



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

Tuesday, November 19, 2019 @ 6:00PM

A. Call To Order

Invocation

Roll Call

Mayor Hall called to order the Regular City Council Meeting of November 19, 2019 at 6:02 PM at Surprise City Hall Council Chambers, 16000 N Civic Center Plaza, Surprise, Arizona 85374. Also in attendance with Mayor Hall were Vice Mayor Winters, Council Members; Duffy, Hayden, Judd and Sanders. Absent - Council Member Remley.

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

Pledge of Allegiance

Proclamation and Community Acknowledgements

City Manager Report

1. Youth Council member's will provide a brief report pertaining to current Youth Council events and projects.

[Youth reports](#)

[Favour Alino, Senior at Paradise Honors High School](#)
[and Kylie Halliburton, Senior at Shadow Ridge High School.](#)

2. Surprise Police Department Explorer Program Recognition.

City Clerk Report

Call To The Public

Regular City Council Meeting Agenda

1. Consideration and action pertaining to approval of the Agreement for Termination of the SPA3 South Sewer Interceptor between the City of Surprise and various owners of property in Spa 3 - APPROVED

CONSENT AGENDA:

Council Member Sanders made the motion to approve the consent agenda. Council Member Duffy seconded the motion. Six yes votes, one absent (Remley). Motion carried.

2. Consideration and action to approve a request by Naresh Mago (Agent/Owner) for a Series 12 liquor license for 5 & Diner 2 located at 11340 W. Bell Road, #125A, Surprise, AZ 85374 - APPROVED

3. Consideration and action on the Regular Council Work Session, Regular Council Meeting and Executive Session minutes from November 5th, 2019 - APPROVED

REGULAR AGENDA ITEM - PUBLIC HEARING:

4. Consideration and action pertaining to an application by Jasinski Trading LLC (Mariusz Jasinski -Agent/member) for a Series 004 Wholesaler Liquor License located at 20162 N. Windsong Drive, Surprise, AZ 85374 - DENIED

Mayor Hall - I'm going to turn this over to our City Attorney, Robert Wingo.

City Attorney, Robert Wingo - what you have before you this evening is an application for a Series 4 Wholesaler Liquor License. It would prudent for me to say a few words before the hearing and decision by Council. It important for Council to understand its role and that the record in this matter be perfectly clear.

Mr. Wingo further commented: State Law provides that when an application for a liquor license is submitted, the Governing body of a local jurisdiction, that is you, acts as an advisory capacity, makes a recommendation to the State Board either approve or deny the license. So whatever your decision tonight you are not approving or denying a license, you are making a recommendation. It is up to the State Liquor Board to ultimately approve or deny.

In this role you function as a quasi-judicial body you will need to make your decision on what is presented on the record arguments or statements, i.e. testimony that's presented during the hearing tonight as well the application and any other documentation attached to the agenda item. As you know there were several staff memos with pertinent information attached, those will be part of this record. One nuance of this hearing which will differentiate it from other public hearings is that only individuals who either own or lease property within one mile of the premises shall be allowed to speak. In addition to the HOA Representatives or any other corporate body representatives who have an interest in the license. It would also be appropriate to not to limit the time of the speaker to within reason.

Pursuant to state law the applicant bares the sole burden of proof specifically ARS 4-201G provides that and this is verbatim "the applicant bears the burden of showing that the public convenience requires and that the best interest of the community will be substantially served by the issuance of a license." So after the hearing considering all of the evidence on the record if you decide the applicant has met the burden of showing so basically convincing all of you that the public convenience requires and that the best interest of the community again will be substantially served by operating a wholesaling liquor business where they intend to operate it out of. You should make a recommendation of approval if however after consideration of all the evidence you've determine that the applicant has not shown that public convenience requires to the best interest of the community are substantially served, then you should recommend to the State Liquor Board that they deny the license.

The state has provided guidance to assist in determining whether a public convenience requires the best interest of the community be substantially served. This guidance comes in the Arizona Administrative Code.

This guidance comes under Section R19-1-702. I am going to read that section and I believe it was in your materials, but just as a refresher before we have the hearing.

A. To determine whether public convenience requires and the best interest of the community will be substantially served by issuing or transferring a license at a particular unlicensed location, local governing authorities and the Board may consider the following criteria:

1. Petitions and testimony from individuals who favor or oppose issuance of a license and who reside in, own, or lease property within one mile of the proposed premises;
2. Number and types of licenses within one mile of the proposed premises;
3. Evidence that all necessary licenses and permits for which the applicant is eligible at the time of application have been obtained from the state and all other governing bodies;
4. Residential and commercial population of the community and its likelihood of increasing, decreasing, or remaining static;
5. Residential and commercial population density within one mile of the proposed premises;
6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers;
7. Effect on vehicular traffic within one mile of the proposed premises;
8. Compatibility of the proposed business with other activity within one mile of the proposed premises;
9. Effect or impact on the activities of businesses or the residential neighborhood that might be affected by granting a license at the proposed premises;
10. History for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant received a detailed report of the violations and criminal activity at least 20 days before the hearing by the Board;
11. Comparison of the hours of operation at the proposed premises to the hours of operation of existing businesses within one mile of the proposed premises; and
12. Proximity of the proposed premises to licensed childcare facilities as defined by A.R.S. Â§ 36-881.

So, with those in mind staff has provided a map of a one mile radius of the proposed premise.

I will close again with reiterating that the burden is on the applicant to prove that the public convenience requires and the best interest to the community be substantially served by the issuance of the license.

Thank you.

Mayor Hall - are there any speakers?

City Clerk Aguilar - we have Terry Murphy.

Public Comments:

Mr. Murphy read the following statement for the record.

Terry Murphy, President, Sun City Grand Board of Directors read a written statement into the record expressing opposition for this request.

The statement is as follows:

November 18,2019

Mayor Skip Hall, Vice Mayor Roland Winters Jr., Councilmember Patrick Duffy, Councilmember Nancy Hayden, Councilmember Chris Judd, Councilmember Ken Remley, Councilmember David Sanders, City Manager Michael Frazier .
Surprise City Hall
16000 N. Civic Center Plaza
Surprise, Arizona 85374

Re: Surprise City Council Meeting Agenda/November 19,2019/Item 4/District2.
Consideration and action pertaining to an application by Jasinski Trading LLC
(Mariusz Jasinski Agent /member) for a Series 004 Wholesale Liquor License,
located at 20162 N. Windsong Drive, Surprise AZ 85374.

Lady and gentlemen.

Sun City Grand is an age "restricted residential I community established in 1996. It is composed of 9,802 homes and approximately 17,000 residents. The community is zoned PAD.

The Sun City Grand Covenants, Conditions, and Restrictions (CC&Rs) Exhibit C (1).
General clearly state, "The properties shall be used only residential,
Recreational, and related purposes"

Exhibit C (2) Prohibited Activities "The following activities are prohibited within the properties unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board:

(k) Any business, trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner or occupant residing in a Dwelling Unit may conduct business activities within the Dwelling Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Dwelling Unit; (ii) the business activity conforms to all zoning requirements for the Lot; (iii) the business activity does not involve regular visitation of the Lot or Dwelling Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Properties; and (iv) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board."

Public records indicate the Jolanta Jasinska and Mariusz Jasinski have owned the property at 20162 N Windsong Drive since August 5, 2014. It is a single-family residence surrounded by similar single-family residences. All new owners are provided copies of the Sun City Grand CC&Rs and Bylaws as part of the sale

transaction.

Had the property owners contacted the Sun City Grand Standards Office, they would have been advised that their Wholesale Liquor License application was an unacceptable use of the property according to the CC&Rs, and any request for an exception would be denied. That would have eliminated the need of city staff conducting the required inspections for such an application, as well as Tuesday's public hearing.

A copy of a letter from our attorney and the relevant CC&R pages are attached. Hard copies of this information will be delivered to the City Clerk.

Sun City Grand respectfully requests you deny this application for unacceptable use of a residential property in a residential neighborhood and community. I Thank you for your time and consideration.

Yours truly,

Terry Murphy

President Sun City Grand Board of Directors

Vice Mayor Winters - is the applicant here? I had a question for the applicant but he is not here.

The applicant was not present.

Mayor Hall - Are there any other questions Council?

Mayor Hall - I will entertain a motion.

Council Member Judd - I move to recommend to the State Liquor Board that deny the Series 04 Wholesaler Liquor License for Jasinski Trading LLC located at 20162 N Windsong Drive, Surprise Arizona 85374.

Vice Mayor Winters - second.

Mayor Hall - it has been moved and seconded and there are no other questions or concerns, please cast your vote.

City Clerk Aguilar requested a voice vote.

Council Member Judd - what is the question again?

City Attorney Wingo - a yes vote is the deny the application.

Mayor Hall - yes

Vice Mayor Winters - yes

Council Member Duffy - yes

Council Member Hayden - yes

Council Member Sanders - yes

Council Member Remley - absent

City Clerk Aguilar - that is 6 yes vote to deny this request.

REGULAR AGENDA ITEM - NON-PUBLIC HEARING:

5. Presentation and discussion pertaining to the FY2019 Financial Status Report through June 2019 - NO ACTION

[Finance Director, Andrea Davis gave a powerpoint presentation on this item.](#)

6. Presentation and discussion regarding development roadway - NO ACTION

[CD Assistant Director, Lloyd Abrams gave a powerpoint presentation on this item.](#)

[Council Member Judd - Plans for a street light on Bullard and Waddell?](#)

[Mr. Abrams - Yes there is, city will look at funding for this.](#)

[Council Member Duffy - What kind of timeline on Perryville?](#)

[Mr. Abrams - Not a definite timeline but know that they are wanting to do this one quickly.](#)

[Mayor Hall - Asked for clarification on when we lien the properties for roadways.](#)

[Mayor Hall - The gap on Happy Valley is another 2 miles, correct?](#)

[Mr. Abrams - yes.](#)

[Vice Mayor Winters - Commercial property up north, is it commercial on Pat Tillman and 163rd Avenue?](#)

7. Consideration and action pertaining to approval of an amendment to the Fiscal Year 2020 budget by reallocating appropriations of \$300,000 within the Water Operations Fund to support increased demand for meter installations and an amendment of the Fiscal Year 2020 Capital and Operating list of items over \$50,000; Resolution # 2019-140 - APPROVED

[Finance Director, Andrea Davis gave a brief powerpoint presentation for this item.](#)

[Council Member Judd made the motion to approve Resolution 2019-140. Vice Mayor Winters seconded the motion. Six yes votes, one absent \(Remley\), motion carried.](#)

Other Business and Future Agenda Items

Vice Mayor Winters - Work session to update boards and commissions ordinance, seconded by Council Member Sanders.

City Council Reports

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

[Council Member Sanders - Iris USA tour, Jaden and I completed the HOA academy, Best of the West, Veterans Day Parade and Vein Envy ribbon cutting.](#)

[Vice Mayor Winters - Mancini Memorial and Sun Health Re-hab Center.](#)

[Council Member Duffy - Sonoran Heights, Dysart School District Athlete of the](#)

[Month, Ottawa Football won their conference and Happy Thanksgiving.](#)

[Council Member Hayden - attended the same events, ribbon cutting beautiful was a beautiful experience Ugly Tuna ribbon cutting and Sun Health Re-hab.](#)

[Council Member Judd - Ugly Tuna Sushi opening, Reflection Circle, he commended staff for their work. White Tank Mountain Conservancy Advisory and Executive Board meeting, Iris USA, Meet and Greet West valley.](#)

[Mayor Hall - commend City Manager and his entire team on Reflection Circle, thanked all Veterans. Dysart School District Athlete of the month, Police Dept Bike Rodeo Nov 30th Fire Station 306 and Happy and Blessed Thanksgiving.](#)

Executive Session

Adjournment

Vice Mayor Winters made the motion to adjourn the Regular City Council Meeting of November 19, 2019 at 8:03 PM. Council Member Sanders seconded the motion. Six yes votes, one absent (Remley), motion carried.

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 19, 2019.**

Sherry Ann Aguilar, City Clerk, MMC