

City of Phoenix
City Council Meeting/Executive Session
Public Works Office
1000 S. “B” Street
Tuesday, February 18, 2014

CALL TO ORDER

Mayor Jeff Bellah called the Executive Session of the City Council to order on Tuesday, February 18, 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

Called under ORS 192.660 (2)(i), to review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee, or staff member who does not request an open hearing.

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 Tuesday, February 18, 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

PLEDGE OF ALLEGIANCE

MAYOR’S COMMENTS:

Mayor Bellah explained City Council held an executive session just prior to the meeting to complete a six-month review of Steve Dahl, the City Manager. He added the review consisted of listing both strengths and areas recommended for improvement. He further added Council concluded Mr. Dahl is either meeting or exceeding expectations at this point.

He commented on ODOT’s workshop held at the Shoppes at Exit 24 the prior week. On another note, Mayor Bellah emphasized the need for everyone to maintain a level of common courtesy and respect of one another, to handle contentious issues appropriately. He further commented that there will be a Hispanic cultural celebration at the Shoppes at Exit 24 in the coming week. Additional discussion followed.

Mayor Bellah gave an update on the proposed revision to the HB 3460, further discussion followed.

CONSENT CALENDAR:

- 1) Approval of the Minutes of the January 21, 2014 City Council Meeting.
- 2) Approval of the Minutes of the February 3, 2014.
- 3) Acceptance of the Minutes from the Planning Commission.
- 4) Approval of a request for demolition and condemnation of historic Steadman House. Councilor Sophie requested item four be removed from the consent calendar. In addition, Councilor Jones requested the minutes from February 3, 2014 be removed from the Consent Calendar. **MOVED BY SOPHIE, SECONDED BY S. BARTELL, TO APPROVE THE CONSENT CALENDAR WITHOUT THE PULLED ITEMS.** 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

Councilor Jones noted the minutes incorrectly stated a motion was approved and requested the minutes be corrected to reflect this. Councilor Sophie requested the minutes be brought before Council again once the amendment was completed.

Mayor Bellah noted the Town Hall meeting scheduled for the end of February has been moved to March 20, 2014. Further discussion followed.

NEW BUSINESS:

- 1) Presentation on Requirement for Urban Growth, Phoenix 5 and 3. Mr. Dahl gave a PowerPoint presentation regarding the requirements for urban growth. He briefly gave the background for the urban reserve areas and reviewed the progress of the plan up to this point. He expressed there is financial gain from having open space within a community. He further discussed the type of development permitted in PH-5 and PH-3. As discussion progressed, Mr. Dahl explained having more land that is industrial and industrial buildings in that area is going to be more cost effective and benefit the City as a whole. Further discussion followed, as he explained one of the requirements for Phoenix prior to expansion of the urban growth

boundary is a transportation conceptual plan. Additionally, Mr. Dahl explained a conceptual land use plan is required. He further added that an economic development study of the region is required along with approval of all cities in the region. He further explained the reason for the requirement involving approval of other cities is the City has been given an abundance of urban reserve area and expanding the urban growth area would consist of taking this area from other cities in the region. Further discussion followed.

David Lewin, Planning Commission, expressed PH-5 was justified on a regional basis, as Phoenix itself could not justify that much acreage for light industrial. He added the region would need to assist Phoenix in justifying adding land to PH-5, as the land use would benefit the region.

Mr. Dahl continued with the details of the items required for expansion. Additional discussion followed, as Mr. Dahl expressed the requirements will most likely take more than two years to complete, he estimated the length of time to complete the process at five years. Further discussion followed.

UNFINISHED BUSINESS:

- 1) Title of Advisory Vote for May Ballot. Mayor Bellah expressed this item is on the agenda as a way to obtain public opinion regarding medical marijuana facilities within the City limits. Mr. Dahl explained the resolution he prepared is before Council for discussion, as he encouraged Council to assist with the ballot questions to ensure the questions are as minimally biased as possible. Council discussed whether there was a consensus to go forward with some type of advisory vote in the May election. Councilor C. Bartell commented she has heard from many citizens expressing they would like the opportunity to express their opinion on the subject. Councilor Luz commented he did not see many downsides to placing an advisory vote on the May ballot. Councilor Helfrich expressed he is not comfortable with the document as it reads currently, so he is against the title on the ballot. Councilor Jones discussed the language of the current house bills and commented she is concerned the Council is opening themselves to lawsuits, and is against the vote. Councilor S. Bartell expressed he is in favor of placing an advisory vote on the ballot. Councilor Sophie inquired what types of questions are going to be placed on the ballot, as he is not comfortable with the questions before them in the resolution prepared. He further stated that if Council cannot conclude what answer they are trying to gain, then Council should not move forward with the advisory vote.

Mayor Bellah expressed many cities in Oregon are expressing their interest in a ban for these facilities; however, Phoenix has not done that and the City is simply attempting to determine what type of restrictions may or may not need to be placed on these type of facilities. Further discussion followed.

Councilor Helfrich commented the City already has this type of facility and he is questioning whether Council is discussing limits for future facilities. Additionally, he stated his concern for the legal issues that are involved with the facility that is currently running. Further discussion followed, as Councilor Luz noted he is not comfortable with this type of business on Main Street. Council further discussed how to frame the questions placed on the ballot to

gain the insight needed. Councilor Helfrich discussed his discretions with the resolution wording. Additionally, he noted the advisory vote should include information on the law, so the citizens can give an educated answer. Councilor Sophie suggested placing the question of whether the voter would like to control where medical marijuana dispensaries are located, to gauge citizen's stance. He added, if the answer is no, it's a moot point, if it yes, then this subject should go before the Planning Commission to research a solution and bring it to Council. Further discussion followed, as Councilor Jones suggested explaining the restrictions that will be in place as of March 3, 2014, so the public will understand where these types of facilities are not permitted. She further argued the citizens should be aware of what is already restricted and how much say the citizens have because of the law that will be in place. Councilor S. Bartell noted he is not comfortable with inputting so much legal jargon in the ballot question that the citizens may not want to vote. Further discussion followed, as Mayor Bellah opened the discussion to public comment.

Melanie Barniskis, Medford, expressed she is a resident of Phoenix who is educated on this subject; however, she is insulted by the idea that Council would not want to educate citizens on the subject matter when requesting their opinion. She spoke about her previous experience as a teacher regarding the bill of rights. She added the question of whether citizens are comfortable with the presence of medical marijuana dispensaries would be settled by Senate Bill 1531. She added these questions should not be on the ballot, as it will cause confusion for the citizens and make them feel empowered to keep dispensaries out of City limits. She further added that if the vote does not include the language of the laws that will be in effect at that time, the voter may not realize they do not have any power with their vote. Additionally, she expressed her concern for the vote, as it is going to be advertised as an advisory vote; however, the Council is talking as if they will be bound by the results of the vote.

Steve Schulman, Phoenix, stated the Council could not get an unbiased opinion based on the questions being asked. He further discussed the terms in the recently proposed Senate Bill 1531 regarding medical marijuana and noted this bill does not support the Council's position.

Andrea Adams, Talent, distributed a copy of Senate Bill 1531 to Council and proceeded to read aloud comments from her attorney, Leland Berger, as he could not be present. His comments include a request to Council to delay consideration of this advisory vote until after the legislative session. Additionally, Ms. Adams noted she is unaware of a way to place an unbiased question on the ballot. She suggested a third party polling would be a lot more inclusive. Additionally, she noted staff does not have time to appropriately correct misspellings on documents that are going out to the public, which gives her pause about how much time staff has to educate themselves on the subject of medical marijuana.

Christine Totten, Ashland, expressed her discrepancies with the resolution proposed. She further expressed her position regarding unbiased information and noted she does not feel a yes or no vote will be without bias. She further stated she does not view this as something the public should be giving their opinion on, as it a civil rights issue. She further noted how strong language is and how it can be influential in both a negative or positive way. Ms. Totten added there are many other ways to obtain the type of information from the public that

would be more beneficial and emphatically stated that a question that includes the use of the word “marijuana” will allow Council to obtain an unbiased opinion.

Charles Goddard, Phoenix, expressed his views and noted this is a civil rights issue. He pleaded with Council to give the Greenery a business license. He further noted the Greenery has not caused a nuisance. Additionally, he stated laws are supposed to be a reaction to something that might go wrong in society, not proactive and discriminatory.

David Lewin, Phoenix, questioned if this matter directed to the Planning Commission because of the ballot vote, how much confidence should be placed on the ballot results. He added, for instance, if 25 percent of the population votes on this matter and 55 percent of that vote are for or against it that would not help the Planning Commission with a conclusion with how to proceed. He further commented that he does not feel the questions will produce the correct result, as it difficult to construct questions in a way that each individual will understand.

Steve Schulman, Phoenix, noted the resolution wording regarding the City Council hearing testimony is poorly written, as it states Council has heard testimony privately. Mayor Bellah acknowledged it was incorrectly stated.

Councilor Luz noted the query should not be posed to the public questioning whether marijuana dispensaries should be within City limits, as the State law will answer that question. He further added the question should be regarding the location. Further discussion followed, as Councilor S. Bartell noted after taking into consideration the comments made about an unbiased opinion, he feels it is up to Council to make a decision, rather than holding an advisory vote. Councilor C. Bartell suggested posing the questions at the public hearing regarding this subject. **MOVED BY SOPHIE, SECONDED BY HELFRICH, THE CITY DOES NOT HOLD AN ADVISORY VOTE BASED ON THE STATES UNDECIDED CONDITIONS AND RESTRICTIONS THAT THE CITIZENS WOULD BE ABLE TO APPLY.**

ROLL CALL VOTE AS FOLLOWS:

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

Nays: Chris Luz

MOTION APPROVED WITH FIVE AYES TO ONE NAY

- 2) Update of the Council Tracking Log. Mr. Dahl reviewed the updates on the action log, as Council offered suggestions for further updates and inquired about the prioritization of some of the items. Much of the discussion was regarding the new City website and the flower baskets being placed along Main Street. As discussion progressed, Council discussed whether to move forward with a marijuana cultivation ordinance. Mr. Dahl commented he would like to have Council move forward with passing an ordinance regarding zoning regulations and such before the November election that may legalize recreational marijuana so the City has rules in place that can be grandfathered in, should a law pass regarding recreational marijuana. Mayor Bellah inquired whether the City could enforce current state regulations. Mr. Dahl replied that he felt comfortable with the enforcement of current law.

Further discussion followed regarding the current nuisance ordinance. Council's consensus was to table the cultivation ordinance. Further discussion followed as Council finished reviewing the tracking log line by line.

EXTENSION OF MEETING:

MOVED BY JONES, SECONDED BY SOPHIE, 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

NEW BUSINESS (continued):

- 2) Motion Initiating Text Change to Add Marijuana Facilities to the Phoenix Land Use Development Code. Mr. Dahl is looking to be proactive regarding recreational marijuana use and the permitted locations for these types of facilities. Further discussion followed, as Council questioned some of the wording in the agenda bill. Council's consensus was to table this item.
- 3) Motion Initiating Text Change to Remove Parking Requirement for Downtown Development to Enhance Business Opportunities. Mayor Bellah asked for a motion, as this item was discussed in length during the tracking log review. **MOVED BY LUZ, SECONDED BY SOPHIE, TO INITIATE A TEXT CHANGE TO ELIMINATE OR MODIFY PARKING REQUIREMENTS FOR DOWNTOWN BUSINESSES TO ENHANCE BUSINESS OPPORTUNITIES.** Mayor Bellah explained this item was brought before Council approximately eight months ago; however, Council's direction was not communicated properly. Mr. Dahl explained this item is to begin the process that needs to be completed to change the downtown parking requirements. Council expressed concern for the current parking requirements and discussed whether to suspend the ordinance. David Lewin of the Planning Commission explained that the discussion at the commission meetings regarding this subject is to address the parking requirements on a case-by-case basis until the downtown construction is in further progress. Further discussion followed.

ROLL CALL VOTE AS FOLLOWS:

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

MOTION APPROVED WITH SIX AYES

UNFINISHED BUSINESS (continued):

- 3) Continued Discussion on Actions to Improve Urban Renewal/City Council Communications. Mayor Bellah reviewed the prior discussion regarding this topic. He inquired of Council for individual thoughts regarding whether to combine the Urban Renewal board with the City Council. Councilor Helfrich voiced his support for keeping the Urban Renewal board a separate agency. Councilor Luz commented he spoke with a member from a City with a combined board and it is working well for them and he is in favor of combining the boards. Councilor Luz further commented he feels projects may be more streamlined if Council was part of the process from the beginning by being on the board. Councilor Sophie suggested going to Urban Renewal's legal counsel to find out what exactly is required to combine the

board should Council decide to move forward. Additionally, he noted some benefits to joining.

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

Councilor Jones commented Council already has plenty to do and she is not in favor of combining. She further noted the Council heard many citizens at public comment voice their concern for keeping Urban Renewal a separate entity. Councilor C. Bartell commented she is in agreement with comments from both Councilor Luz and Sophie. Further discussion followed regarding the communication issues. Councilor S. Bartell commented he is not comfortable with receiving the feedback from Urban Renewal regarding Council suggestions to revise the IGA agreement, as everything suggested by Council was removed. Further discussion followed. Mayor Bellah offered his suggestions for Council to consider, as he requested the City Manager and the Urban Renewal Executive prepare an agenda for a joint meeting with Urban Renewal and City Council on March 11, 2014.

Al Muelhoefer, Phoenix Urban Renewal Board member, came forward to express his concern for combining the two boards. He challenged each Council member to come to the joint meeting in March with specific requirements of Urban Renewal. Additionally, he understands if Urban Renewal agency remains a separate entity, the two parties need to meet on a more regular basis for updates. He added a larger board would mean lengthier discussions and a longer process, and the City Council has a lot to do aside from Urban Renewal.

Further discussion followed, as Councilor C. Bartell expressed concern for the agreement that was responded to by Urban Renewal's counsel. Mayor Bellah summed up the instructions for the City Manager for the March 11, 2014 meeting, by stating the agenda needs to include a short discussion about priorities from City Council. Additionally, he stated that the meeting should include discussion on what has changed, if anything, regarding agreeing to the changes requested by Council for the IGA. He further added to include discussion of the benefits of combining and how to implement this change while benefitting the City in the long run. Further discussion followed, as Council's consensus was to direct Mr. Dahl to contact Attorney Thorndike, Urban Renewal's attorney, to discover the process required to join City Council with the Urban Renewal board.

The meeting adjourned at 10:00 p.m.

Respectfully submitted,

Attest:

Janette Boothe
Deputy City Recorder

Steve Dahl
City Manager/Recorder