

Minutes of the Regular Meeting held May 5, 2014 at 7:00 p.m. in the Council Chambers.

**MEMBERS PRESENT**

Mayor Lopez Rogers and Council Members

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

**ALSO PRESENT**

David Fitzhugh, Acting City Manager  
Gina Montes, Assistant City Manager  
Jennifer Fostino, Zoning Specialist  
Cherlene Penilla, Human Resources Director  
Andrew McGuire, City Attorney  
Carmen Martinez, City Clerk

**1 ROLL CALL AND STATEMENT OF PARTICIPATION BY THE CITY CLERK**

**2 CITY MANAGER'S REPORT**

- a. **Promotion - Marcia Gerig, Sam Garcia Library Manager**
- b. **Promotion - Jesse Caufield, Civic Center Library Manager**
- c. **New Employee Introduction - Ryan Ryba, Recreation Coordinator**

Parks, Recreation and Library Director Chris Ream thanked Council for the support his department has received. He indicated each library now will have a branch manager to better serve its patrons. He introduced Marcia Gerig and Jesse Caufield as the new branch library managers at Sam Garcia and Civic Center Libraries respectively. Mr. Reams also introduced newly hired employee Ryan Ryba.

**3 RECOGNITION ITEMS (MAYOR PRESENTATIONS)**

- a. **Resolution 3182-514 - Detective Steven Heatherington's Retirement**

Chief Nannenga recognized Detective Heatherington for over 20 years of dedicated service to the City of Avondale. Detective Heatherington was assigned to white collar crimes and was always reliable and an asset to the City.

Council Member Weise moved to adopt Resolution 3182-514; Vice Mayor Scott seconded the motion.

**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 Kilgore

Aye

Motion carried unanimously

**b. Recognition of Avondale's Citizen Leadership Academy Class VIII participants.**

Community Relations and Public Affairs Director Pier Simeri indicated the City has just concluded the Eighth Annual Citizen Leadership Academy. She explained the Academy is a ten-week program that seeks to encourage community involvement by offering a behind-the-scenes perspective on the City's operations that allowed participants to gain a better understanding of local government. Ms. Simeri that as suggested by Council, staff is planning to offer a Citizens' Academy 2.0 in the fall to offer a more in-depth look at some city departments.

Mayor Rogers commented the Council recognizes the importance of citizen involvement in local government and commended participants for being a part of this program and encouraged them to continue to stay involved in the City through participation in the City's Boards, Commissions and Committees.

Ms Simeri introduced each of the participants and Mayor Rogers presented them with a Certificate.

**4 UNSCHEDULED PUBLIC APPEARANCES**

(Limit three minutes per person. Please state your name.)

**5 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 April 14, 2014
2. Work Session of April 21, 2014
3. Regular Meeting of April 21, 2014

**b. LIQUOR LICENSE LOCATION TRANSFER - SERIES 9 (LIQUOR STORE) - FRY'S FOOD & DRUG #112**

A request to approve a location transfer of a Series 9 (Liquor Store) license to sell all spirituous liquors submitted by Ms. Lauren Merrett to be assigned to Fry's Food and Drug Store #112 located at 1571 N Dysart Road in Avondale. The Council will take appropriate action.

**c. FIRST AMENDMENT - COOPERATIVE PURCHASE AGREEMENT – SANDERSON FORD**

A request to approve the first amendment to the cooperative purchasing agreement with Sanderson Ford for the provision of parts and labor for light, medium, and heavy duty vehicles by increasing the total compensation by \$54,000 for a new total aggregate not to exceed \$84,000 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.. The Council will take the appropriate action.

**d. FIRST AMENDMENT TO COOPERATIVE PURCHASING AGREEMENT – FACILITEC INC.**

A request to approve the first amendment to the Cooperative Purchasing Agreement with Facilitec Inc. for furniture services and increase the annual agreement amount for each renewal term from \$10,000 to \$40,000 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

**e. RESOLUTION 3180-514 - COOPERATIVE PURCHASING AGREEMENT WITH THE STATE OF MINNESOTA**

A resolution approving a cooperative purchasing agreement between with the State of Minnesota for access to discounted purchase of commodities and services through the State's procurements and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take the appropriate action.

**f. RESOLUTION 3181-514 - INTERGOVERNMENTAL AGREEMENT WITH NATIONAL PURCHASING PARTNERS**

A resolution approving an Intergovernmental Agreement with National Purchasing Partners to enter into cooperative purchasing agreements with L.N. Curtis and Municipal Emergency Services for the purpose of purchasing of fire equipment and tools to outfit the new fire apparatus to be located at fire station 174 in the amount of \$25,000 each and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**g. RESOLUTION 3183-514 - AUTHORIZING THE SUBMISSION OF APPLICATIONS FOR GRANT CONSIDERATION BY THE GILA RIVER INDIAN COMMUNITY**

A resolution authorizing the submission of applications for funding to the Gila River Indian Community, the acceptance of awards, should the project be selected for funding 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 Resolutions 3180-514, 3181-514 and 3183-514. Council Member Vierhout seconded the motion.

**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 Kilgore	Aye

Motion carried unanimously

**6 PUBLIC HEARING AND ORDINANCE 1544-514 - MEDICAL MARIJUANA ZONING ORDINANCE TEXT AMENDMENT (PL-14-0057)**

A public hearing and an ordinance adopting the Text Amendment to Section 13 of the Avondale Zoning Ordinance for medical marijuana dispensary hours of operation.

Acting City Manager Dave Fitzhugh reviewed that in January Council considered a request to amend the zoning ordinance to extend the hours of operations at medical marijuana dispensaries.

Jennifer Fostino reviewed the specifics of this item as more particularly described in the council report. She explained that most cities allow dispensaries to be open on weekends except for Avondale, Buckeye, Tolleson and Peoria. The proposed text amendment would allow dispensaries to operate 9:00 am to 6:0 pm every day of the week.

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

Council Member Vierhout moved to adopt Ordinance 1544-514; Vice Mayor Scott seconded the motion.

Mayor Rogers indicated that she would have preferred to wait until the business was actually opened to adopt the text amendment. However, since the rest of the council is supportive of moving forward she will support the ordinance.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried unanimously

**7 PROPOSED AMENDMENTS TO PERSONNEL POLICIES AND PROCEDURES MANUAL**

Proposed amendments to the Personnel Policies and Procedures Manual, Chapter 18 Grounds for Discipline/Termination and Chapter 19, Grievances.

Human Resources Director Cherlene Penilla reviewed the proposed amendments to Chapters 18 and 19 as more specifically described in the council report. She indicated that the proposed amendments are necessary due to the recently approved Memorandum of Understanding with Police and Fire associations as well as changes to state law that require changes to the city's policies.

Ms. Penilla indicated that the first recommendation is to change the title of this chapter from Grounds for Discipline/Termination to Discipline. She reviewed other highlights of changes to Chapter 18:

- Adds language to specifically exclude appeal rights for part-time employees, except for harassment, discrimination, sexual harassment, hostile work environments and discrimination for which they receive training

- Requires Department Directors to meet with HR Director or designee prior to major discipline of employees including suspensions, demotions and terminations
- Clarifies "formal" reprimand is required to be in writing
- Clarifies Department Directors have flexibility to have informal discussions with employees regarding issues that do not rise to formal action, except when the discussion is going to result in a written document that will go in the employee's personnel file
- Adds language to reflect changes in state law requiring that a law enforcement officer and detention officer are able to appeal a suspension of more than eight hours
- Changes calendar days to working days to reflect current work schedules including Green Friday
- Adds language to define "working days", "law enforcement officer" and "detention officer" pursuant to applicable statutes

Highlights of changes to Chapter 19 include:

- Changes language to reflect provisions in the MOUs with Police and Fire associations related to grievances
- Clarifies part-time employees are not entitled to due process under these policies
- Changes language to reflect a 15 *working day* time frame to file a grievance instead of 60 days to encourage the resolution of issues more promptly and avoid letting them fester
- Changes language to reflect working days instead of calendar days
- Defines *working days* as Monday through Thursday, exclusive of City designated holidays

Ms. Penilla indicated that the last recommended change will replace the Personnel Board with an Independent Hearing Officer to address appeals on disciplinary matters such as suspensions, reductions in pay in lieu of suspension without pay, demotions, and terminations. The Personnel Board last met in 2007 and held 10 hearings during that year. The personnel board deals with very complex issues that require all five board members as well as staff and witnesses to be in attendance for the duration of the meetings which may last for several hours. She explained that an independent hearing officer would have to be an attorney and would allow more flexibility with scheduling as hearings could be scheduled over several days. She indicated that the city is likely to have more hearings due to provisions in the MOUs.

Council Member Vierhout commented on the language on Chapter 18, section B1 and suggested the language be changed to clarify that willful misrepresentation or omissions in employment applications will result in termination.

In response to a question from Council Member Vierhout, Ms. Penilla indicated that she expects the cost of holding a hearing with a Independent Hearing Officer would be about the same as using a Personnel Board as currently the city has to hire counsel for the Personnel Board in addition to the attorney that is hired to represent the city. Council Member Vierhout indicated that he would be in favor of keeping the Personnel Board as there is value in having a group of citizens and not an individual hired by the city.

Vice Mayor Scott indicated he likes the idea of a hearing officer, but suggesting having a pool of available hearing officers to allow city to demonstrate neutrality. Mr. Fitzhugh commented that staff is considering having an RFQ process to establish an eligibility list of qualified attorneys to be called upon to act as hearing officers when needed.

Council Member Karlin commented that she understands the efficiency of a hearing officer, but also appreciates the value of having a personnel board made up of citizens hear and decide on a case. She suggested using a professional arbitration board. Council Member Karlin indicated it is important to ensure the employee is given a fair hearing. She asked what has been the average cost for a personnel board hearing. Ms. Penilla indicated that the cost depends on level of complexity, but estimates the city has spent up to \$50,000. Council Member Karlin commented that the proposed language in the amended policies is less punitive and more gentle while outlining clear consequences.

Council Member Weise commented that there is value to having an independent hearing officer or arbitrator who can make a firm and timely decision. He suggested moving forward with independent hearing officer as the policy can be further amended in the future if necessary.

Mayor Rogers commented she is in favor of having an independent hearing officers.

Regarding language in Section B1 of Chapter 18, Council Member McDonald indicated he is in favor of keeping discretion in the language but it should also be strong and definitive to discourage lying on employment application. Council Member Weise agreed.

Acting City Manager David Fitzhugh thanked the Council for the direction given and indicated Council will consider final adoption of the proposed amendments at the May 19<sup>th</sup> meeting.

## 8 ADJOURNMENT

There being no further business before the Council, Council Member Weise moved to adjourn the regular meeting. Council Member Vierhout seconded the motion. Motion was carried unanimously.

City Council meeting adjourned at 8:10 p.m.

  
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Mayor Lopez Rogers

  
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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 5<sup>th</sup> day of May, 2014. I further certify that the meeting was duly called and held and that the quorum was present.

  
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City Clerk