

Minutes of the Regular Meeting held November 18, 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
Charles Vierhout
Ken Weise

ALSO PRESENT

Charlie McClendon, City Manager
David Fitzhugh, Assistant City Manager
Rogene Hill, Assistant City Manager
Wayne Janis, Public Works Director
Gina Montes, Neighborhood and Family Services Director
Jennifer Fostino, Zoning Specialist
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.

Mayor Rogers thanked City Council, staff, and the residents of Avondale for their support during the past year as she served in her role as President of the National League of Cities.

2 UNSCHEDULED PUBLIC APPEARANCES

Steve Lusart described two encounters with deputies from the Maricopa County Sherriff's Office, including one that occurred during the NASCAR race this past weekend at PIR. The experience was unsettling and he said he would not return to the race again. Mayor Rogers requested that the Police Department follow up and provide a report.

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. Regular Meeting of November 4, 2013

b. LIQUOR LICENSE SERIES 12 – FIESTA MEXICANA RESTAURANT

A request from Ms. Maria Rocio Cohen for a Series 12 Restaurant License to sell all spirituous liquors at Fiesta Mexicana Restaurant located at 1733 N. Dysart Road in Avondale.

c. RESOLUTION 3152-1113 – MAINTENANCE IMPROVEMENT DISTRICT POLICY

A resolution to approve a Maintenance Improvement District (MID) Policy to inform and assist developers in formation of the MID pursuant to state statute that will act as a dormant tax assessment mechanism to generate funds necessary to maintain parkway landscaping and improvements in the event of failure of the Homeowners Association to maintain those facilities.

d. SECOND AMENDMENT – OFFICE LEASE AGREEMENT WITH PHOENIX SPEEDWAY, LLC

A request to approve the second amendment to the Office Lease Agreement with Phoenix Speedway, LLC d/b/a Phoenix International Raceway and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

e. RESOLUTION 3151-1113 – INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA RELATING TO THE TERRORISM LIAISON OFFICER

A resolution approving an Intergovernmental Agreement with the State of Arizona Department of Public Safety, Arizona Counter Terrorism Information Center relating to the Terrorism Liaison Officer program and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

Council Member Weise moved to approve the consent agenda as presented including Resolution 3151-1113. Council Member Vierhout seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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| 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

4 COOPERATIVE PURCHASING AGREEMENT – ELXSI, INC. D/B/A CUES

A request to approve a cooperative purchasing agreement with ELXSI, Inc. d/b/a Cues for the purchase of a G016 high cube mounted cable color television inspection truck (CCTV truck) in an amount not to exceed \$334,700 and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

Wayne Janis, Public Works Director, said staff is requesting a new CCTV truck to replace the one currently used to conduct internal sewer assessments. The new vehicle has two cameras, which reduces dependency on outside contractors for inspection of laterals. The new camera can extend twice the length of the old one, and more accurately locate problems. The replacement truck also has pole-mounted cameras for manhole inspections. Sewer lines are assessed for corrosion, cracks, obstructions, and to indentify lines that might need replacement. Mr. Janis said the new truck will cost \$304,000. Partial funding of

\$150,000 is available in the equipment replacement and operating fund. One-time funding in the amount of \$184,700 is necessary to make the purchase. Staff has learned much since the last purchase, and the new CCTV truck is better equipped to do the required work efficiently.

Council Member Weise inquired about the anticipated life cycle of the new truck. Mr. Janis explained that the trucks accrue few miles, but their life cycle is determined by their equipment's ability to do the work. Council Member McDonald inquired whether the new truck had advanced capability for detecting cracks. Mr. Janis explained that it did not. It would be up to the operator to spot them through the live image.

Vice Mayor Scott queried the amount that would be left in the sewer collections operating budget after the purchase. Council Member Buster requested an estimate of the money saved from not having to hire contractors. Mr. Janis said he would follow up with those requests.

Council Member McDonald moved to approve a cooperative purchasing agreement with ELXSI, Inc., d/b/a Cues, for the purchase of a G016 high cube mounted cable color television inspection truck in the amount not to exceed \$334,700 and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents. Council Member Vierhout seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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| 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 | Nay |

Motion carried by a vote of six to one.

5 PROFESSIONAL SERVICES AGREEMENT – MOSAIC ARTS CENTER

A request to approve a Professional Services Agreement with Mosaic Arts Center for after school programming, STEAM educational enrichment programs, community services, facility usage by the City of Avondale, provide an amount not to exceed \$50,000 for the contract period, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

Gina Montes, Neighborhood and Family Services Director, said MOSAIC is an arts and education organization in Historic Avondale that provides science, technology, engineering and math education through the arts in a program known as STEAM. The center allows for drop-in educational activities for the neighborhood, and provides specialized educational workshops. The proposed agreement with the City would be for one year at \$50,000, and four potential renewals are built in. The terms call for an initial payment of \$15,000 and equal monthly payments thereafter. Monthly financial reports will track monthly expenses,

and quarterly reports will track programming. Services are to include a minimum of 20 hours of programming per week, serving the Boys and Girls Club and the Avondale Elementary School District, as well as after school and summertime programming. MOSAIC will also provide a summer food program. The organization will participate in all of the City's major events, providing STEAM displays and activities. They will also provide monthly speakers and workshop series that will be open to the community.

Ms. Montes said the agreement includes a minimum of ten hours per month of facility use and joint programming with the City. The City will provide technical assistance for board and organizational development. The agreement also contains some outcomes and evaluation information. Programming must utilize an evidence-based STEAM curriculum, and the quarterly reports must provide qualitative and quantitative data that supports it.

In response to an inquiry from Council Member Weise, Ms. Montes explained that the key personnel reference in the agreement includes executive level positions such as the President, Vice President, and Treasurer. Council Member Karlin inquired about the purpose of the syllabus requirement. Ms. Montes explained that the syllabus helps ensure that MOSAIC's activities are tied to a curriculum. Council Member Karlin inquired about the target age. Ms. Montes said each class is designed for specific age ranges, but overall the programs targets from kindergarten-aged children up to age 21. Council Member Karlin said MOSAIC is ideally located to serve the community.

Council Member Vierhout described some of the projects that have been done at MOSAIC, and explained how they are designed to get children to think about science and math in a fun way. He said the facility itself is well-located, and felt Gangplank should also be located on Western Avenue, as together the organizations would bring much life to that street. The internal space can be reconfigured to host many different types of events. One idea is to host TED-style talks featuring members of the community. As a volunteer for the organization, he said he appreciates the City's support.

Mayor Rogers noted that money is to be allocated to support a consultant, and queried whether they would come from staff. Ms. Montes said the City has several candidates in mind who have helped non-profit organizations build capacity. Mayor Rogers asked about the funding to provide technical support. Ms. Montes explained that the full \$60,000 would come out of the Economic Opportunities fund.

Council Member Vierhout moved to approve a Professional Services Agreement with Mosaic Arts Center to provide after school programming, STEAM educational enrichment programs, community services and facility usage by the City of Avondale and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents. Council Member Karlin seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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| Council Member Vierhout | Aye |
| Council Member McDonald | Aye |
| Council Member Weise | Aye |
| Mayor Rogers | Aye |

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| Vice Mayor Scott | Aye |
| Council Member Karlin | Aye |
| Council Member Buster | Aye |

Motion carried unanimously.

6 PUBLIC HEARING – RESOLUTION 3148-1113 AND ORDINANCE 1531-1113 – ZONING ORDINANCE TEXT AMENDMENTS (PL-12-0226)

A public hearing to consider a resolution declaring as a public record a document entitled "City of Avondale Zoning Ordinance, Amended and Restated November 18, 2013," and an ordinance adopting the aforementioned document by reference.

Jennifer Fostino, Zoning Specialist, said the Zoning Ordinance was approved in 1990 and was extensively updated between 2008 and 2011. Periodic changes are needed to stay up to date with changing industry standards, such as the adoption of General Plan 2030. As a result, additional amendments are needed to meet the new vision, goals, and policies set forth in the plan, such as larger home sites, coordinating connectivity opportunities, and honoring the unique character of Historic Avondale.

Ms. Fostino highlighted some of the proposed changes. In Section 1, the neighborhood meeting requirements for zoning text amendments have been removed, since the Planning Division will take that burden from the applicants. Section 2 adds a new suburban residential zoning district R1-10 to bridge the gap between R1-8 and R1-15, which will result in larger lots within the medium density residential land use designation.

Section 3 changes cigar bars, smoke shops, and tobacco lounges from being outright permitted in C-2 and C-3, to requiring a conditional use permit. It completely removes these uses from the Old Town Avondale Business (OTAB) District Land Use Matrix. Section 5 proposes a new overlay district called Historic Avondale Infill Overlay (HAIO) from Van Buren Street to Lower Buckeye Road, and from the Agua Fria River to the city limits with Goodyear. OTAB will remain intact, but HAIO gives the remaining historic areas of Avondale a tool to help develop their properties. HAIO will facilitate development and redevelopment of the vacant underutilized and abandoned properties in the area. It hopes to encourage a creative, artistic, and pedestrian-oriented destination that complements the historic character of the area. Applicants must meet certain findings at the time of the overlay rezoning process, and they will be processed in the same manner as all other rezoning cases, including requirements for public notices and hearings.

Section 7 proposes minor changes to the design requirements for non-residential districts to include the removal of undergrounding utility lines, which is still a requirement in the City Code. It adds the requirement to internalize all downspouts. Section 8 adds new control measures for temporary parking for seasonal sales and special events to meet County dust control regulations. Section 9 would no longer require a permit for neighborhood and community event signs, seasonal sales signs, and traffic direction signs. Section 12 changes plant sizes, quantities, and locations along streets, medians, parking areas, and single and multi-family developments to provide better shade, lower reflective heat and address maintenance issues.

Ms. Fostino explained staff's efforts to meet with business owners on Western Avenue to discuss HAIO and the design and development guidelines. One resident asked staff to include language regarding lost pet signage, which was added to Section 9. The proposed amendment meets the intent of the General Plan by diversifying the housing stock, creating tools to help revitalize Historic Avondale and bringing the Landscape Ordinance up to date. The Planning Commission recommended approval on October 17, 2013.

Council Member Weise inquired about the lost pet sign language. Ms. Fostino explained that in the past, lost pet signs were not allowed, but now they will be allowed outside of the right of way. Council Member Weise said the Section 3 changes will better protect the community. Vice Mayor Scott said the changes to requirements for Historic Avondale are sensible and appreciated by the business owners in the area. Council Member Buster requested clarification on Section 2. Ms. Fostino responded that the changes will only relabel R1-8; all of the standards associated with it will remain the same. Council Member Vierhout agreed that the changes to Section 3 are good ones.

Mayor Rogers opened the public hearing. There being no requests to speak, Mayor Rogers closed the public hearing.

Council Member Weise moved to adopt Resolution 3148-1113 declaring as a public record the document entitled, "City of Avondale Zoning Ordinance, Amended and Restated November 18, 2013." Vice Mayor Scott seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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| 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.

Council Member Weise moved to adopt Ordinance 1531-1113 adopting by reference the document entitled "City of Avondale Zoning Ordinance, Amended and Restated November 18, 2013." Vice Mayor Scott seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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| 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.

7 RESOLUTION 1353-113 – AUTHORIZING A GROUND LEASE AND A LEASE PURCHASE AGREEMENT FOR REFINANCING THE ACQUISITION OF CERTAIN REAL PROPERTY

A resolution authorizing the execution and delivery of a ground lease and a lease-purchase agreement for refinancing the acquisition of real property located at 125 S. Avondale Blvd., declaring an emergency, and authorizing the Mayor or City Manager and City Clerk to execute the necessary documents.

Kevin Artz, Finance and Budget Director, reviewed that in August of 2013, City Council approved a purchase agreement for the PIR building property. In September, the City of Avondale purchased the property for \$2.75 million. It was cash financed using contingency money. The City also assumed two tenant leases with Phoenix International Raceway and University Medical Services of Arizona. In November, the City put out a bid for lease-purchase agreement, and received five bids. Staff determined that two of those bids stood out from the rest, one with an interest rate of 4.315% and the other 4.317%. One offers the ability to prepay the loan after five years, while the other offers it after three years. One of the banks was not willing to lock in the interest rate until City Council approved the resolution. The resolution delegates authority to the Finance and Budget Director to negotiate terms.

Mr. Artz said the two leases will generate over \$2 million of revenue to the City. Debt service would cost almost \$3.1 million. The existing lease agreements would cover over 66% of the cost of the purchase. Even if Economic Development cannot get any additional leases, the City would only pay a little over \$1 million for the property. If it can be fully leased, it is possible that the entire debt service can be paid over the ten-year period. The ground lease and lease-purchase agreement would provide financial flexibility, and lock in potentially low interest rates. Paying in cash would eliminate financing costs of about \$500,000. Staff recommends moving forward with the lease agreement.

Council Member Weise said he does not support refinancing the building, as he prefers paying the building off rather than taking on more debt. He inquired about the General Fund balance. Mr. Artz said the audited balance on June 30, 2013 was approximately \$32 million. Between \$20 million and \$22 million is committed through the minimum fund balance policy, leaving about \$10 million of unassigned fund balance. Almost \$3 million was spent in September, and the entire contingency has been spent for this year.

Council Member McDonald said he would prefer staying with the cash purchase and putting whatever revenue comes in from tenants back into the General Fund. Council Member Buster expressed concern that the City lacks the cash flow to pay the loan, and would just break even if the entire building is leased. Vice Mayor Scott said he appreciates the proposal, but felt this was not the right time to do it.

In response to an inquiry from Council Member Karlin, Mr. Artz explained that declaring an emergency would allow the City to lock in the interest rate immediately. Council Member Vierhout stated that the financing option is appealing because the \$10 million in the

contingency has not been appropriated. Mr. Artz acknowledged that that was the case, but the City would still have the flexibility to find appropriations in other areas that could be transferred into the contingency, thus allowing City Council to spend it in an emergency. There is \$5 million in appropriations that is typically only spent if that much money comes in through grants. Council Member Vierhout stated his preference to replenish the contingency fund and leave cash available.

Mayor Rogers inquired about the possible repercussions of waiting for a year or six months. Mr. Artz explained that besides not locking in the interest rate, it would take time to finance a project like this. The revenue coming in from the leases lines up well with the debt service. There are pros and cons to each option.

Council Member Buster requested information on the cash flow generated by the two tenants. Mr. Artz said PIR is in the building for the full ten-year period. The University is in for three years. Between them, staff projects about \$2 million in revenue over the years of the lease. The University has a three-year extension, and PIR has a five-year extension, which are not included in the projection. If another suite gets leased out for five years, the building's debt service will be covered. Council Member Buster queried about the possibility of leasing out the remaining portion of the building. Charlie McClendon said Economic Development intends to lease out the rest of the building and they believe they will be successful. Council Member Buster requested information on potential revenue on an annual basis.

Council Member Weise moved to adopt Resolution 1353-113 authorizing the execution and delivery of a ground lease and lease-purchasing agreement for refinancing the acquisition of certain real property located at 125 S. Avondale Boulevard and declaring an emergency. Council Member Vierhout seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

Motion failed by a three to four vote.

8 EXECUTIVE SESSION

- a. An executive session pursuant to Ariz. Rev. Stat. § 38-431.03 (A)(4) for discussion or consultation with the City Attorney in order to consider its position and instruct the City Attorney regarding the breach of a lease agreement for City Center property.

Council Member Weise moved to adjourn into executive session. Council Member McDonald seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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| 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.

9 ADJOURNMENT

There being no further business before the Council, Vice Mayor Scott moved to adjourn the meeting; Council Member Vierhout seconded the motion. Motion carried unanimously.

City Council meeting adjourned at 8:36 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 18th day of November. I further certify that the meeting was duly called and held and that the quorum was present.



City Clerk