

Minutes of the Work Session held May 19, 2014 at 6:00 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  
Paul Adams, Fire Chief  
Jim Buster, Lobbyist  
Linda Mendenhall, Records Administrator  
Andrew McGuire, City Attorney

**1 ROLL CALL BY THE CITY CLERK**

**2 PROPOSED AMENDMENT TO CHAPTER 10 OF THE AVONDALE CITY CODE RELATING TO FIREWORKS**

Fire Chief Paul Adams reviewed changes to the City Ordinance that became necessary due to recently passed state legislation. Under the old Ordinance, the City could prohibit the use of fireworks even though sales were allowed. The Ordinance also required signage at any place selling fireworks to inform buyers that fireworks use within city limits was prohibited. Senate Bill 1158, which was passed as an emergency clause during the 2014 legislative session, revised the state statute and is currently in effect. The Avondale Fireworks Ordinance must be modified to comply with the new law.

Chief Adams said SB1158 clarifies language relating to the types of fireworks that are allowed or disallowed. It expands restrictions for those selling fireworks for shipment out of state. It modifies rules related to the sales and use of fireworks, and modifies the penalty for violations. Previously, the City had been restricted from prohibiting the sale of fireworks at any time. The City must now allow the sale of permissible consumer fireworks within city limits from May 20 through July 6, and from December 10 through January 3 of each year. Previously, the City could prohibit the use of fireworks within the city limits, but now must allow the use of consumer fireworks during the periods of June 24 through July 6, and from December 24 through January 3 of each year. Whereas violations previously could be cited as either criminal or civil complaints, the new law limits violations to civil complaints only, with a corresponding fine of \$1,000.

Chief Adams stated that the Fire Department is currently issuing permits for businesses that are selling fireworks, and will introduce an amendment to Chapter 10 of the City Code that contains an emergency clause, to ensure compliance with the state statute.

Council Member McDonald said it is evident that the fireworks industry has a powerful lobby that can force cities into allowing the sale of their products. He inquired whether the City could be held liable for someone who causes harm. Andrew McGuire, City Attorney, responded by saying it would be a stretch to connect the City to such an outcome, though

not impossible. Council Member McDonald noted that the City could still end up spending money to fight a lawsuit, even one that lacks merit.

Council Member Vierhout noted that the fireworks lobby mentioned the existence of an industry program that would educate the public on safe fireworks use, and inquired about the veracity of that claim. Chief Adams responded that other than basic literature and generic public safety announcements, he is unaware of any organized program for that purpose. Council Member Vierhout noted the litter problems that exist in the wake of fireworks use, and inquired whether mechanisms exist to enforce their cleanup. Chief Adams pointed out the difficulties in identifying individuals responsible for litter.

Vice Mayor Scott said he would like the Police Department to track fireworks-related calls, and the number of times that the Fire Department has to respond to them. Depending on the results, the City could potentially consider a "Stupid Fireworks User" law, like those used against motorists who try to cross flooded rivers. Chief Adams said the Ordinance does contain a provision that allows the City to bill an identifiable culprit who causes an emergency response, but it can be difficult to actually identify responsible individuals.

Council Member Karlin said the prohibition against use of fireworks within city limits was entirely ineffective last year. In response to her inquiry on consumable fireworks, Chief Adams described them as fireworks that do not launch into the air or explode. The problem is that people have been going out of state to buy illegal fireworks and using them in Arizona. Council Member Karlin said anything short of a complete ban would be difficult to enforce.

Council Member Weise stated that this law is another example of the legislature succumbing to the lobbyists and deciding what is best for cities. He does not believe this will be the end of the matter, and eventually the industry will get all fireworks approved. He inquired whether area public safety officials have agreed on a collective response. Chief Adams responded that public safety and health officials made a substantial effort to counter the industry lobbyists, but to no avail. In Colorado, the industry initially lobbied to introduce consumer fireworks, and then continuously whittled away at laws until everything became legal for sale and use. The response strategy in Arizona is to find a compromise that can keep the industry at a level that can be dealt with logically. In a state that is as dry as Arizona is, launched or explosive fireworks could greatly exacerbate fire and injury problems.

Council Member Kilgore said the compromise strategy is an appropriate response. He proposed that the City produce a safety video to be played in schools. Chief Adams said the capability exists, though it would be difficult to spread the message in time for the 4<sup>th</sup> of July holiday in 2014. Council Member Kilgore suggested that the video be played on Channel 11 in the meantime.

Council Member Vierhout felt that there was little the City could do to enforce the types of fireworks being used. Chief Adams noted that public safety officers are typically stretched thin during holiday periods as it is, and that other matters are likely to take a higher priority. One approach that could potentially make an impact is to build a solid case against a violator that would result in a maximum fine, and then use that case as an example.

help ameliorate forest fires, even if it does little to prevent the types of brush fires found in metro areas. Council Member Karlin proposed a tax on fireworks sales that could raise money to mitigate the expense of extra enforcement. Mayor Rogers noted that Senator Crandell, who sponsored SB1158, lives in rural Heber. She said the League of Cities opposed the bill, but it still passed by a vote of 25 to 4.

### **3 ARIZONA 51<sup>ST</sup> LEGISLATURE – SECOND REGULAR SESSION WRAP UP REPORT**

Jim Buster, Avondale's legislative lobbyist, presented a report on Arizona's 51<sup>st</sup> Legislative Session. The legislature was in session for 101 days. In that time, 302 bills were passed, 25 were vetoed, and 277 bills signed. There were 113 memorials and resolutions presented, and 32 passed. He said he was able to meet with Senator Tovar and Representatives Cardenas and Contreras each week to go over issues of mutual concern.

Mr. Buster stated that the legislature met its constitutional requirement by balancing the budget. The FY2015 General Fund budget of \$9.22 billion is an increase of \$360 million, or a 4.1% increase over the previous year. The increases went to the universities, K-12 education, new CPS caseworkers, a down payment for a new Child Safety and Family Services Agency, AHCCCS, and other social services. The Rainy Day Reserve Fund increased to \$460 million. By expanding Medicaid, the state helped approximately 300,000 residents get benefits, but this was done via a measure allowing the AHCCCS Director to oppose an assessment bed tax of \$250 million a year to pay for the state's share of the expansion cost. This approach was done to avoid triggering Prop 108, though some are questioning the constitutionality of such a move. A special session could be called the first week of June, during which the legislature might address the Public Safety Retirement System in the wake of the Fields decision.

The League of Cities took a neutral position towards the Governor's initiative to allow a sales tax exemption on electricity for manufacturers when a local option is allowed. This would have a negligible impact on state shared revenues. The Governor received a \$5 million military installation fund, which can be used to buy land around bases to protect them from encroachment.

Mr. Buster said Avondale advocated for HB2050, which should prevent the Arizona State Retirement System from dropping certain police and fire personnel who don't participate in hazardous duty from being able to receive their pension. HB2093 would have prohibited municipal lobbyists from expressing positions on bills unless the City Council had taken a formal vote on their position at a public meeting. This would have crippled the City's ability to respond in the heat of a legislative session. The bill was killed. HB2448 would have allowed a property owner to claim a tax credit of up to \$100,000 if they felt the city reduced the value of their property through a zoning action. It would have been financed by subtracting a like amount from the city's portion of state shared revenue, but was killed. HB2547 could have benefitted PIR, but late amendments made its application much more problematic. SB1151, the bill allowing backyard chickens, passed overwhelmingly in the Senate, but died in the House. It infringed on municipal zoning and could have created a host of unintended consequences. SB1227 was an attempt by Central Arizona Homebuilders to head off future building codes that call for energy saving standards.

Mr. Buster noted that Economic Development expressed its support for HB2272, which contains clean up language for last year's Quality Jobs Bill, and the Governor signed it. The Governor made some notable vetoes. HB2024 would have established the offense of aggressive solicitation and specified the violation as a Class I misdemeanor, an issue best left up to each individual city. HB2339 was a firearms bill that the Governor felt would have been too expensive for cities to implement, as metal detectors and security personnel would be required at every public entrance. HB2517 contained sweeping language that would have imperiled the job of a government employees or elected officials who are perceived to have undermined any state firearms law. The Governor vetoed SB1062 because it did not address any issues that currently exist in Arizona, and could have resulted in unintended and negative consequences.

Mr. Buster summarized that very few problematic bills made it through the process. SB1482 makes cities responsible for upkeep of certain landscaping improvements on city rights of way, but hopefully will have little impact on the budget. HB2528 allows sign walkers on sidewalks.

Council Member Weise requested an update on a lawsuit against the State of Arizona regarding inflation increases for school funding. Mr. Buster responded that it is unknown how the courts will respond or to what degree they will hold the State liable, but the lawsuit could force a major revision of the budget. Council Member Weise said Avondale should continue to push for local control whenever possible, as cities know what is best for cities. He requested information on laws regarding service animals in businesses. Mayor Rogers noted that the deadline for resolutions is fast approaching and encouraged Council Members to submit their input.

#### 4 ADJOURNMENT

There being no further business before the Council, Council Member Weise moved to adjourn the regular meeting into executive session. Council Member Vierhout seconded the motion, which carried unanimously.

City Council meeting adjourned at 6:53 p.m.

  
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Mayor Kenneth N. Weise

  
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Linda Mendenhall  
Records Administrator

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 19th day of May. I further certify that the meeting was duly called and held and that the quorum was present.

A handwritten signature in cursive script, reading "Arida Mendelall". The signature is written in black ink and is positioned above a horizontal line.

Records Administrator

Minutes of the Regular Meeting held May 19, 2014 at 7:00 p.m. in the Council Chambers.

**MEMBERS PRESENT**

Mayor Lopez Rogers and Council Members

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

**ABSENCE EXCUSED**

Ken Weise

**ALSO PRESENT**

David Fitzhugh, Acting City Manager  
Gina Montes, Assistant City Manager  
Kevin Artz, Finance and Budget Director  
Rob Lloyd, Chief Information Officer  
Andrew McGuire, City Attorney  
Linda Mendenhall, Records Administrator

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

Linda Mendenhall, Records Administrator, read a statement of participation regarding public appearances.

**2 UNSCHEDULED PUBLIC APPEARANCES**

There were no requests to address the Council.

**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. Budget Meeting of April 28, 2014
2. Regular Meeting of May 5, 2014

**b. CITY – DESIGNATED HOLIDAYS SCHEDULE FOR FISCAL YEARS 2014/2015 AND 2015/2016**

A request to approve the City-designated holiday schedule for Fiscal Years 2014-2015 and 2015/2016.

**c. CIP BUDGET TRANSFERS REQUEST – CENTRAL AVENUE CONSTRUCTION MANAGEMENTT**

A request to authorize two transfers of funds in the amount of \$51,650 from Citywide Water Improvements, Line Item 514-1057-00-8520 to Central Avenue Waterline, Line Item 514-1282-00-8520 and \$51,650 from Citywide Sewer Improvements, Line Item 513-1047-00-8610 to Central Avenue Sewerline, Line Item 513-1282-00-8610.

**d. RESOLUTION 3184-514 AND ORDINANCE 1545-514 – AMENDMENTS TO PERSONNEL POLICIES AND PROCEDURES MANUAL**

A Resolution declaring as a public record Chapter 18 – Grounds of Discipline/Termination and Chapter 19 – Grievances and Appeals Policy of the Personnel Policies and Procedures Manual and Ordinance 1545-514 adopting the same and amending Chapters 2, 13 and 20 of the Personnel Policies and Procedures Manual.

**e. RESOLUTION 3185-514 – INTERGOVERNMENTAL AGREEMENT WITH ADOT FOR THE DYSART ROAD PEDESTRIAN AND BICYCLE IMPROVEMENT PROJECT**

A Resolution authorizing an Intergovernmental Agreement with ADOT for the advertisement, bidding , and administration of the construction of the Dysart Road Pedestrian and Bicycle Improvements Project, and authorized the Mayor, or City manager and City Clerk to execute the necessary documents.

**f. RESOLUTION 3186-514 – CHANGE ORDER TO INTERGOVERNMENTAL AGREEMENT FOR DIAL-A-RIDE SERVICES**

A Resolution approving a change order to the Intergovernmental Agreement with the City of Phoenix for ADA required services for an estimated annual cost of \$191,798 and authorized the Mayor and City Clerk to execute the appropriate documents.

Council Member McDonald moved to approve the consent agenda as presented;  
Council Member Vierhout seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried unanimously

**4 RESOLUTION 3188-514 – SETTING FORTH THE FISCAL YEAR 2014-2015 TENTATIVE BUDGET**

A Resolution adopting the tentative budget and setting the maximum expenditure limit in the amount of \$178,984.760 for the 2014-2015 fiscal year.

David Fitzhugh, Acting City Manager introduced Mr. Kevin Artz, Finance and Budget Director who presented for Council the 2014/2015 tentative budget and to establish the annual alternative expenditure spending limitations. State law limits the city's ability to spend its money, Home Rule allows for cities to go before the voters to adopt an alternative expenditure limitation and the City of Avondale is currently on the Home Rule option. The actions tonight will a set the alternative expenditure spending limitations at the adopted budgeted amount. He reviewed the changes from the prior presentations which were mainly accounting changes and funds transfers. Mr. Artz noted two changes, an increase in the risk management contingency fund and to the health insurance fund.

Mr. Artz reviewed the calendar of events for the budget process;

- June 3, 2014 - first publication of the tentative budget
- June 10, 2014 - second publication of the tentative budget.
- June 16, 2014 - public hearing and adoption of the final budget.
- July 7, 2014 – Property tax levy special meeting and adoption

Mr. Artz indicated the recommendation is for Council to adopt a resolution setting forth the fiscal year 2014/2015 tentative budget and establish the city's annual spending limitation in the amount of \$178,984,760.

Vice Mayor Scott mentions to all the Department Heads, he doesn't have any issues with some of the supplements as they are just increasing line items. However, for the other supplements he encourages staff to show they appreciate Council's faith in them by accomplishing those goals under budget.

Council Member McDonald commented that since he has been on the council, we have always discussed what to cut; this is the first time the City has extra funds to spend and he understands the \$8,000,000 in supplements. He agreed with Vice Mayor Scott and cautioned staff to continue being wise with spending and to come under budget so next year the requests will be much easier to accept.

Mayor Rogers thanked Mr. Artz, his staff and all of the department heads for their hard work in administering the budget and ensuring that the budgets remain tight. She acknowledged the supplements and why they were requested. She thanked staff and expressed her appreciation for their work in keeping the funds down and hoped they would be able to continue that in the future.

Council Member McDonald motioned to adopt Resolution 3188-514 setting forth the Fiscal Year 2014/2015 Tentative Budget and authorized the staff to proceed with the required publication process; Council Member Karlin seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried 6-0

**5 RESOLUTION 3189-514 – ADOPTING DEVELOPMENT FEES IN COMPLIANCE WITH STATE LAW**

A resolution adopting the development fee study, including the amended development fees.

David Fitzhugh, Acting City Manager indicated that the development fees have been presented on five occasions to Council, this time is to adopt the resolution approving the final development fee study, which includes setting the final calculated fees in compliance with state law. Mr. Fitzhugh stated Mr. Artz was available to answer any questions council may have and noted that the fees are as directed by council and are the maximum allowable fees calculated in the study.

Council Member McDonald reiterated the statement he has made in the past - progress needs to pay for itself and supports matchable fees. Council Member Kilgore agreed.

Mayor Rogers acknowledged the many months this item has been under review and expressed concern about implementing the fees at this time when the City is in dire need of revenue and has projects it wants to move forward such as City Center. Mayor Rogers added she would rather hold off on adoption and would not be in support of the adoption at this time.

Council Member McDonald moved to adopt Resolution 3188-514 approving the final development fee study and calculated development fees; Council Member Karlin seconded the motion.

**ROLL CALL VOTE AS FOLLOWS:**

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

Motion passed 5 to one 1.

**6 CITY INFORMATION SYSTEMS SECURITY**

A presentation on the state of information and systems security, steps the City has taken to protect the organization and community, as well as coming initiatives was reviewed by Council.

David Fitzhugh Acting City Manager introduced Rob Lloyd, Chief Information Officer, indicating Mr. Lloyd would provide some information regarding cyber security risks and the city's initiative to address those issues by working in partnership with a number of local government agencies to conduct an assessment and develop solutions to potential issues.

Mr. Lloyd reviewed the city's security changing profile. He indicated that up until recently hacking and cracking were targeted activities, however these activities are now vicious and pervasive and all organizations are constantly under attack. Malicious hackers are more

organized and are working together to create tools, networks, syndicates and consortiums to conduct their activities. They look for common IT platforms and once they are able to compromise an organization's systems the likelihood they will be able to infiltrate another organization is higher. They also look for key individuals with high level rights and credentials to infiltrate an organization at a higher level. Another factor is that as a society we have become increasingly dependent on technology and we rely on it on a daily basis to manage our finances, health care, education, etc. He indicated that due to its pervasiveness at this point the goal is to minimize the city's risk by promptly detecting it and confronting it. Mr. Lloyd presented some statistical information regarding this activity indicating that cybercrime has become a \$113 billion dollar crime industry.

Mr. Lloyd indicated that criminals most often gain access to an organization's data through employees. This can be innocently when an employee inadvertently grants access to criminals or criminal when an employee maliciously compromises an organization. According to the Department of Homeland Security and the FBI, government organizations have had some kind of exposure to some sort of vicious activity they just may not know it.

Mr. Lloyd explained the city's strategies include identifying risk and increasing security measures to isolate the security risk and profile, using vendors with enhanced security methods and cyber threat intelligence experience as well as increasing monitoring and communicate risks when they are identified to staff and community.

Mr. Lloyd indicated that the "Expert Products and Services" will come before Council in June. The RFP addresses services in two areas; ITC Security assessment and advanced services (PC compliance, monitoring, training and other items vendors may want to propose in the security category). He commented these will be high dollar purchases and will only be procured as approved and as funds are available. The City of Avondale was the lead agency working with other organizations in a regional effort, six cities, Maricopa Association of Government and Maricopa County to write and release these cooperative purchasing agreements.

Council Member Vierhout concurred with Mr. Lloyd's statements and added that these individuals primarily target high level officials such as police chief, fire chief and budget directors and cautioned them to be careful when opening up emails. Council Member Vierhout commented that a company he consults for was hacked and subsequently hired a person who had been convicted for cyber crimes as a consultant. Council Member Vierhout complimented Mr. Lloyd for protecting Avondale's interests.

Vice Mayor Scott inquired what is in the future to protect organizations and wondered if biometrics will play a role. Mr. Lloyd indicated there is a lot that is currently being done to provide protection, but it is the human element that causes the most threat as it is hard to know when a person is going to act corruptly or innocently make a decision that could have a very negative impact in the organization. Great strides are being made in the area of security which include biometrics but it comes down to people making appropriate assessments and good decisions about their risk and not being fooled. What we can do is reduce our profile to make us a smaller target for that kind of crime. Vice Mayor Scott thanked Mr. Lloyd for his efforts.

Mayor Rogers commented it is critical for the city to protect its information. She thanked Mr. Lloyd and his staff for their efforts to prevent the city's information from being compromised.

**7 EXECUTIVE SESSION**

An executive session pursuant to Ariz. Rev. Stat. § 38-431.03 (A)(4) for discussion or consultation with the City's Attorney in order to consider its position and instruct the City's Attorney regarding potential litigation with respect to tax matters.

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

ROLL CALL VOTE AS FOLLOWS:

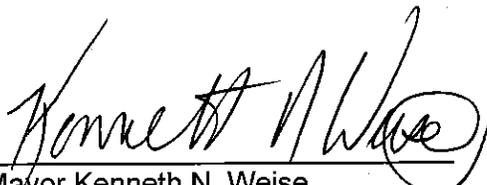
Council Member Vierhout	Aye
Council Member McDonald	Aye
Council Member Weise	Excused
Mayor Rogers	Aye
Vice Mayor Scott	Aye
Council Member Karlin	Aye
Council Member Kilgore	Aye

Motion carried 6-0

**8 ADJOURNMENT**

There being no further business before the Council, Council Member McDonald to adjourn the regular meeting. Vice Mayor Scott seconded the motion. Motion was carried 6-0.

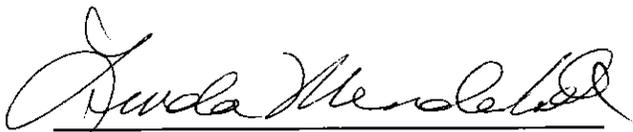
City Council meeting adjourned at 8:38 p.m.

  
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Mayor Kenneth N. Weise

  
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Linda Mendenhall  
Records Administrator

**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 19th 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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Records Administrator