

**City of Phoenix  
City Council Meeting  
Public Works Office  
1000 S. "B" Street  
Monday, November 17, 2014**

**DRAFT**

**CALL TO ORDER**

Mayor Jeff Bellah called the regular meeting of the City Council to order on Monday, November 17, 2014 at 6:30 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  
Kevin Caldwell, Public Works Superintendent  
Matt Brinkley, Planning Director  
J. Ryan Kirchoff, City Attorney

**PLEDGE OF ALLEGIANCE**

**MAYOR'S COMMENTS:**

Mayor Bellah expressed he was impressed by Councilor Jones' letter to the editor on behalf of the Food Pantry and Green Bag program.

**CONSENT CALENDAR:**

- 1) Approval of the Minutes of the November 3, 2014 City Council Executive Session/Meeting. Mayor Bellah noted a correction for going into the executive session. Councilor Sophie requested an amended version of the minutes be brought back before council at the next meeting.

**UPDATES/REPORTS:**

- 1) Urban Renewal – Mr. Dahl noted an interview for the position of Urban Renewal Executive Director is scheduled for Wednesday, November 19, 2014. He further noted he met with someone interested in a grant application earlier in the day. Further discussion followed.
- 2) Parks Commission – Councilor C. Bartell noted she scheduled a meeting in January with the Phoenix Elementary Hispanic Liaison to discuss the involvement of the Hispanic community in the upcoming events. Councilor Helfrich inquired about the Parks Master plan. Further discussion followed regarding the master plan for Blue Heron Park, as Mr. Dahl noted this

item has not been a priority as of late. Councilor Helfrich added he is concerned about planting the trees as soon as possible, as much of Blue Heron Park is in need of shade and the trees require time to grow. Further discussion followed.

- 3) Water Commission – Councilor Luz noted the quarterly report will be presented on the next agenda.

### **PRESENTATIONS:**

Wrap up of Veggie Jam presented by Kendra Smith. Ms. Smith expressed the event was a huge success, and she plans to hold this event next September. She reported there were 700 pounds of fresh veggies in donations. She added the vendors were great and the facilities provided everything necessary. She further added Grange Co-op has offered to sponsor the event next year. Additionally, she noted there will be one significant change in the following year regarding the donated vegetables, as she will be moving away from ACCESS to independent food pantries in the area. As she took questions from Council, she concluded with the announcement that the event is scheduled for September 13, 2015.

### **CITIZEN'S COMMENTS:**

Louis Junghans, Phoenix, inquired about the enforcement of the upkeep of yards in his neighborhood. He reported that the value of property has gone down from the prior year, and he is concerned about neighborhoods within the City that do not keep the front of their house free of vehicle parts and trash barrels. Further discussion followed, as Council urged Mr. Junghans to contact the City Manager with these types of concerns.

### **NEW BUSINESS:**

- 1) Presentation and Discussion of Urban Renewal Priorities. Al Muelhoffer presented a summary of the priorities and the lists of upcoming projects. Mr. Dahl followed up by describing the outline for the proposed project costs and revenue sources for a five-year plan. He further noted that the five-year plan does not include any funding from outside sources; however, if the Council chooses to assist in funding any of the projects with SDCs, the additional funds in excess would go toward another project, such as the Market Hall Building. As discussion progressed, Councilor S. Bartell noted that this is the first time all of the projects and expected costs have been brought before Council. Council expressed their gratitude for the well-defined five-year plan.

Mayor Bellah recessed the meeting for a ten-minute break at 7:50 p.m.

- 2) Discussion with City Attorney concerning Cannabis Facilities in Phoenix. Mayor Bellah noted the proposed change to the Charter on the November ballot was defeated by 68 percent of the voters. Mayor Bellah requested Attorney Kirchoff explain what this means for Council. He further requested Attorney Kirchoff read aloud the question on the ballot regarding the changes to the Charter. After the City Attorney read the question on the ballot, Attorney Kirchoff expressed the wording in the oath is the legal reason why Council is reluctant to push forward with State law and allow MMFs, because it conflicts with Federal law. He added that this was put to the citizens of Phoenix for a vote on whether to remove the obstacle by removing Federal law from the language of the Charter and it was voted

down; however, he added there are arguments that the City may not be in violation of the oath if the City is following the criteria the Department of Justice recommended. He added that is one option, should the Council decide to attempt to circumvent this obstacle; however, he added the problem with that is that the Council is not law enforcement or the District Attorney and they have the discretion to enforce the federal law. Mayor Bellah explained Attorney Kirchoff is referring to the criminal side of the law; however, at the heart of the measure on the ballot was not for criminal purposes, but rather to determine whether the voters want to follow the state's guidelines and remove federal law from the language of the Charter. Attorney Kirchoff further expressed that Council has the option to proceed with the results of the vote and ban marijuana facilities within the City, as it is the most analytically straight forward way to conduct under the oath.

Councilor Helfrich inquired about the first page of the Charter, under section five, as it states "the charter will be liberally construed so that the City may exercise fully all powers possible under this charter and under United States and Oregon law." He added he knows the definition of the words liberally and construed; however, he would like the attorney to explain exactly what that means. Attorney Kirchoff explained it means two things; it means it's construed liberally with the extent of the authority the charter invokes for the City, and it applies to processes that are required in the charter that the City is required to follow.

Councilor Helfrich followed up with inquiring whether Attorney Kirchoff is saying it is how the Council processes the charter and it allows the Council the flexibility of processing legislation. Attorney Kirchoff clarified that liberally construed would mean for example, the process of creating and enacting an ordinance with liberal construction would put substance over form to some extent or balance it out. He further added there are only so many processes, the process for enacting an ordinance, a resolution, appointing people to commissions, and so on. The provision of liberal construction would apply there; however, liberal construction would not change the oath. He further added that the real complication of the oath is that it is an oath to all three levels, the state, the federal and the local laws; however, federal law is the supreme law of the land.

When questioned further, Attorney Kirchoff expressed liberal construction may perhaps be an argument; however, that is not an argument he would use. Councilor Helfrich commented that it is an argument the attorney will have to face if the City bans medical marijuana facilities. Attorney Kirchoff expressed he would not be worried about defeating the decision, as liberal construction would not trump the City's decision to uphold federal law.

Further discussion followed regarding the results of the November ballot, as it affects both Phoenix and Oregon as a whole with recreational marijuana.

As discussion progressed, Mr. Dahl recommended moving forward with creating rules for these types of facilities, to have rules in place for whatever decision is made regarding marijuana facilities in Phoenix. As Council debated, the consensus was to hold the public hearing and second reading on the ordinance regarding business license regulations for these facilities. Additional discussion followed regarding the possible changes in Oregon law in

February regarding marijuana facilities. Council's consensus was to table any further discussion on these facilities until the second meeting in February.

- 3) City Water Commission recommendation for revising the City Water Commission Ordinance. Mayor Bellah noted these changes are recommended, due to the small amount of members on the Water Commission. Further discussion followed, as Mayor Bellah suggested examining the Parks Commission Ordinance to determine if similar changes would be beneficial. Council's consensus was to direct staff to draft an Ordinance with these suggested revisions for both commissions.

### **STAFF REPORTS:**

#### 1) City Attorney's Report:

- a) Attorney Kirchoff expressed he had nothing new to report. He added that real estate issues that involve SDCs are on the horizon and suggested Council review the ordinances regarding SDCs for possible amendments perhaps in January.
- b) He reminded everyone the oral arguments for the RVS litigation is scheduled for January.

#### 2) City Manager's Report:

- a) Mr. Dahl announced the day after Christmas falls on a Friday this year and noted most all of staff has requested this day off with vacation pay. He inquired whether Council was comfortable with closing City Hall and Public Works office for that day. Council's consensus was to approve closing the offices on that date.
- b) He cleared up some of the information submitted in the weekly staff report.

### **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: Sophie, C. Bartell, Jones, S. Bartell, Luz, and Helfrich**

**MOTION APPROVED WITH SIX AYES**

- c) He reviewed the Council Issue Tracking Log and noted all of the updates to the log. As Mr. Dahl discussed some of the updates, Council noted they would address some of the minor updates to the log through email. He further reviewed the action items he has updated. As discussion progressed, Councilor Helfrich noted that Talent's website is better designed than the City's and they use the same website design company and inquired about what the City needs in order to produce a design that is as effective as Talent's. Mr. Dahl responded that Talent has a staff person dedicated solely for IT purposes and have dedicated more funding to their website. Further discussion followed, as Mayor Bellah suggested Council define the changes they are seeking, so that staff may accommodate. Mr. Dahl added the staff can be far more productive if Council describes what they would like to see on the website. Additional discussion followed, as Councilor Helfrich commented that the City's website needs to be more user friendly. Mr. Dahl noted he would place this item on the log as a higher priority. Councilor Helfrich added

that Council needs to be aware of what is required to meet their expectations, whether it is a contracted person or more funding for this project. Further discussion followed.

**COUNCIL ITEMS, COMMENTS/REPORTS:**

- 1) Councilor S. Bartell noted his appreciation for the presentation on the Urban Renewal five-year plan.
- 2) Councilor C. Bartell wished everyone a Happy Thanksgiving!
- 3) Councilor Sophie expressed the League of Oregon Cities latest magazine edition notes recommendations for funding for City streets and one recommendation is establishing a tax and the other is street user fees.

The meeting adjourned at 9:25 p.m.

Respectfully submitted,

Attest:

Janette Boothe  
Deputy City Recorder

Steve Dahl  
City Manager/Recorder