

As amended by the City Council on February 18, 2014

**City of Phoenix
City Council Meeting/Executive Session
Public Works Office
1000 S. "B" Street
Monday, February 3, 2014**

CALL TO ORDER

Mayor Jeff Bellah called the Executive Session of the City Council to order on Monday, February 3, 2014 at 6:00 p.m. in the Public Works Office.

ROLL CALL

PRESENT: Bruce Sophie, Karen Jones, Carolyn Bartell, Terry Helfrich, Chris Luz, Stan Bartell, Jeff Bellah

Staff Present: Steve Dahl, City Manager/Recorder
Kurt Knudsen, City Attorney

Called under ORS 192.660 (2)(h), to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

Discussion followed and no decisions were made. Executive Session recessed at 6:30 p.m.

CALL TO ORDER

Mayor Jeff Bellah called the regular meeting of the City Council to order on Monday, February 3, 2014 at 6:35 p.m. in the Public Works Office.

ROLL CALL

PRESENT: Stan Bartell, Bruce Sophie, Karen Jones, Carolyn Bartell, Terry Helfrich, Chris Luz, Jeff Bellah

Staff Present: Steve Dahl, City Manager/Recorder
Janette Boothe, Deputy City Recorder
Derek Bowker, Chief of Police
Steve Weber, Finance Director
Kevin Caldwell, Public Works Superintendent
Kurt Knudsen, City Attorney

PLEDGE OF ALLEGIANCE

MAYOR'S COMMENTS:

Mayor Bellah would like the community to recognize the council members are volunteers and are not in their position for personal gain. Additionally, he noted when he initially joined the City Council, the City of Phoenix was not in a good financial position; however, the City is doing better due to the contributions of both the Council and City staff. Mayor Bellah further noted specific achievements that show the City's financial improvement, including the upcoming street improvements. He expressed his gratitude for the citizens who have volunteered their time on the various committees in the City and further encouraged other citizens in the Community to get involved.

UNFINISHED BUSINESS:

- 1) Discussion on Year End Police Report for 2013. Chief Bowker came forward to address questions from Council. He acknowledged a decrease in DUIs in the past year compared to the prior two years; however, he noted this is largely due to the furlough days for the police department in 2013. Further discussion followed regarding calls outside the City limits. Chief Bowker noted he has made the department aware of the range outside the limits he is comfortable with, outside of a life-threatening emergency. As discussion progressed, Chief Bowker described the different types of calls the Phoenix Police department assists the Sherriff's department with and the working relationship that exists. Further discussion followed as Chief Bowker fielded additional questions. Council noted their appreciation for the informative report.
- 2) Presentation of the City Quarterly Finance Report. Steve Weber expressed the City is half way through the fiscal year and the finance report is positive. He noted the overall General Fund revenue is at approximately at 72% of the budgeted amount, whereas, the expectation would be for the revenue to be at 50%. He further explained the overall increase is due in large part to the increased collection of property tax revenue. He reviewed the General Fund expenditures and noted the overall expenditures are below the expected 50% of budget. He noted he is comfortable with the current position of the General Fund; however, he does not anticipate the increase in property tax revenue in the upcoming years. He commented the Street fund revenue is trending as expected and the expenditures are slightly lower than budgeted; however, overall revenue is exceeding expenses by just over \$19,000. He further went on to report the Water fund is much like the Street fund, as the capital outlay budgeted items have not begun as of yet. Mr. Weber added that the overall forecasted remainder of the year looks good for the financial position of the City. He further reviewed the financial report as he took questions from Council.
- 3) Discussion of Parks List. Mayor Bellah noted the Parks Commission issued a list of suggestions for City events and inquired whether the Parks Commission is requesting direction from Council or simply acknowledgement of their ideas. Steve Dahl responded the Parks Commission is seeking support for their ideas and possible suggestions from the Council regarding priority of the items on the list. Councilor C. Bartell added there would be detailed information regarding each project brought to Council before beginning the project;

however, the Parks Commission would like some guidance regarding where the Council would like to see the focus initially and what items are the most important. Further discussion followed, as Mr. Dahl noted the way to go about these types of events are to start out with one or two items the City can accomplish and complete them and call it a success, and slowly build up to additional events on an annual basis.

- 4) Acceptance and Discussion on Urban Renewal Response on Intergovernmental Agreement. Mayor Bellah requested comments from each councilor.

Councilor Helfrich commented he is leaning towards the Urban Renewal lawyer's recommendation, as the lawyer is very familiar with the agreement initially drafted. Additionally, he agrees to hold a special meeting to review the agreement further.

Councilor Luz commented he is disappointed that some of the things Council requested were not accommodated. He further noted he would discuss specifically what he is disheartened with in the special meeting regarding this matter.

Councilor Sophie agreed with holding a special meeting and noted he was disappointed with several aspects of the response as well.

Councilor Jones commented that the URA attorney noted that most urban renewal agencies do not have a document like this and he felt it was a good document to possess. She went on to explain that the URA deals with both private and public property and it is a separate manner in which the City would deal this type of transaction. She further explained she feels the agency should be kept separate from the City Council, as the Council has enough to deal with and trust that the URA is carrying on appropriately. She added that she would attend a special meeting if deemed necessary.

Councilor C. Bartell commented she was disappointed, as most of the Council's recommendations were regarding communication and there is a lot of work left to do regarding improving communication. She further stated she agreed with holding a special meeting.

Councilor S. Bartell noted he is comfortable with holding a special meeting to look at the draft recommendations in depth. He further stated most of the changes recommended by council were marked off with a comment of unnecessary. He added he feels that the URA does not hear exactly what Council is saying, and maybe that means the Council needs to have better representation on the board.

Mayor Bellah noted he is a little disappointed mainly with the idea that the Council and URA do not seem to be working together as a team. He inquired whether council felt it appropriate to have Attorney Knudsen review the URA attorney's comments and inform Council of his legal suggestions. Further discussion followed, as Council's consensus was to request Attorney Knudsen's review and discuss this topic in depth at a special meeting the following week.

Councilor Jones read aloud the sections of the IGA to the public and explained that the URA is a completely separate agency and apparently, the communication from URA is not enough for Council now.

- 5) Acceptance and Discussion on Urban Renewal Response from Priority Letter. Councilor Luz inquired whether the URA could move forward with the poles for the flower baskets and flags. Further discussion followed, as Mr. Dahl noted that the City does not need to have the URA place the poles out this year in order to have flower baskets, as the arrangements are not being discussed as something that will be placed on these poles, rather it is the decorative flags that the poles will be used for. Mayor Bellah noted that this could be part of the discussion at the special meeting.

MOVED BY JONES, SECONDED BY SOPHIE, TO APPROVE THE CONSENT CALENDAR. There was no further discussion.

ROLL CALL VOTE AS FOLLOWS:

Ayes: Sophie, C. Bartell, Jones, S. Bartell, Chris Luz, and Helfrich

MOTION APPROVED WITH SIX AYES

NEW BUSINESS:

- 1) Appointment of a Budget Officer. Mayor noted the staff recommendation is to appoint the City Manager as the budget officer. **MOVED BY JONES, SECONDED BY HELFRICH, TO APPOINT STEVE DAHL, THE CITY MANAGER, AS THE CITY OF PHOENIX BUDGET OFFICER FOR FY 2014/15.** There was no further discussion.

ROLL CALL VOTE AS FOLLOWS:

Ayes: Sophie, C. Bartell, Jones, S. Bartell, Chris Luz, and Helfrich

MOTION APPROVED WITH SIX AYES

- 2) Discussion on Budget Committee Meeting Dates. Mr. Weber explained the budget meetings were scheduled in prior years on Tuesday nights and he wanted to confirm Council would like to continue with Tuesday nights for this budget year. Council's consensus was to stay with the Tuesday night schedule.
- 3) Motion to Prepare a Resolution Referring an Advisory Question be Placed on May Ballot. Mr. Dahl explained procedures necessary to file a ballot title for the May 20, 2014 election. Mayor Bellah inquired whether Council wanted to move forward with placing the item on the May ballot. Further discussion followed, as Council's consensus was to place this item on the May ballot. **MOVED BY S. BARTELL, SECONDED BY LUZ, TO HAVE CITY STAFF DEVELOP A BALLOT TITLE TO BE BROUGHT BEFORE COUNCIL.** Further discussion followed, as Council discussed the process once the item has been voted on.

ROLL CALL VOTE AS FOLLOWS:

Ayes: Sophie, C. Bartell, Jones, S. Bartell, Chris Luz, and Helfrich

MOTION APPROVED WITH SIX AYES

- 4) Presentation on Requirement for Urban Growth, Phoenix 5 and 3. Mr. Dahl recommended tabling this item due to time constraints. Council's consensus was to table this item for now.

ORDINANCES:

Adoption of an Emergency Ordinance Placing a Moratorium on Medical Marijuana Facilities within the City Limits of Phoenix Oregon for _____ Months. Mayor Bellah noted that this item seems like an appealing one for the Council, rather than issuing a ban or making an uninformed decision. Mayor Bellah encouraged the Council to discuss a moratorium with the shortest possible length. He further reviewed the ordinance and noted the types of information staff needs to obtain that would influence the Council's decision. Further discussion followed. Councilor Helfrich questioned some of the wording in the ordinance and requested clarification. Mr. Dahl clarified the intent behind ensuring the City regulations are compliant with both State and Federal law is that the City needs to discern how to comply with both state and federal law, which is difficult to determine without further investigation, as the laws are additionally influx currently.

Mayor Bellah additionally noted that if the Council decides that if the federal government is not going to enforce a legal business and the state law changes regarding marijuana facilities, then Council may need to change the ordinance regarding business license and a moratorium would allow time to complete this work. Councilor Helfrich expressed concern for the financial impact of investigating further to find a solution. Councilor Sophie suggested the cost would be the same whether a moratorium was placed or not, as staff still needs to research whether our ordinance needs to be changed. Further discussion followed, as Councilor Sophie additionally pointed out that a moratorium would simply allow staff the opportunity to research things further without having to take action before the vote from the May ballot. He added that he did not feel comfortable with allowing a business to obtain a business license before the May election, just to turn around and revoke the business license because the citizens have voted against this type of business in the City limits. Councilor Helfrich expressed he is not comfortable with spending additional funds to complete a study regarding this topic.

Mayor Bellah explained the need for an emergency ordinance, as he questioned whether the City has liability if something happens at a business operating within the City limits that the City has knowledge about business that is operating without a business license. He added that the City is also attempting to complete this investigation in a timely fashion and the purpose of the shortest length for a moratorium would be lost if the moratorium had to wait for a couple months to go into effect, if the ordinance was before Council as a regular ordinance. Councilor Luz suggested a six-month moratorium to allow sufficient time, and if the City is prepared to complete everything in a shorter amount of time than it could be for a shorter time, it does not need to be for the full six months. Councilor Helfrich noted that six months is too long and expressed he does not agree with a moratorium for any length of time. Further discussion followed, as Councilor Sophie requested citizen comments address the moratorium, not other issues that will be heard at the meeting scheduled for the end of the month. Councilor Luz requested comments from the public do not repeat the discussion from public at the prior meetings regarding the benefits of medical marijuana.

Brittney Nottingham, Talent, commented on the amount of medical cannabis cardholders in the valley. She added she has attended Phoenix City Council meetings in the past few months and claimed she has witnessed blatant ignorance and lack of willingness to learn or even compromise from the Council. She further described the Council as a disgrace to Community Leaders and citizens and urged council to step out of their comfort zone and be a part of this amazing movement at the forefront of a phenomenal opportunity for the City, County, State and all of its constituents.

Jon Cypher, Ashland, noted he has been a television star for several years. He gave statistical information regarding drugs, including legal drug overdose and noted marijuana has never caused an overdose.

Carol Rosin, Ashland, commented she appreciated the openness for discussion on the topic and requested Council members look at medical marijuana as a medicinal herb, and investigate the health benefits, especially when compared to prescription drugs.

Marina Ashrow, Phoenix, expressed she relies on medical marijuana facilities to supply her with the medicine she needs, as it is very difficult to find growers. Additionally, marijuana growers do not have the means to dispense them in a different form such as hemp oil, which many patients need. She further expressed the need for safe access to medical marijuana.

Charles Goddard, Phoenix, commented he has been following this issue at the Council meetings. He commented that the City should have had the guts to tell the Greenery that they intended all along to oppose the Greenery's endeavor when they first approached Council in the prior year, instead of waiting until the Greenery has invested all of their resources on property in Phoenix. He added that now the Greenery has no choice but to fight for their right to exist.

Taurie Rubaloff, Ashland, spoke about the medical benefits of marijuana. She asked what gives anyone the right to deny the rights of people to be able to choose whether they will treat their ailments with cannabis.

Jeffrey Carey, Talent, stated he is a caregiver for terminally ill patients and if Council denies these patients their access to their medicine, they will be killing people. He further pointed out cannabis does not hurt people it only helps people.

Mayor Bellah commented that he is confident that everyone who has commented is very sincere about what they are doing and that they believe that they are within the law. However, he continued, this type of business is against state law, so why isn't the argument to the State inquiring why will it take so long to allow a marijuana facility to operate in the State.

Tere Knight, Medford, commented that she would like to stop being treated like a lesser citizen because her views differ from theirs. She added that she also would like to be heard, not just listened to. She questioned whether Council really wishes to fight this. She further questioned where the community members are that feel marijuana is a nuisance and where the supporters of the moratorium are. She further added that adding to the already restricted use of medical

marijuana is punitive and violates the rights of people in the community to have safe access to their medicine.

Melanie Barniskis, Medford, commented on the medicinal value of marijuana and explained why she is against a moratorium as she pleaded with Council to vote against the moratorium.

Claudia Little, Ashland, explained she is an elderly nurse practitioner, and she feels that the Council needs to be more educated on medical marijuana. She further advocated for access for her patients at the Greenery.

Justin Luke, Medford, expressed he does not understand the opposition from Council regarding medical marijuana.

Andrea Adams, Talent, commented the Council is making it clear that this needs to be an antagonistic relationship by their actions. She added her attorney, Lee Berger, is disappointed that Council took his explanation of the City's choices as a threat, as his explanation was given at face value and was not meant to be taken as a threat. Ms. Adams further stated that Council listened to the public speak and then commented that no one has spoken about the moratorium. She strongly disagreed, stating the value of the medicine is the reason for the opposition to the moratorium; the value of the medicine is the reason for the business; the value of the medicine is the reason the City needs to recognize the business; the value of the medicine is the reason that the employees of the Greenery go to work every day. She further went on to explain her position.

Christine Totten, Ashland, pointed out the wording in the moratorium in her opinion directly conflicts with HB 3460. She then directed her comments toward Mayor Bellah, as she explained she too is tired of being threatened, and she is tired of the way she has been treated. Additionally, she noted she is tired of medical marijuana facilities being compared to strip clubs, porn shops, liquor stores, and methadone clinics. She further stated that she is tired of hearing what the Council wants to hear from her during public comment.

Jason Couch, Phoenix, commented he had been on prescription drugs for several years and his doctor suggested he use medical marijuana to treat his ailment. He added that the Veteran's Association supported his use of marijuana, so he feels the Council should as well. In addition, he stated he is against the Council standing in the way of the elderly receiving their medical marijuana.

Steven Schulman, Phoenix, he commented that the ordinance talks about serious health and safety concerns, along with public welfare, and preserving the character of a commercial area in Phoenix; however, he disagrees with these statements. He read aloud a letter written by Barbara Peters and pointed out she is a woman who is well known in the community for her efforts. He noted that she is one of the citizens in the community who uses medicinal marijuana and goes to the Greenery for her medicine.

Mayor Bellah acknowledged he has heard a lot from the public who are for medical marijuana facilities. He stated he feels they are starting to make a good point, if the public does not come

out and express their opposition to medical marijuana facilities within the City limits, then at some point the Council is going to have to conclude that they do not care. However, he does not feel that point has been reached. He further stated that he feels it is a false argument to put this all on Phoenix, as the City is not the only place in the valley that medical marijuana patients can obtain their medicine. Ms. Adams interjected and claimed that none of the other facilities in the valley provides hemp oil to patients at no charge. Further discussion followed.

EXTENSION OF MEETING:

MOVED BY SOPHIE, SECONDED BY JONES, TO EXTEND THE MEETING UNTIL 9:30 P.M. There was no further discussion.

ROLL CALL VOTE AS FOLLOWS:

Ayes: Chris Luz, Helfrich, Sophie, C. Bartell, Jones, and S. Bartell

MOTION APPROVED WITH SIX AYES

Mayor Bellah continued by questioning the actions of the Greenery, as the City was informed by this facility that they would not operate without a business license; however, this facility has been operating. He further stated he has not heard from any Council member that they do not see the value of medical marijuana and many Council members know people who have medically benefited from marijuana.

Mayor Bellah asked Attorney Knudsen if the moratorium meets the criteria for an emergency ordinance. Attorney Knudsen replied that is a matter of opinion. He added that it is difficult to qualify an answer in this particular situation; however, other cities have taken this action. He further added that he is not familiar with the proceedings for this particular type of action. As discussion progressed, Mayor Bellah stated that it seems like an answer for the Council to make and questioned if the Council feels that this ordinance is emergent in nature. Attorney Knudsen interjected to add that Oregon law provides cities with the right to ban any use a City wishes to ban, therefore, if it is the City's choice for whatever reason the City can exercise that choice.

Further discussion followed, as Councilor C. Bartell noted that on March 3, 2014 after a law goes into place, the City maybe out of compliance with state law. She further stated that without a moratorium, businesses might be able to operate according to state law as of March 3, 2014. However, she continued by stating the vote will not come before the citizens until May, and if the majority of the citizens are against medical marijuana facilities in City limits, then the Council would be left having to revoke a business license after just a couple months of operating under one. Further discussion followed, as Mayor Bellah inquired whether there is a motion.

MOVED BY S. BARTELL, SECONDED BY C. BARTELL, TO ADOPT EMERGENCY ORDINANCE NO. 945, PLACING A MORATORIUM ON MEDICAL MARIJUANA FACILITIES IN THE CITY OF PHOENIX FOR SIX MONTHS. Councilor Helfrich stated he is not in favor of the moratorium, and six months is overly aggressive, especially for marijuana growers. Councilor Luz argued that the moratorium does not prohibit the growth of marijuana. Mayor Bellah called for the question.

ROLL CALL VOTE AS FOLLOWS:

Ayes: Chris Luz, C. Bartell, S. Bartell, and Sophie

Nays: Jones, Helfrich

MOTION WAS DEFEATED BECAUSE IT WAS NOT UNANIMOUS

Further discussion followed, regarding the appropriate procedure at this point. Mayor Bellah requested a recess to determine whether a first reading on a regular ordinance can be done at this meeting.

The meeting recessed at 9:17 p.m.

Mayor Bellah announced a first reading of an ordinance regarding the moratorium will be at the following City Council meeting.

EXTENSION OF MEETING:

MOVED BY SOPHIE, SECONDED BY JONES, TO EXTEND THE MEETING UNTIL 10:00 P.M. There was no further discussion.

ROLL CALL VOTE AS FOLLOWS:

Ayes: Chris Luz, Helfrich, Sophie, C. Bartell, Jones, and S. Bartell

MOTION APPROVED WITH SIX AYES

STAFF REPORTS:

City Manager's Report:

- 1) Mr. Dahl announced there has been discussion regarding a possible date for the Town Hall meeting regarding medical marijuana, the latest date discussed has been February 27, 2014. However, he added that the date has yet to be confirmed.
- 2) Councilor Helfrich inquired about an update on the Rose Street property. Mr. Dahl replied he had emailed the County to inquire about lifting the 20-year moratorium and he has not heard back from the County. He added that he plans to contact the County again and he will update the Council. Further discussion followed.
- 3) Councilor Luz inquired about the Steadman House. Mr. Dahl explained the house is currently under its permit to be demolished and the permit does not expire until June 2015.

COUNCIL ITEMS, COMMENTS/REPORTS:

- 1) Councilor S. Bartell commented he heard on the radio the announcement of the City of Ashland's agenda. He added that he would like to see the City of Phoenix's agendas promoted in some way.
- 2) Councilor Jones announced the next green bag pickup will be on Saturday.
- 3) Councilor Jones commented the cleaning was not performed at the Community Center following the Urban Renewal open house and noted that if the City would like to hold functions at the Community Center we need to keep in mind there is cleaning maintenance involved after using it.

- 4) Councilor Sophie announced the MPO is going to the State right now for suggestions for obtaining necessary funds, as there are not enough funds for road maintenance.
- 5) Councilor Luz reported that the pallets from the property previously occupied by Associated Fruit Co. have been removed.
- 6) Councilor Helfrich announced he recently joined a committee regarding system transportation.
- 7) Mayor Bellah requested any complaints regarding the construction for the interchange be directed to City Hall.

The meeting adjourned at 9:50 p.m.

Respectfully submitted,

Attest:

Janette Boothe
Deputy City Recorder

Steve Dahl
City Manager/Recorder