



CITY OF SURPRISE
Regular City Council Meeting
16000 North Civic Center Plaza
Surprise, AZ 85374

Tuesday, November 17, 2020 @ 6:00PM

Call To Order

Invocation

Led by Shawna Daigle.

Roll Call

Mayor Hall called to order the Regular City Council Meeting of November 17, 2020 at 6:00 PM at Surprise City Hall Council Chambers, 16000 N Civic Center Plaza, Surprise, Arizona 85374. Also in attendance with Mayor Hall were Vice Mayor Judd, Council Members; Winters, Duffy, Hayden, Hastings and Remley.

Staff Present: City Manager, Michael Frazier; City Attorney, Robert Wingo and City Clerk, Sherry Ann Aguilar.

Pledge of Allegiance

Proclamation and Community Acknowledgements

E. City Manager Report

[Emergency Management, Tracy Montgomery gave a brief status report on COVID 19. The numbers have doubled recently. We are starting to spike again. Reviewed Maricopa County Cases. We are more concerned than from the summer cases, we also have the flu season which will overwhelm the hospitals.](#)

[Council Member Winters - inquired about the cost to the residents.](#)

[We may have to provide insurance cards to send to the insurance companies. Will be free to everyone.](#)

[Council Member Remley - Thanked Tracy Montgomery for the presentation.](#)

F. City Clerk Report

1. City Clerk Aguilar will perform a Ceremonial Oath of Office for incoming new Councilmember, Jack Hastings.Â

Council Member Hastings made a statement of thanks to everyone for their support.

Call To The Public

2. THIS ITEM RESERVED

Regular City Council Meeting Agenda

CONSENT AGENDA:

Council Member Duffy made the motion to approve the consent agenda. Council Member Hayden seconded the motion. Seven yes votes, motion carried.

3. Consideration and action on the minutes of the Regular City Council Work Session and Regular City Council Meeting of November 2, 2020 - APPROVED

4. Consideration and action pertaining to approval or disapproval of the Final Plat entitled, 'Replat of Lot 1 of the 'Replat of Lot 1 of the Final Plat for Sierra Montana Crossing' an approximately 5.06 acre property generally located on the southwestern corner of Greenway Road and Cotton Lane - APPROVED

5. Consideration and action pertaining to acceptance of a Special Warranty Deed for a water campus from Rancho Mercado Community Association - APPROVED

6. Consideration and action pertaining to acceptance of a Quit Claim Deed for Right of Way, two Municipal Use Easements, a Temporary Drainage Easement, and a Temporary Construction License from Suburban Land Reserve INC, for the purpose of facilitating roadway improvements along Greenway Road between the Loop 303 and Sarival Road - APPROVED

7. Consideration and action pertaining to approval of the Final Plat entitled, 'Ryder Ranch Final Plat' generally located on the southwest corner of Cotton Lane and Sweetwater Avenue within the Ryder Ranch Planned Unit Development (PUD); Case FS19-364 - APPROVED

8. Consideration and action declaring the City's intent to enlarge the lighting improvement district entitled, "The City of Surprise, Arizona, SU-Rancho Mercado North 181" pursuant to A.R.S. § 48-616 for the purpose of purchasing facilities and energy for lighting the public streets and parks; Resolution # 2020-99 - APPROVED

9. Consideration and action pertaining to approval of an amendment to the Fiscal Year 2021 budget by reallocating appropriations of \$71,500 from the Grants Fund to the Ground Ambulance Service Fund to account for the agreement with the Centers for Medicare and Medicaid (CMS) for the Emergency Triage, Treat and Transport (ET3) Program; Resolution #2020-145 - APPROVED

10. Consideration and action pertaining to approval of an amendment to the Fiscal Year 2021 budget by reallocating appropriations in the amount of \$132,400 within the Grants Fund, and \$20,400 within the General Fund, to account for a grant award in the amount of \$443,899 from the Arizona Department of Public Safety Victims of Crime Act (VOCA) Assistance Grant Program; Resolution # 2020-133 - APPROVED

11. Consideration and action pertaining to approval of an amendment to the Fiscal Year 2021 budget by reallocating appropriations in the amount of \$92,000 to account for additional grant funding for the Congregate Meal program; Resolution #2020-149 - APPROVED

12. Consideration and action pertaining to approval of an amendment to the Fiscal Year 2021 budget by reallocating appropriations in the amount of \$4,000 within the Grants Fund and authorizing acceptance of a grant award from the AZ Governor's Office of Highway Safety (GOHS) for overtime to enforce seatbelt and child passenger safety laws as part of the 2020 Buckle Up AZ (Click It or Ticket) seatbelt enforcement campaign; Resolution #2020-152 - APPROVED

13. Consideration and action pertaining to approval of an amendment to the Fiscal Year 2021 budget by reallocating appropriations of \$3,300 within the Transportation Improvement Fund and Contract Awarding Authority List to account for an Intergovernmental Agreement with the Maricopa County Department of Transportation (MCDOT); Resolution # 2020-151 - APPROVED

REGULAR AGENDA ITEM - PUBLIC HEARING:

14. Consideration and action declaring as a public record the proposed amendments to the City of Surprise Municipal Code related to Transaction Privilege Tax; Resolution # 2020-144 - APPROVED

[Finance Director, Andrea Davis reported on the proposed amendments. This is not changing any tax rates or categories. She also reported on item #15.](#)

[No public comments were made.](#)

[Council Member Winters made the motion to approve Resolution 2020-144. Council Member Hayden seconded the motion. Seven yes votes, motion carried.](#)

15. Consideration and action pertaining to adoption of amendments to the City of Surprise Municipal Code related to Transaction Privilege Tax; Ordinance # 2020-26 - APPROVED

No public comments were made.

Vice Mayor Judd made the motion to approve Ordinance 2020-26. Council Member Duffy seconded the motion. Seven yes votes, motion carried.

16. Consideration and action pertaining to approval of a rezone for the Enclave at Paloma Creek, an approximately 5 acre property generally located south of the Frontier Road and west of the 155th Ave alignments, from Residential Ranch (RR) to Residential Medium Density with a Planned Unit Development Overlay (RM-9 PUD), amending development standards, and limiting residential density to 4.01 dwelling units per acre; Ordinance # 2020-36 - APPROVED

[City Planner, Robert Kuhfuss gave a powerpoint presentation regarding this item.](#)

[Council Member Winters asked if this is a rezone of an existing development?](#)

[Mr. Kuhfuss - Adjacent piece outside of Paloma.](#)

[Ken Zander, development group, we only rezone Paloma Creek, we have been trying to buy adjacent parcels, same zoning and same lot sizes, and the same HOA.](#)

[Council Member Remley asked for clarification on stipulations. The developer clarified.](#)

[Council Member Remley also asked about green space area.](#)

[Council Member Hastings asked what percentage will be passive and active?](#)

[Mr. Kuhfuss - Usable open space, have not plotted this project yet.](#)

[Council Member Winters made the motion to approve Ordinance 2020-36. Vice Mayor Judd seconded the motion. Seven yes votes, motion carried.](#)

REGULAR AGENDA ITEM - NON-PUBLIC HEARING:

17. Consideration and action pertaining to approval of the SPA 2 East Water, Water Recharge and Wastewater Development Agreement with Paloma Creek Water Coordinator, LLC; Resolution # 2020-141 - APPROVED

A

[Mike Boule gave a powerpoint presentation.](#)

[Council Member Winters asked about Rancho Mercado Development Agreement and how it compares.](#)

[Mayor Hall - I really appreciate everything staff has done on this project.](#)

[Council Member Winters made to approve Resolution 2020-141. Council Member Remley seconded the motion. Seven yes votes, motion carried.](#)

18. Consideration and action pertaining to conditional approval of the Final Plat entitled, "Rancho Del Rey" an approximately 24.94 acre property generally located north of Happy Valley Road and east of 145th Avenue; Resolution # 2020-146 - APPROVED

[Lloyd Abrams gave a powerpoint presentation on this item.](#)

[Vice Mayor Judd - will this Resolution expire? What happens if project is not complete?](#)

[City Attorney Wingo commented that staff would bring back the plat to make changes if necessary.](#)

[Council Member Remley - the buy-in you are referring to.](#)

[Mayor Hall, will this PAD line up with the project next to this?](#)

[Council Member Winters made the motion to approve Resolution 2020-146. Vice](#)

Mayor Judd seconded the motion. Seven yes votes, motion carried.

19. Consideration and action pertaining to approval of an amendment to Chapter 34 of the Surprise Municipal Code (SMC) by adding Article VIII Recreational Marijuana, prohibitions on marijuana on or in city property, open spaces, and public property; and prohibiting marijuana establishments and testing facilities; Ordinance # 2020-37 - APPROVED WITH AMENDMENTS

City Attorney Wingo gave a detailed presentation on this item.

Mr. Wingo suggested amendments to various parts of the ordinance.

Council Member Remley commented that we discussed this at a work session before the election. We are elected officials, I want our Council to know, every precinct except one approved this initiative by a wide margin.

Mayor Hall - commented that many of the precincts are not in agreement, some as high as 70% against the prop.

Council Member Remley asked that this item be continued to the next meeting so we have time to evaluate.

Vice Mayor Judd - To be clear, if someone opens medical marijuana, they can sell recreational from the same location?

Mr. Wingo - Yes correct.

Vice Mayor Judd - My concern is the possession part of the ordinance.

Mr. Wingo clarified the definition of possession.

Council Member Hastings - Yes the voters approved Prop 207, part of it authorizes jurisdictions to regulate this. There is a difference in medical vs. recreational marijuana, THC levels are different. Our youth is getting access to this stuff. Being a high school teacher, I am seeing this. I think this is the right call.

Council Member Winters - Concerned the possession definition. Gave an example if someone buys and are walking home, is he violating the law?

Mr. Wingo commented that it depends as it is currently drafted.

Council Member Remley - at the time we talked about this at the work session we had issues with an applicant that we turned down from, our current ordinance was not clear.

Vice Mayor Judd - follow up questions on the potency of marijuana. Does it dictate that medical is the same as recreational?

Council Member Hastings - added that the research that I was doing showed that recreational typically contains 200 times more THC than medical. There is no official bench mark.

City Attorney Wingo commented that he would like the three amendments on the record.

1st Amendment - Definition "Marijuana Establishment" means an entity licensed by the Department to operate "any" of the following not all of the following.

2nd Amendment - Sec. 34-304 Marijuana Establishment Prohibited.

To the fullest extent allowable by law, the operation of a marijuana establishment is prohibited in the City, except where authorized for a dual licensee who:

1. operates both a nonprofit medical marijuana dispensary and marijuana establishment cooperatively in a shared location; and
2. has not forfeited or terminated the nonprofit medical marijuana dispensary registration from the Department.

3rd Amendment - Sec. 34-303 Marijuana Prohibited on Public Property.

A. To the fullest extent allowable by law, it is unlawful to:

1. (strike possess) smoke, consume, sell or distribute, store, cultivate, manufacture, or produce marijuana or marijuana products on or in property that is occupied, owned, controlled, or operated by the City. The remainder of this section will remain the same.

Vice Mayor Judd made the motion to approve Ordinance 2020-37 as amended. Council Member Hastings seconded the motion. Seven yes votes, motion carried.

Other Business and Future Agenda Items

[Council Member Hayden - Work Session regarding Vaping/Tobacco Use](#)

[Council Member Hastings - COVID Updates - City Manager Report](#)

City Council Reports

[Mayor/Council attended and/or commented on the following:](#)

[Council Member Hayden - Opening beauty parlor, grand opening of Sweet Beauty](#)

[Council Member Winters - Welcomed Hastings to the Council; Thanksgiving, different than last year, but remember to stick with quarantining.](#)

[Council Member Hastings - Busy 2 weeks, swearing in on Nov. 3rd; met with each Councilmembers; met with department directors; 2nd Saturday of each month, Chef Peter Bistro; Virtual meetings Facebook Live.](#)

[Council Member Remley - Different Thanksgiving coming up, please stay safe, observe distancing, no large groups, hope as a nation, we can learn to work together as well as this Council does. Work together.](#)

[Council Member Duffy - Happy Thanksgiving to everyone and be safe.](#)

[Mayor Hall - Surprise Police Department great reviews, multi-year process, National Accreditation through CALEA, Surprise 4th Re-Accreditation since 2007. Online Veteran's Tribute, residents assisted with signs along Bullard Avenue.](#)

Council Member Winters made the motion to recess the Regular City Council Meeting and enter into executive session at 7:47 PM. Council Member Duffy seconded the motion. Seven yes votes, motion carried.

Executive Session

Adjournment

Council Member Winters made the motion to adjourn the Regular City Council Meeting of November 17, 2020 at 8:28 PM. Council Member Hayden seconded the motion. Seven yes votes, motion carried.

20. Consideration and action to recess into executive session for discussion and consultation with the City Attorney for legal advice, and to consider and instruct the City Attorney regarding the City Council's position pertaining to opioid litigation pursuant to A.R.S. 38-431.03(A)(3) and (4).

Skip Hall, Mayor

ATTEST:

Sherry Ann Aguilar, City Clerk, MMC

CERTIFICATION:

I, Sherry Ann Aguilar, City Clerk for the City of Surprise, Maricopa County, Arizona, do hereby verify that these are the true and correct minutes of the Regular City Council Meeting of **Tuesday, November 17, 2020.**

Sherry Ann Aguilar, City Clerk, MMC