

CITY OF SURPRISE
Regular City Council Meeting Minutes
12425 West Bell Road, D-100
Surprise, AZ 85374

Thursday, March 26, 2009 @ 6:00 PM

CALL TO ORDER.

A. Roll Call

Mayor Truitt called the Regular City Council Meeting to order at 6:00 p.m., at Surprise City Hall Council Chamber 12425 West Bell Road, Suite D-100 Surprise, Arizona 85374, on **Thursday, March 26, 2009**. Also in attendance with Mayor Truitt were Vice Mayor Johnson, Council Member Longabaugh, Council Member Alton, Council Member Williams, Council Member Villanueva, and Council Member Hall.

Staff City Manager, Randy Oliver, Assistant City Manager, Kathy Rice, Assistant
Present: City Manager, Doug Sandstrom, City Attorney, Michael Bailey, and City Clerk, Sherry Aguilar.

B. Pledge of Allegiance

C. Invocation

D. Current Events and Reports by Mayor and City Council - Pursuant to A.R.S. §38-431.02(k) the chief administrator, presiding officer or a member of a public body may present a brief summary of current events without listing the agenda the specific matters to be summarized, provided that 1) The summary is listed on the agenda; and 2) The public body does not propose, discuss, deliberate or take legal action at that meeting on any matter in the summary unless the specific matter is properly noticed for legal action.

Council Member Longabaugh: time of the year to take care of backyard pools, visit the lakes, take care and watch our children. Saturday, March 28 - 1:00 p.m. - Annual Public Safety Softball Game.

Council Member Villanueva: grand opening of apartments - Bell Mirage Estates, Bond Meeting at Villanueva Center and HOA Round Table.

Council Member Alton - Crescent Crown opening last weekend, Mining District Meeting - Air Quality Control, ADOT Mtg., Bell & 303, Air Show last weekend - Luke AFB, meetings with Chamber and Bond Mtg. , Chamber - Mixer tomorrow night at West Valley Art Museum and Rio Salado Workshop - Create a web for your business.

Vice Mayor Johnson: Surprise allocated \$800,000. solar enhancements at new City Hall. New business - Culver's Ice Cream and My Greek Corner, Phoenix Magazine - Top 10 place to live in Arizona, Annual Program Evaluation - Dysart SD., Congratulate Mayor - Co-Chair Arizona e-medical files - going paperless. Ultra Star Theatre - Seats that move.

Council Member Williams: HOA Round Table, Crescent Crown Open House and Culver's Ice Cream, April 4th - Next planning day for Pride Day, Block Watch Meeting, meeting with Bob Burns and Senator John Nelson.

Council Member Hall: Crescent Crown, Bell Mirage Apartments, Luke Days, GO Bond Committee meeting at Willow Canyon HS and Western Trails Meeting on Friday at Hampton Inn.

Mayor Truitt: Fair Housing Month, Stimulus Funds, April 14th - 16th - Invited to go to Luke - F-35 simulator, Las Vegas - National Conference on Aging, Special Compassion Project - Relay for Life - April 25th, Special Presentation - Jimmy Farley - Koko's Towing - donate a \$1,000.00 check to go to Dream Catcher Field - equipment.

#1 CURRENT EVENTS

E. City Manager and Staff Reports:

City Manager Oliver: GO Committee will bring recommendations back to Council for consideration, traffic issues for Luke Days - Worse Saturday than Sunday and entered Strategic Partnership.

CALL TO THE PUBLIC:

Warren Bugle for Greg Nelson commented on: Sign Walkers Code Article 9 Section 113-216, Homeland Furniture of Surprise and decrease in sales.

G. Approval of items on the Consent Agenda - all items with an asterisk (*) are considered to be routine matters and will be enacted by one motion and one roll call vote to the City Council. There will be no separate discussion on these items unless a Councilmember requests, in which event the item will be removed from the consent agenda and considered in its normal sequence on the agenda.

CONSENT AGENDA:

Vice Mayor Johnson made the motion to approve the consent agenda Council Member Alton seconded the motion. Seven yes votes. Motion carried.

***#2. Consideration and action on Resolution No. 09-60, a resolution accepting maintenance of the street improvements for Cactus Road Phase 1 located in Marley Park - APPROVED**

***#3. Consideration and action on Resolution No. 09-61, a resolution accepting maintenance of the streets and public water and sewer utilities located in Marley Park Parcel 12 - APPROVED**

***#4. Consideration and action on Resolution No. 09-63, a resolution accepting maintenance of the streets and public water and sewer utilities located in Rancho Gabriela Parcel 17 - APPROVED**

***#5. Consideration and action on the commemorative plaque for the new City Hall - APPROVED**

***#6. Consideration and action on Resolution No. 09-72 a resolution of the Mayor and Council of the City of Surprise, Arizona, establishing council policy regarding debt collection programs and procedures - APPROVED WITH TWO AMENDMENTS**

Council Member Alton asked to remove this item and has to do with the Original Townsite not paying their garbage and sewer bills.

City Manager Oliver gave a brief summary on this issue, stated that staff is proposing repayment of the past 12 months and will set up a payment agreement. Currently no policy exists.

Council Member Alton stated that City Management has given Council 4 options and asked for an explanation of item #1 that is contained in the Council Book.

Finance Director, Robert Nilles explained this section.

Vice Mayor Johnson inquired about cutting off trash collection.

Council Member Alton asked for an explanation about the collectable accounts over \$10,000.00 and stated that he would like to see this at a \$500.00 limit and over would go to Council. He further commented on: against an amnesty program, put a lien on their properties and make them accountable and hold until it is paid.

City Manager Oliver commented on a payment agreement until the balance is paid off.

Council Member Villanueva commented on: HOA's \$360,000.00 situation and was the City's fault to a certain extent and I don't see the justification to not forgive this amount.

Council Member Hall stated the following: likes this plan and would like to extend the payment plan to 24 months, we have not aggressively collected and we have allowed this for a long time and now is a good time to fix this.

Vice Mayor Johnson stated the following: we were billing the wrong amount for the HOA's so that was a little different and this situation is people are not paying their utility bills and that falls on the City.

Mayor Truitt stated that we do have some responsibility here, it is a new day and we are creating a plan.

Council Member Longabaugh stated the following: we call our City a compassionate City, will probably result in no collection and they may need to leave our City and he does not recommend a collection effort.

Mayor asked about the Amnesty Program.

Council Member Alton stated that he does not agree with this and we cannot forgive this loan.

Council Member Villanueva stated that he does not that everyone should meet my responsibilities, but we set precedence with forgiving the HOA's. i don't think this is right.

Public Comments:

Mike Woodard stated the following: doesn't agree with an Amnesty Program, being a compassionate Surprise and taking the 12 month balance but add a stipulation that if this is not paid within 12 months, then it is not amnesty.

Council Member Hall made the motion to approve Resolution No. 09-72; a resolution of the Mayor and Council of the City of Surprise, Arizona, establishing council policy regarding debt collection programs and procedures with two amendments. 1) Authorize the City Manager to write off uncollectable amounts under \$500.00. 2) Change the account balance for the last year to be paid over 24 months and keep current or it all becomes due. Council Member Longabaugh seconded the motion. Six yes votes, one no vote. Motion carried.

***#7. Consideration and action on liquor license application request for 3 Tomatoes Pronto located at 13761 N. Litchfield Road, Suite 103, Surprise, Arizona 85374 for a Series 12 New License - APPROVED**

***#8. Consideration and action on liquor license application request for Irish Wolfhound Restaurant 2 Bar located at 16811 N. Litchfield Road, Suite 102-104, Surprise, Arizona 85374 for a Series 6 Person and Location Transfer - APPROVED**

***#9. Consideration and action on the minutes for the following: Special City Council Work session of March 5, 2009; the Regular City Council Work Session and Regular City Council Meeting of March 12, 2009 - APPROVED**

***#10. Consideration and action on Resolution No. 09-42; a resolution of the Mayor and Council of the City of Surprise, Arizona, approving an Intergovernmental Agreement between the City of Surprise and the City of El Mirage for water termination service - APPROVED**

***#11. Consideration and action on the final reading of Ordinance 08-50 rezone for a project known as "Happy Trails" to Planned Area Development case PAD08-130. The subject site consists of approximately 396 acres and is located on the northwest corner of Cotton Lane and Bell Road - APPROVED FINAL READING**

Director of Community Development, Jeff Mihelich gave a presentation regarding the final reading for Ordinance. 08-50. He stated that a public outreach notice was sent to all 4,000 households in Happy Trails.

Mayor and Council made the following comments:

Vice Mayor Johnson: CCR's are different than a PAD, it is contradictory, our PAD should be the same as what is in there right now.

Council Member Alton: very suspect of diminishing someone's value, concerned that we will be affecting their property value, let's leave it alone and have their board work this out and come back to us when they are ready.

Council Member Hall: won't get total agreement, the community has a Board of Directors and they have guidelines, not devaluing the property, we have a legal conforming issue.

Mihelich explained what a CC&R is. The PAD are the zoning regulations the City follows.

Public Comments:

Bill Payne: 5 years at Happy Trails and he is not in favor of the Pad being proposed.

Kay Watts: change the PAD to exclude mobiles in certain areas for updating later.

Dave Thiele: feels strongly that the property owners should not be limited at the city level.

Ralph Moloky: opposed to PAD because it eliminates manufactured homes.

Barbara Collins: manufactured home less expensive than installing a park model, she is opposed to PAD.

Frank Castaluccio: votes per lot and not per person, let ccr's and design guidelines control it

Herman Dreesen: there was no opportunity to ask questions during the public outreach meeting - No chance to ask any questions.

Fred Bending: wants the same opportunities that others have had.

Don Smith: existing structures and error in section 4.

John Greg Depeo: need to look back at the intent of what the park was created for, he supports the PAD.

Ronald Tull: Happy Trails was defined, we signed agreements, he supports passing PAD.

Sal Ognibene: sections were specific he supports passing PAD.

Nona Reynolds: Vice-President, Board of Directors at Happy Trails and if you approve the proposed PAD, you are not making any changes and moratoriums.

John Kendrick: not allowed prior to 2006, rumors, rv parking and supports PAD.

Sharon Hanning: in favor of having manufactured homes, rv's are a storage lot and stay neutral.

JR Harr - was happy with the options and doesn't want to loose them.

Bob Knauf - President of HOA, no changes were made during the summer, manufactured homes weren't allowed from the start.

Council Member Hall made the motion to approve the final reading of Ordinance 08-50, an ordinance of the Mayor and Council of the City of Surprise, Arizona, approving a rezone for a project known as "Happy Trails" to Planned Area Development case PAD08-130. The subject site consists of approximately 396 acres and is located on the northwest corner of Cotton Lane and Bell Road. Council Member Longabaugh seconded the motion. Four yes votes, three no votes. Motion carried.

Mayor Truitt called for a 5 minute recess at 7:10 p.m.

***#12. Consideration and action on a budget transfer of \$100,000 from Unforeseen Grants, and a budget transfer of \$20,000 from drug seizure to the Police Department for the purchase of 25 mobile radios for the Patrol Vehicle fleet - APPROVED**

***#13. Consideration and action on Resolution No. 09-76; a resolution establishing an Ad Hoc Complete Count Committee for oversight of the 2010 Census - APPROVED**

***#14. Consideration and Action on a one-time transfer of \$30,000 from Council Contingencies for outside legal services - APPROVED**

***#15. Discussion, Consideration and action on action items from the February 20 - 21, 2009 Council Retreat - APPROVED**

REGULAR AGENDA ITEM - NON-PUBLIC HEARING:

#16. Consideration and action on appointing the following members to the Building and Construction Review Board: Gregory G. Victor, Fred D. Watts and Gary J. Nelson with term expiring July 1, 2012 and Martin L. Willis and Russell A. Carter with term expiring July 1, 2011 - APPROVED

Council Member Longabaugh reported on the Selection Committee's recommendation.

Council Member Longabaugh made the motion to approve appointing the following members to the Building and Construction Review Board: Gregory G. Victor, Fred D. Watts and Gary J. Nelson with term expiring July 1, 2012 and Martin L. Willis and Russell A. Carter with term expiring July 1, 2011. Vice Mayor Johnson seconded the motion. Seven yes votes. Motion carried.

#17. Consideration and action on funding to support Fighter Country Partnership through it's sponsorship programs.

Council Member Hall made the motion to approve fiscal year 2009 allocation of \$25,000.00 to Fighter Country Partnership in the form of an annual sponsorship at the gold level. Council Member Longabaugh seconded the motion. Seven yes votes. Motion carried.

#18. Consideration and action on appointing Councilmember Skip Hall as an Ex-Officio Member of the Tourism Committee representing City Council.

Vice Mayor Johnson made the motion to approve appointing Council Member Skip Hall as an Ex-Officio Member of the Tourism Committee representing City Council. Council Member Villanueva seconded the motion. Seven yes votes. Motion carried.

#19. Discussion and consideration on annexation petition 08-01 pertaining to all of U. S. Highway 60, also known as Grand Avenue, located within Section 3, Township 3 North, Range 1 West, and Sections 18, 19, 20, 28, 29, 33, 34, Township 4 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona - NO ACTION

City Planner David Neal gave a brief report regarding the annexation.

#20. Consideration and action on the first reading of Ordinance No. 09-13 - repealing surprise municipal code chapter 58, section 23 - APPROVED FIRST READING

Finance Director, Robert Nilles reported on Ordinance No. 09-13.

There were no public comments made.

Vice Mayor Johnson made the motion to approve the first reading of Ordinance No. 09-13; an ordinance of the Mayor and Council of the City of Surprise, Arizona, repealing surprise municipal code chapter 58, section 23. Council Member Hall seconded the motion. Seven yes votes. Motion carried.

OTHER BUSINESS:

#21. Consideration and action on items to be placed on future agendas - NONE

EXECUTIVE SESSION:

Mayor Truitt adjourned the Regular City Council Meeting @ 8:19 p.m. to convene to Executive Session

#22. Pursuant to A.R.S. § 38-431.03(A)(3), the City Council may go into executive session with the City Attorney for legal advice on any item listed on the agenda.

Discussion/consultation with the City Attorney and City Manager to receive an update, to consider its position, and to provide instruction/direction to the City Attorney and City Manager regarding Surprise's position in connection with development agreements relating to public and private development in the area of the Loop 303 Corridor, which is the subject of negotiations. (A.R.S. §§ 38-431.03 (A)(3)(4))

Discussion/consultation with the City Attorney and City Manager to receive an update, to consider its position, and to provide instruction/direction to the City Attorney and City Manager regarding Surprise's position in connection with contracts, agreements and/or development agreements of the area in, near and surrounding 211th Avenue and Dove Valley Road that are the subject of negotiations.

Discussion/consultation with the City Attorney and City Manager to receive an update, to consider its position, and to provide instruction/direction to the City Attorney and City Manager regarding Surprise's position in connection with contractual negotiations related to possible development of a park and ride facility. (A.R.S. §§ 38-431.03 A(3)(4)(7))

#23. Consideration and action on executive session items - NONE

ADJOURNMENT:

Mayor Truitt adjourned the Regular City Council Meeting of March 26, 2009 @ 8:36 p.m.

L.E. Truitt, Mayor

ATTEST:

Sherry Ann Aguilar, City Clerk

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 of **Thursday, March 26, 2009.**

Sherry Ann Aguilar, City Clerk