



CITY OF SURPRISE
City Council Meeting Minutes
100 North Civic Center Plaza
Surprise, AZ 85374

Tuesday, October 20, 2015 @ 06:00 PM

Call to Order

Roll Call

Mayor Wolcott called the **Regular City Council Meeting** to order at 06:00 p.m. Surprise City Hall Council Chamber 16000 North Civic Center Plaza Surprise, Arizona 85374 , on **Tuesday, October 20, 2015**. Also in attendance with Mayor Wolcott were Vice Mayor Williams, Council Member Winters, Council Member Biundo, Council Member Villanueva, Council Member Hall, and Council Member Tande.

Staff Present: City Manager, Bob Wingenroth, City Attorney, Misty Leslie, and City Clerk, Sherry Ann Aguilar.

Pledge of Allegiance

Proclamation and Community Acknowledgements

Eric Bennett, long-time Surprise resident and teacher at Shadow Ridge High School, Gold medal recipient.

Mayor Wolcott read aloud a proclamation in support of Eric Bennett, a City resident received a silver medal for Archery.

City Manager Report

Surprise Students/Teachers for Education

Paul Bernardo commented that the students from Marley Park Elementary would lead the Pledge of Allegiance.

City Attorney Report

City Clerk Report

Voter Outreach Update

City Clerk Aguilar reported on early voting at City Hall through October 30, 2015.

Call to the Public

Pam Hilinski - Spoke regarding City Attorney issue

Mike Woodard - Important decisions to be made, important to the City. He asked Council to look past the obstacles.

Joanna Mankiewicz - Simply request that you all work together.

Consent Agenda

1 - Consideration and action adopting a Title VI plan for the City's transit obligations related to receipt and use of Federal Funds for transit services; Resolution # 2015-98 - APPROVED

2 - Consideration and action authorizing the City Manager to execute an Intergovernmental Agreement with the Arizona Department of Transportation for the Reems Rd. Intelligent Transportation System enhancements; Resolution # 2015-80 - APPROVED

3 - Consideration and action accepting the State of Arizona, Department of Homeland Security grant in the amount of \$50,000 in support of the Urban Area Security Initiative (UASI) program and to amend the FY2016 budget by reallocating appropriations of \$10,000 within the grants and contingency fund for the purposes of adjusting the budget authority related to the grant; Resolution # 2015-97 - APPROVED

4 - Consideration and action accepting the Tohono O'odham Nation grant in the amount of \$50,000 supporting the Surprise Fire-Medical Department's compressor replacement and to amend the FY16 budget by reallocating appropriations of \$50,000 within the grants and contingency fund for receipt of the grant funding; Resolution # 2015-96 - APPROVED

5 - Consideration and action approving a final plat entitled "Final Plat for Kreibich-Phillips Estates", property generally located east of 163rd Avenue and south of the Skinner Road alignment - APPROVED

Item #5 was removed from the consent agenda by Council Member Winters for discussion.

Council Member Winters made the motion to approve the Final Plat for Kreibich-Phillips Estates. Council Member Tande seconded the motion. Seven yes votes. Motion carried.

6 - Consideration and action amending the fiscal year 2016 budget by reallocating appropriations of \$130,000 from the Community and Recreation Services Donation Fund General Operations #29999 to the Surprise Farms Capital Improvement Project #21417; Resolution #2015-104 - APPROVED

Item #6 was removed from the consent agenda by Council Member Hall for discussion.

Council Member Winters made the motion to approve Resolution 2015-104. Council Member Tande seconded the motion. Seven yes votes. Motion carried.

7 - Consideration and the minutes of October 6, 2015 Regular Work Session and Regular City Council Meeting - APPROVED

Vice Mayor Williams made the motion to approve the consent agenda, excluding items 5 and 6. Council Member Villanueva seconded the motion. Seven yes votes. Motion carried.

Regular Agenda Item - Public Hearing

8 - Consideration and action amending Surprise Municipal Code, Chapter 122, Surprise Unified Development Code, Section 122-112, Wireless Communications, to allow Wireless Telecommunication Facilities to conform to federal regulations and current technology (this is a Zoning Text Amendment); Ordinance 2015-15 - APPROVED

City Planner, Hobart Wingard conducted the powerpoint presentation on this item.

Council Member Tande inquired about abandonment of cell tower if the owner walks away.

Mr. Wingard commented that the landowner would be responsible as part of the lease agreement.

Council Member Villanueva asked if the palm tree is real.

Staff discussed disguised towers.

No public comments were made.

Council Member Biundo made the motion to approve Ordinance 2015-15. Council Member Hall seconded the motion. Seven yes votes. Motion carried.

9 - Consideration and action regarding proposed Zone Change from CR to IP-PUD, CR to CR-PUD, and from IP to CR-PUD for Dysart Subdivision located at the southwest corner of Bell Road and Dysart Road; Ordinance 2015-16 - CONTINUED TO NOVEMBER 3, 2015 REGULAR COUNCIL MEETING

Community Development Director, Eric Fitzer asked for a continuation of this item.

Margie Murr - Spoke of reducing the city attorney to a legal clerk; it is foolishness; referred to city manager; the ordinance; referred to Council Members Villanueva and Biundo and Bell and Grand.

Vice Mayor Williams made the motion to continue item #9 to the November 3, 2015 Regular Council Meeting. Council Member Winters seconded the motion. Seven yes votes. Motion carried.

Regular Agenda Item - Non-Public Hearing

10 - Discussion regarding the amendments to the Surprise Municipal Code relating to the new reporting authority for the City Attorney - NO ACTION

Attorney Andrew McGuire discussed all of the sections of the proposed ordinance to place the City Attorney under the City Manager authority.

Council Member Biundo: 2 major concerns regarding the draft ordinance. He commented on several sections of the City code and ordinance and passed out a copy of the e-mail that I wrote to Attorney McGuire.

Attorney McGuire - Addressed each of Council Member Biundo's concerns. ARS Title 9 covers all cities & towns that are general law cities. In Arizona it is illegal to delegate your authority.

Council Member Biundo - In regards to your last comments, I don't disagree with what you said, how many non-charter cities in Arizona have City Physicians. I don't think this forum is the place to negotiate individual items.

Attorney McGuire - Changes to the City code need to be made in public, if you want additional changes made, then I will be happy to bring back another draft.

Council Member Hall - Thank you for getting the document to us, I would like to give some general feedback, concerns with sections 2, 3 & 4. They give the City Manager responsibility without authority. Read a section of the email from Mayor Wolcott to a constituent. I take offense to the Mayors comments that I have violated the open meeting law.

Council Member Winters - Why don't we use the City code from the City of Phoenix, they have been doing it this way for years.

Attorney McGuire - Phoenix is a charter City.

Council Member Tande - I agree with Mr. McGuire, legislative agenda to change the statute for City Physician.

Vice Mayor Williams - I appreciate the vision of our colleagues, but I just can't see the end result. What does this look like in 5 or 10 years? This could change periodically over the years. The current process has functioned.

Council Member Villanueva - I have a lot to say, I disagree because there are many issues that is going on and the City Manager is not aware of that the Attorney is aware of. I am not going to put up with someone claiming that we have broken the open meeting law.

Mayor Wolcott apologized for comments made in an email to a resident.

Mayor Wolcott commented that she does not support the requested changes.

Public Comments:

Leo Mankiewicz - The theme for tonight's meeting is "boy we really better know what we are doing". I voted to appoint this City Attorney so I resent what is going on. This is no good reason for changing what is not broken. You got a good solid opinion from an attorney, I am sure Misty understood it.

Ken Wright - I think that the comment made tonight that the City Manager should know everything that is going on in the City. Rumors and other small issues shouldn't be taken to the City Manager. I hope that there has been plenty of clarification tonight. If you don't like the laws, then you should

run for state office and change the law.

Mike Planeta - Thanked Attorney McGuire for making it clear that this should stay the way it is. Addressed the e-mail from Mayor Wolcott. You all represent us the voters. I don't know why this has come about.

11 - Consideration and action to retain outside counsel to provide a second and alternative draft ordinance regarding the realignment of reporting of the City Attorney - APPROVED

Council Member Biundo clarified his position on the City Attorney issue.

Mayor Wolcott commented on council makes the appointment at this time and interview the potential appointees.

Council Member Biundo disagreed.

Vice Mayor Williams is all for more information but is 20-40 hours enough time to gather information.

Council Member Biundo made the motion of recommending hiring Mr. Simms as a second opinion and bring an opinion forward for the November 3rd, 2015 Council Meeting along with the ordinance drafted by Attorney McGuire. Council Member Winters seconded the motion. Five yes votes, two no votes (Wolcott and Tande). Motion carried.

12 - Discussion and possible action on a recommendation to the Arizona Department of Transportation (ADOT) and the Maricopa Association of Governments (MAG) on whether or not to move forward with the Bell/Grand Intersection Project - FIVE YES VOTES NOT TO CANCEL THE PROJECT

MAG Director, Eric Anderson conducted powerpoint presentation.

Brock Barnhart of ADOT continued on with the presentation and explained the funding mechanisms and process of how projects are decided.

Steve Ocean, Engineer continued the presentation to show drawings of finished overpass.

Council Member Hall - I appreciate your time and I know you have worked hard on this. What is the projected cost of this project?

The cost is 52 million dollars.

Council Member Hall - What is the definition of "fail"?

Fail is a subjected term, looking at delay, we could calculate the delayed times, cost analysis on this type of facility. 2005, this was ADOT that came up with this.

Council Member Hall - I am more concerned about Bell Road over Grand Avenue, Bell Road is Surprise.

Major construction will take place to not interfere with spring training and the holidays.

Vice Mayor Williams - timelines.

Construction begins in February.

Council Member Biundo - I have never been clear where the final go or no go lies? Who finally says go or no go?

The MAG Regional Policy Board does.

Council Member Winters - I have a lot of concerns about this project, loss of sales tax revenue and issues with access to our businesses.

Council Member Villanueva - questioned the bridge at Deer Valley Road.

Council Member Tande - I Like the idea of helping our businesses and working with ADOT.

Mayor Wolcott commented about surveys she has been doing in various communities and at her church.

Morgan Ives - Bank of America, access and visibility is an issue, with this project moving forward, we are concerned about damages to the banks property. A retail site is only as good as its access. We have it today, it is easy to get in and out of right now. The business will be compromised. I would love to have the opportunity to fully understand the project completely.

Leo Mankiewicz - Interesting questions and I think all of my questions are answered. We should go forward with the project, growth will be happening in the far north valley.

Paula Forster - Spoke in opposition of the overpass, it is just an excuse to have commuter rail. Get the rail here and get the cars off the road, the businesses will die at this intersection.

Mike Woodard - What are you going to do about West Point? Where is the traffic going to go when you close Bell Road. It's a lot of money, we met with these people 3 years ago, they expressed concerns then, and the City didn't listen and here we are. I agree that we need to go under Bell Road, it will be quicker and less problems.

Mike Planeta - A lot of my questions were answered, I am concerned why this even came up. We have been working on this since 2003. I avoid Bell & Grand during rush hour and this will improve traffic dramatically. Our City is going to be bigger in a few years, it is important to get this project done.

Bernard Pauluch - 11 years in Sun City Grand opposes the Bell Grand Bridge. Respectfully request that Mayor and Council directly involved in the planning or financing request that all activities be terminated immediately.

Frank Diaz - 2 years ago I was a part of a group to bring this overpass to Surprise. At that time we were told that Bell Road would not be closed down but down to 2 lanes. Concerned with detours that are being proposed, people are going to find alternate routes to get to the shopping center through West Point Neighborhood.

Mr. Barnhart addressed the issue of closing Bell compared to 2 lanes.

Council Member Hall made the motion to cancel the project. Council Member Villanueva seconded the motion. Five no votes, two yes votes (Villanueva and Hall). Motion carried not to cancel.

13 - The Council shall hear and discuss a presentation regarding potential options for aesthetic improvements on the Bell/Grand interchange project - THE ADOT VERSION IS THE PREFERRED CONCEPT

Deputy City Manager, Nicole Lance reported on this item.

Council Member Tande - Will there be LED lighting?

Council Member Biundo - We are on public record that no City funds would be used for enhancements on this project.

Council Member Villanueva - Questioned funds that have already been spent on the artist to date. No services have been rendered according to City Manager, Bob Wingenroth.

Mayor Wolcott commented that Ms. Lance has some general guidance from Council.

Ms. Leslie commented that the direction would be to go with ADOT.

Mayor Wolcott commented on lighting.

Council Member Biundo requested to bring this item to closure with an official vote.

14 - Consideration and action approving the final plat entitled "Final Plat for Dysart Subdivision" for property generally located at the southwest corner of Bell Road and Dysart Road - CONTINUED TO THE NOVEMBER 3, 2015 REGULAR COUNCIL MEETING

Vice Mayor Williams made the motion to continued item 14 to the November 3, 2015 Regular City Council Meeting. Council Member Winters seconded the motion. Seven yes votes. Motion carried.

15 - Consideration and action regarding appointment of David Farago to fill the Arts & Cultural Advisory Commission vacancy with a term expiration of June 30, 2016, and Bruce Hertzog to fill the vacancy on the Disability Advisory Commission with a term expiration of June 30, 2016 - APPROVED

Council Member Winters commented that the Selection Committee brought these two candidates forward for approval.

Council Member Villanueva made the motion to approve the appointment of David Farago and Bruce Hertzog. Council Member Biundo seconded the motion. Seven yes votes. Motion carried.

City Clerk Aguilar administered the Oath of Office.

16 - Consideration and action on the Committee on Community Outreach, Partnerships & Grants recommendations for Surprise Community Outreach Program funding for FY16 - APPROVED

Assistant to the Council, Jodi Tas presented this item.

Mayor Wolcott - Would like to redraft the 1% for the Arts.

Council Member Biundo - Arts 1% only above ground capital projects.

Vice Mayor Williams made the motion to approve the Committee's recommendation. Council Member Villanueva seconded the motion. Seven yes votes. Motion carried.

17 - Consideration and action recognizing of the 1936 Ramola Plat; Resolution #2015-94 - CONTINUED TO THE NOVEMBER 3, 2015 REGULAR CITY COUNCIL MEETING

Assistant City Manager, Rick Buss commented that the applicant has requested a two week continuance.

Paul Gilbert - requested additional time to gather the final signatures.

Vice Mayor Williams made the motion to continue item #17 (Resolution 2015-94) to the November 3, 2015 Regular City Council Meeting. Council Member Tande seconded the motion. Seven yes votes.

18 - Consideration and action to annex 1.06 Acres along the Cactus Road alignment between 171st Avenue and Cotton Lane; Ordinance 2015-17 - CONTINUED TO THE NOVEMBER 3, 2015 REGULAR CITY COUNCIL MEETING

Vice Mayor Williams made the motion to continue item #18 (Ordinance 2015-17) to the November 3, 2015 Regular City Council Meeting. Council Member Biundo seconded the motion. Seven yes votes. Motion carried.

Other Business

Vice Mayor Williams: Discuss applicants for grant opportunities

Mayor Wolcott: Discuss Interim Appointment of City Attorney

City Manager Wingenroth shared a few words regarding Misty Leslie.

Council Member Tande: Ms. Leslie will be missed especially her intelligence, creativity and her challenging council to do better

Mayor/Council Reports:

Mayor and Council attended and/or reported on the following:

Council Member Winters: Surprise Farms, Surprise Farms III Block Party

Council Member Tande: getting excited about all the good things happening in the city, IRIS,

Council Member Villanueva: Thanked Mr. Coronado and staff for the Fiesta and for the luncheon in honor of Roy.

Vice Mayor Williams: thanked Misty Leslie and Jodi Tas

Executive Session

Adjournment

Council Member Hall made the motion to adjourn the Regular City Council Meeting of October 20, 2015 at 10:41 PM. Council Member Biundo seconded the motion. Seven yes votes. Motion carried.

Sharon R. Wolcott, 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 Regular City Council Meeting of **Tuesday, October 20, 2015.**

Sherry Ann Aguilar, City Clerk,