

City of Phoenix
City Council Executive Session/Meeting
Public Works Office
1000 S. "B" Street
Monday, April 7, 2014

DRAFT

CALL TO ORDER

Mayor Jeff Bellah called the Executive Session of the City Council to order on Monday, April 7, 2014 at 6:00 p.m. in the Public Works Office.

ROLL CALL

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

ABSENT: Karen Jones

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, April 7, 2014 at 6:30 p.m. in the Public Works Office.

ROLL CALL

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

ABSENT: Karen Jones

Staff Present: Steve Dahl, City Manager/Recorder
Janette Boothe, Deputy City Recorder
Jeff Price, Police Sergeant
Kevin Caldwell, Public Works Superintendent
Kurt Knudsen, City Attorney

PLEDGE OF ALLEGIANCE

MAYOR'S COMMENTS:

Mayor Bellah gave an update on the proposed La-Z-Boy settlement. Additionally, he mentioned an update on the city engineers and water rights and agreements. He announced a meeting with ACCESS for a workshop on hunger in the valley. Mayor Bellah gave another update regarding efforts to get the Hispanic community more involved. Additionally, he announced the temporary final rules for implementing the amendment to the medical marijuana facilities (MMFs) law were published and available on the League of Oregon Cities website.

REPORTS FROM COUNCIL LIAISONS:

- 1) Steering Committee – Mayor Bellah briefly updated Council on the recent meeting. He informed everyone the meeting centered on reviewing the architect plans for the City Center Project, as he noted the architects are gaining a better understanding of what the Committee desires. Mayor Bellah requested staff to input the Urban Renewal report regarding the updates in the agenda packet for the upcoming meeting.

Mayor Bellah announced he was moving an item up. Appointment of Chris Luz to Urban Renewal Board as a Council Liaison. Council's consensus was to support the Mayor's suggestion to appoint Chris Luz to the Urban Renewal Board.

- 2) Parks and Recreation – Councilor C. Bartell announced the commission requested the Community Kitchen to choose a date that would be appropriate for a community dinner at Blue Heron Park and they selected June 12, 2014. Additionally, she announced the Blue Heron Park will hold a "fun run" hosted by the Phoenix/Talent school fundraisers on April 27, 2014. She further noted additional parking at Blue Heron Park is required and the commission is requesting assistance from Council and Urban Renewal. Further discussion followed.

PRESENTATIONS:

- 1) Presented by Joe Strahl:
 - a) Update on TAP line. Mayor Bellah briefly updated everyone on the recent developments regarding a new meter installed for the TAP line and inquired of Mr. Strahl to report on the accuracy of the new meter. Mr. Strahl explained the new meter appears to be accurate based on the type of meter it is. He further explained the previous meter was an insertion type mag meter and the new one is a full profile mag meter. He further expressed due to the substantial leak in the previous week, it has proven difficult to determine the difference in water running through the meter in a timely manner; however, it is believed that the previous meter has been incorrectly reading since the initial insertion of the meter. Furthermore, Mr. Strahl explained it has been determined that the previous meter was reading water running through the TAP line to the City approximately 13 to 15 percent higher than what the pumps were capable of delivering. He further expressed RH2 is currently working on a refund from the Medford Water Commission (MWC) for based on the overcharges and will be drafting a letter regarding a proposed settlement based upon the research once completed.
 - b) Medford Water Authority. Mayor Bellah reported out of Executive Session, noting that the discussion focused on whether the City should set aside funds for water rights. Mr.

Strahl noted the MWC recently changed to a uniform contract for all surrounding cities. He explained RH2 drafted a letter and sent it out with Council approval concerning the language regarding the water rights. He further explained MWC wants Phoenix to sign a contract stating the City has no rights regarding the water rights. He added that this is beyond the engineer scope and cities are being urged to set aside funds to fight for water rights legally. Further discussion followed.

- 2) Bark for Life of Jackson County presented by Kristi Jensen. Ms. Jensen described Bark for Life and gave a detailed background. As she explained the foundation, she requested Council's approval for a proposed event to be held for this foundation at the Blue Heron Park on May 3, 2014. She further expressed she anticipates approximately 100 people and reviewed the proposed activities for the event. Council reached a consensus supporting the Bark for Life event as proposed.

COUNCIL ITEMS, COMMENTS/REPORTS:

- 1) Councilor Sophie commented on the RVMPO meeting he attended.
- 2) Councilor Luz noted he is hoping to have a City Water Commission meeting soon.
- 3) Councilor Helfrich commented on the interchange project and noted his admiration for the local resources being utilized.

STAFF REPORTS:

- 1) City Manager's Report:
 - a) Mr. Dahl reminded Council of the annual reports that need to be sent in to the State by April 15, 2014.
 - b) He commented an employee with limited physical capabilities may be offered a severance package to compensate this employee for early retirement. Mayor Bellah emphasized that this action is not a disciplinary matter and is strictly a health issue and as such he did not feel it was appropriate to go into detail.
 - c) He reported Ron Fox from SOREDI will be discussing an opportunity with the enterprise zones at the City Council meeting on May 19, 2014.
 - d) He announced he is part of the Ford Family Foundation's Leadership committee and noted the committee is moving toward a final project to develop for the City.
 - e) He commented staff has narrowed the resumes received for the Planning Director position to the top four candidates and the interviews for these applicants are scheduled for Wednesday.

Councilor S. Bartell inquired about PH-5 and PH-10 and whether there were no additional sewer and water and electricity needs to complete access for later opportunities. Further discussion followed.

Mayor Bellah inquired whether the Finance Director will have the quarterly financial report prepared for the following meeting. Mr. Dahl responded favorably.

Councilor Helfrich inquired about an update on the North Rose Street property. Mr. Dahl replied that there is no new information at this time.

The meeting was recessed for five minutes at 7:35 p.m.

UNFINISHED BUSINESS:

- 1) Approval of Contracts for Projects in the Capital Improvement Plan. Mr. Dahl explained RH2 is currently in the bidding process for the Council approved Capital Improvement Projects and has prepared detailed agreements for each of the projects. He further explained that the agreements are merely a housekeeping issue for the RH2 accounting purposes. Mayor Bellah questioned the hours allocated for each of the projects. Mr. Dahl noted that each of the projects is well within the budgeted amounts with the scheduled allotted hours. Further discussion followed, as Council discussed the contract agreement with RH2. Mr. Dahl noted he can bring the breakout of each of the items listed for each of the contracts to detail the expenses before Council at a later meeting. **MOVED BY SOPHIE, SECONDED BY C. BARTELL, TO AUTHORIZE THE CITY MANAGER/RECORDER TO SIGN THE CONTRACTS WITH RH2 FOR CAPITAL IMPROVEMENT PROJECTS.**

ROLL CALL VOTE AS FOLLOWS:

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

MOTION APPROVED WITH FIVE AYES

- 2) Resolution Providing for a Capital Reserve Fund for the Fiscal Year 2014/15 Budget. **MOVED BY SOPHIE, SECONDED BY C. BARTELL, TO ADOPT RESOLUTION NO. 892, PROVIDING FOR A CAPITAL RESERVE FUND FOR THE FISCAL YEAR 2014/15 BUDGET.**

ROLL CALL VOTE AS FOLLOWS:

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

MOTION APPROVED WITH FIVE AYES

- 3) Memorandum of Settlement with La-Z-Boy. Mayor Bellah briefly described the background regarding the agreed fees that were supposed to be paid as he explained the tentative agreement brought about by the mediation meeting recently held between the affected parties. Mayor Bellah further explained the agreement in detail and noted he feels this agreement is the best outcome under the circumstances. Further discussion followed.

Terry Rombach, Phoenix – Came forward to address Council regarding whether Council can obtain a formal agreement in writing from ODOT stating that the City of Phoenix is relieved from any additional liability to ODOT, due to the compromise made with La-Z-Boy through this proposed settlement.

Mayor Bellah explained that ODOT is in agreement with this outcome; however, he is unsure whether the City can obtain this confirmation in writing. Councilor Sophie noted he feels comfortable with the agreement with ODOT as it stands, as the amount is a small percentage of the 72 million dollars. Mr. Dahl added he is happy with the proposed settlement.

MOVED BY SOPHIE, SECONDED BY LUZ, TO APPROVE THE MEMORANDUM OF SETTLEMENT AND DIRECT STAFF TO DRAFT A FORMAL AGREEMENT FOR

COUNCIL APPROVAL BETWEEN RELIABLE TRANSFER CO AND THE CITY OF PHOENIX AS AGREED TO IN THE MEMORANDUM.

ROLL CALL VOTE AS FOLLOWS:

Ayes: Sophie, C. Bartell, S. Bartell, Chris Luz, and Helfrich
MOTION APPROVED WITH FIVE AYES

CONSENT CALENDAR:

- 1) Approval of the Minutes of the March 3, 2014 City Council Meeting.
- 2) Approval of the Minutes of the March 13, 2014 Special City Council Meeting.
- 3) Acknowledgement of Approved Minutes from Parks and Recreation. **MOVED BY SOPHIE, SECONDED BY LUZ, TO APPROVE THE CONSENT CALENDAR.** There was no further discussion.

ROLL CALL VOTE AS FOLLOWS:

Ayes: Sophie, C. Bartell, S. Bartell, Chris Luz, and Helfrich
MOTION APPROVED WITH FIVE AYES

NEW BUSINESS:

- 1) Approval of Contract for Back Flow Testing and Maintenance. Mr. Dahl explained the City developed an RFP to contract a company to complete backflow testing, as staff has been unable to attend to the testing in a timely manner. He further explained that during the process of receiving responses to the RFPs, staff concluded contracting out for this testing would be advantageous for the City. He added that the outsourcing would be cost effective as well as meet the State requirements in a timely manner. Further discussion followed. **MOVED BY LUZ, SECONDED BY C. BARTELL, TO APPROVE THE AGREEMENT BETWEEN THE CITY OF PHOENIX AND SCOTT BRADLEY BACKFLOW AND LANDSCAPE IRRIGATION SERVICES FOR BACKFLOW TESTING AND MAINTENANCE SERVICES.**

ROLL CALL VOTE AS FOLLOWS:

Ayes: Sophie, C. Bartell, S. Bartell, Chris Luz, and Helfrich
MOTION APPROVED WITH FIVE AYES

UNFINISHED BUSINESS (continued):

- 4) Update on MMFs and Direction for Staff. Mayor Bellah asked for the referendum results. Mr. Dahl replied that the referendum did not receive the required amount of votes. He confirmed 207 signatures were verified as qualifying and 262 signatures were required. Mayor Bellah explained that the question before Council now is whether Council would like to extend the moratorium beyond August, as new legislation requires that cities pass a moratorium by May 1, 2014 if a moratorium is necessary and the moratorium ending in August may not give the City ample time to complete the necessary process for any changes that need to be made. Councilor Helfrich inquired whether this discussion was being performed at the Planning Commission meetings. Mr. Dahl responded that a public hearing

is scheduled at the Planning Commission meeting on April 14, 2014 regarding zoning. Further discussion followed, as Council deliberated on the unclear guidelines from legislature and questioned the best manner to proceed.

Andrea Adams, Talent, expressed her appreciation for the Town Hall meeting held that was based on medical marijuana education. She noted she appreciated the quality of the speakers and the awareness that was brought to the community regarding medical marijuana. She emphasized her willingness to work with the City of Phoenix to move forward with her business and have a positive relationship with the City. She further expressed the Greenery's dedication to provide safe access to individuals in need of their product. She added that the referendum did fail, but that does not mean another referendum cannot be filed and encouraged everyone to make better choices.

Terry Rombach, Phoenix, commented on the drug related problems in the City. He further commented he is not against Ms. Adams and medical marijuana; however, he has had major confrontations with people associated with drugs and he views any type of facility utilizing marijuana as adding to this type of atmosphere. He added that the two women that came to his door to obtain a signature for the referendum were not from the City of Phoenix and he views this action as inappropriate.

Wade Hall, Ashland, commented he was bothered by comments comparing marijuana to other types of illegal drugs that are the real problem. He expressed his dissatisfaction with leasing a property for a business he is not permitted to operate. Additionally, he noted that because he is paying a lease in the City of Phoenix, he feels he has a voice that should be heard at the Council meetings.

Mayor Bellah expressed Mr. Hall represents the other medical marijuana facility that wishes to operate in the City and he agrees with the notion from Mr. Hall that the Council needs to decide whether they are not permitting this type of facility for at least a year, so that Mr. Hall is aware of what the future may hold. He added that Council needs to make a conscientious decision of whether this will not work within a year and place a one year moratorium or is it possible to alleviate some of the issues to make these facilities compatible with Phoenix.

Further discussion followed, as Councilor Luz insisted that every business should be treated equally within the City limits regarding abiding by rules and regulations, and if there is a business that is not in compliance, then the City needs to enforce the same action that would apply to any other business operating improperly. He added that a ban should be placed on facilities distributing recreational marijuana before a law is in place allowing the use of recreational marijuana. Councilor Helfrich interjected that the Council needs to deal with one issue at a time and the issue at hand is medical marijuana. Further discussion followed.

Councilor Sophie suggested meeting with both interested parties regarding medical marijuana facilities with the Mayor and himself on Thursday to brainstorm ideas of how to move forward. He added that legislation is confusing regarding this topic and the State has given the option to Cities to place a moratorium for up to a year to allow time for Cities to work through all the necessary groundwork to determine whether to have these types of

facilities and/or where within City limits. Additionally, he expressed concern for continuing negotiation with these facilities rather than halting discussion, as he does not feel this would improve the situation. Additional discussion followed, as Councilor C. Bartell expressed the only way she would be more uncomfortable with allowing these types of facilities would be to hear from the people who have expressed to her they do not want this within the City limits voice a change in their point of view. As Council debated the issue, Council's consensus was to be proactive and stay on point, even if they decide to approve a moratorium for a year.

EXTENSION OF MEETING:

MOVED BY SOPHIE, SECONDED BY LUZ, 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, and S. Bartell

MOTION APPROVED WITH FIVE AYES

- 2) Discuss the Finalists for the City Attorney Position. Mayor Bellah expressed he spoke to both the County Administrator and Don Skundrick and heard very favorable reviews of J. Ryan Kirchoff. He added that he did not know who to contact for a personal review of Ryan Vanderhoof, only that Eagle Point was happy with the firm. Councilor S. Bartell commented on Mr. Kirchoff's ease of answering questions regarding municipal law and expressed he favored Mr. Kirchoff for this reason. Councilor C. Bartell added that Mr. Kirchoff's explanation of his expertise was exactly what the City needs. Councilor Helfrich expressed Mr. Vanderhoof may not have the expertise in the areas Mr. Kirchoff does; however, Mr. Vanderhoof comes with a large firm of attorneys with more expertise in a variety of areas and suggested the City be represented by a larger firm rather than one attorney with focused expertise on municipal law. Further discussion followed regarding advantages of contracting with each. **MOVED BY SOPHIE, SECONDED BY LUZ, TO EXTEND A CONTRACT AGREEMENT WITH J. RYAN KIRCHOFF.**

ROLL CALL VOTE AS FOLLOWS:

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

Nays: Helfrich

MOTION APPROVED WITH FOUR AYES TO ONE NAY

CITIZEN'S COMMENTS:

Penny Nelson, Medford, came forward and explained she is attempting to open up a new business. She read aloud her letter addressed to Council describing the business background and the obstacles she is struggling to overcome to open her business. In her description, she claims to have difficulty regarding staff to approve her business for operation. She requested Council's assistance in reviewing the process and treatment of persons applying for a business license and encourage the building officials to offer exceptions that are allowed within the state building codes. As she took questions from Council, she explained her dilemma further.

EXTENSION OF MEETING:

MOVED BY SOPHIE, SECONDED BY LUZ, 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, and S. Bartell

MOTION APPROVED WITH FIVE AYES

Further discussion followed, as Council's consensus was to direct staff to explore any gray areas in the building codes that can be worked with to assist Ms. Nelson in opening up her business.

COUNCIL ITEMS, COMMENTS/REPORTS (continued):

Councilor S Bartell expressed that after the citizen comments sheet has been filled out, he does not feel it is appropriate to take comments from anyone other than those signed up to speak. Further discussion followed, as Mayor Bellah discussed holding a study session in June to go over appropriate etiquette during council meetings and other procedural issues. Further discussion followed.

The meeting adjourned at 9:39 p.m.

Respectfully submitted,

Attest:

Janette Boothe
Deputy City Recorder

Steve Dahl
City Manager/Recorder