the east side varies from none at all, to seven feet. The west side varies from zero to 17 feet. ADA requires a minimum of five feet for sidewalks, or three feet if wider passing areas are provided every 150 feet. The driveways along both sides of Dysart are not ADA compliant.

Mr. Andrews said Arizona Public Service (APS) does not have prior rights. Power poles cannot be relocated due to the proximity of businesses, so undergrounding is the best option. He estimated that it would cost no more than \$300 per linear foot, requiring \$1.6 million for the entire stretch. This amount would only cover the cost of having APS pull the power through the conduit and make connections to existing services.

Mr. Andrews presented three alternatives:

1. The least expensive option is to have the City provide the trench, conduit, boring, backfill, pavement replacement, street lighting, and incidental items, but no new sidewalk or driveway improvements, and no additional ROW acquisition. Sidewalks would simply be patched. Many sections of the sidewalk are not ADA compliant. Existing street lighting is on the power poles, and these would need to be replaced. The total cost of this option is approximately \$2.4 million.
2. This would be like Alternative 1, but include all sidewalk and driveway improvements demanded by ADA, along with the necessary acquisition of ROW. This would cost \$2.8 million.
3. This would be like Alternative 2, but also include landscaping and the restriping of Dysart Road for bike lanes. This option would cost \$3 million.

Mr. Andrews summarized the benefits of the improvements. The project would eliminate visual clutter and potential hazards for pedestrians and vehicular traffic, increase safety, make the street more accessible, and improve the aesthetic appearance of the corridor. Removal of overhead power lines would improve service reliability and increase property values.

Mr. Andrews said the City could enter into a design agreement with APS to pay \$15,000 for 100% design construction documents. These plans would be used to refine project costs. The City could request a credit for street and pedestrian lighting per the Franchise Agreement, which would total about \$300,000. About four parcels would require ROW purchases. The City could pursue a utility and sidewalk easement agreement with Cox Communications and CenturyLink to share the cost of the trench. The project also presents the City with a good opportunity to install ITS in the area. Gas and electric utilities

can now be installed in the same trench, which was not possible before. It would take APS about eight months to create the design documents, and construction would take about a year. The City could pursue federal grants from the Transportation Alternative Projects (TAP) to fund the sidewalk improvements, which could cost between \$600,000 and \$800,000.

Council Member Buster inquired about the likelihood of getting a TAP grant. Mr. Andrews felt the odds were pretty good because the City would be providing continuous ADA compliant sidewalks and driveways along with striping for ADA compliant bicycle lanes. Council Member Buster said the cost sharing options make the project more palatable, but he would have to think about it. He inquired whether other areas of the city have the same issues, and inquired why Dysart would take priority over them. Mr. Andrews said Central could use some work, but the sidewalk connectivity is better there. Mr. McClendon added that there are some isolated spots in Historic Avondale that could use help, but Dysart has the greatest need. Council Member Buster inquired about the availability of CIP for this project. Mr. McClendon explained that it would require either a transfer of additional money into the street fund, or a reshuffle of other project priorities.

Council Member Vierhout provided examples of the problems that a wheelchair-bound individual can face on Dysart. Not only would this project improve accessibility but it would make the street more attractive, especially if landscaping were added. This could attract higher end businesses and improve investment opportunities. The project would be a good time to bring fiber optics to Historic Avondale. It is not a high profile project, but small things like this often make a big difference because they help the city look more complete. A cleaned up street would serve as a good gateway into the city. The amount of money required for this project is small in comparison to other City projects. It would be worth the effort to fund the project over a few years, building up to \$3 million.

Council Member Weise said City Council should spend the initial \$15,000 to get APS to design the project and determine the true cost. If it is done, landscaping should be included. Dysart Road is Avondale's busiest north/south thoroughfare, and it should look as good as it does north of Van Buren.

Vice Mayor Scott said people should be able to walk on Avondale's busiest street between Van Buren and Western Avenue. He inquired about potential disruptions of service due to construction. Mr. Andrews responded that the power would stay on for customers throughout the process, except for a short switchover. The storm drain work on Western Avenue was done at night, and that proved to be a popular approach that would work on Dysart as well. Trenching can be done quickly. Vice Mayor Scott said that if the City moves ahead with this project, it should be done with landscaping.

Council Member McDonald inquired about the trenching. Mr. Andrews explained that the trench would be dug in the farthest right lane of the roadway heading northbound. From there, a bore will be dug to each business and residence. Council Member McDonald said this project would make a good fit, considering that the City is negotiating with CenturyLink. He would not like to see the current road maintenance budget be cut in order to pay for this project, as that would only add to future costs for residents. He inquired whether future development could help recoup some of the expense. Mr. Andrews responded

affirmatively, and expressed optimism that the \$3 million price tag would come down once the full design was complete. Council Member McDonald said he would like to move ahead with the plans at this point, and if the City can find money to pay for it over two or three years, it would be a good project to advance. Once someone crosses Van Buren, it is like entering a different town, and that has to change. Mayor Lopez Rogers said it would be a good idea to move ahead with the design at this time. The federal grant possibilities make the project more attractive.

**5. PROPOSED AMENDMENT TO THE AVONDALE CITY CODE CHAPTER 5, ARTICLE II, JUDICIAL APPOINTMENT ADVISORY BOARD**

Charlie McClendon noted that Judge Lynch will not seek another term, and his last day is March 31, 2014. As the City began the process of finding his replacement, questions arose about the process. Many cities have boards composed of volunteers with expertise about the judicial system to advise their City Councils on these matters.

David Fitzhugh, Assistant City Manager, said this change would require an amendment to Chapter 5 of the City Code. The Ordinance would establish a process that would create a Judicial Advisory and Review Board that would provide for the formation of the Board through a series of processes based on Supreme Court of Arizona and American Bar Association procedures. The purpose of Board would be to get the best qualified judge possible for Avondale. The Board would evaluate candidates and make recommendations to the City Council on qualified persons to serve as City Judges. They would also evaluate and make recommendations regarding the reappointment of sitting City Judges.

Mr. Fitzhugh said the Board would have seven members. One judge would be appointed by the Chief Justice of the Arizona Supreme Court. One member would be a sitting judge of either the Arizona Superior Court of Maricopa County or a designee. The City Council would receive three nominations from the Arizona Bar Association, and could appoint one. They would also receive three nominations from the Maricopa County Bar Association, selecting one. City Council would appoint three Avondale electors. Each member of Board would serve a three-year staggered term.

Mr. Fitzhugh said staff reviewed similar ordinances from other jurisdictions in the Phoenix area. All members of the Board would have to disclose any relationship with an applicant, and may have to recuse themselves from voting on certain candidates. The Board may meet to review their own processes and procedures, and would be required to meet in the event of a judicial vacancy or to consider a reappointment. They must comply with the Arizona Open Meeting Law and the Public Records Law. Human Resources would serve as the Board's liaison and provide additional clerical, administrative and research support as required. HR would also obtain information from the Arizona Commission on Judicial Conduct for evaluation purposes.

Mr. Fitzhugh stated that the appointment process generally includes solicitation of applicants. All applicants could provide letters of reference. Reappointments can be evaluated using surveys, questionnaires, collected data, reports, and solicited comments. Investigations and evaluations are a part of the process. The Board could consider performance factors within the parameters of the Arizona courts. At least three candidates

would be interviewed unless fewer qualified applicants are fielded. The Board would be required to vote in an open meeting. They must prepare written recommendations to City Council listing a minimum of the best three qualified candidates. The reappointment process would also require a written recommendation to Council stating whether the Board recommends the reappointment or not. Council may consider all the candidates forwarded by the Board, may accept or reject their recommendations, refer it back for further investigation, and/or request additional candidates.

Mr. Fitzhugh estimated the financial impact at \$15,000 to \$20,000 annually. Most costs would be incurred through advertising, public notices, hearings, and professional surveys. Staff time is not included, but these costs would be incurred to some extent anyway. With City Council direction, staff would begin the process of forming the Judicial Advisory Board with the goal of convening it by January 2014. He invited comments and questions.

Council Member Weise inquired about the possibility of not finding a candidate before Judge Lynch's departure. Mr. Fitzhugh explained that Avondale would use judge pro tems in that case. Council Member Weise inquired about Judge Lynch's appointment. Mr. McClendon explained that he was first appointed in 2004. The process was handled internally. City Council interviewed candidates and made the decision without the guidance of professional advisors. The reappointments were handled the same way. Council Member Weise said Judge Lynch has been a strong judge and the process worked in his case. He questioned the need to use such an extensive process. Mr. McClendon responded that the task could be handled internally, but a more structured process might be more useful. Many cities use an advisory board process.

Mayor Lopez Rogers felt that she found the judicial selection process to be difficult, considering her lack of judicial experience. The Board could provide useful advice. Council Member Weise said Judge Lynch is unique because of the way he interacts with residents. He doubted that the same would be true of someone selected by judges and attorneys who probably know little about Avondale. He felt City Council could continue to make good decisions like they did with Judge Lynch.

Council Member Vierhout inquired whether the Board would meet regularly. Mr. Fitzhugh explained that they would only convene in the event of a vacancy, a reappointment, or an evaluation. Council Member Vierhout said the City turns to consultants for advice on many topics, and judicial appointments are important. Judge Lynch is a perfect fit for Avondale, but it could be hard to find someone like him next time. He would prefer having the advice of a Judicial Advisory Board.

Council Member Buster expressed mixed feelings about the proposal. Avondale's Court does not have to deal with the same broad range of issues that the Supreme Court does. Judge Lynch is a great judge. He would prefer adding one more Avondale resident on the Board in place of one of the recommendations from the bar associations, as it would be important not to lose the local flavor. Mr. Fitzhugh proposed an option that one of the attorneys recommended by the bar associations be a citizen of Avondale, though that could limit the potential candidate pool.

Mayor Lopez Rogers inquired whether City Council would be able to direct the Board to seek candidates with specific backgrounds. Mr. Fitzhugh said he sees no reason City Council could not provide that type of input. Council Member McDonald asked why lawyers would want to volunteer to sit on this board. Andrew McGuire, City Attorney, responded that in addition to having an ethical duty to the profession, someone asked to volunteer by a Superior Court judge or a bar association would likely say yes. Council Member McDonald said he would prefer more representation from Avondale residents. He felt the Board could do a more extensive job of looking into a candidate's background than City Council could by simply reviewing resumes. Professionals know all the right questions to ask.

Vice Mayor Scott said the Board should include a sitting municipal judge or a pro tem, because they would know what it takes to do the job. He felt a Supreme Court appointee would operate at too high a level to understand municipal courts. Judge Lynch has done an excellent job and he would like to see someone like him as a replacement. Mr. Fitzhugh noted that at least one other city has a municipal judge on their advisory board. It would be important to have that appointee come from a similar-sized jurisdiction as Avondale. Mayor Lopez Rogers preferred using the name Judicial Appointment Advisory Board. Mr. McClendon said staff would revise the ordinance as directed.

## 6. ADJOURNMENT

The Work Session adjourned at 7:37 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 14th day of October 2013. I further certify that the meeting was duly called and held and that the quorum was present.

  
City Clerk