Minutes of the Regular Meeting held May 16, 2011 at 7:02 p.m. in the Council Chambers.

MEMBERS PRESENT

Mayor Rogers and Council Members

Jim McDonald, Vice Mayor Jim Buster Stephanie Karlin Frank Scott Charles Vierhout Ken Weise

ALSO PRESENT

Charlie McClendon, City Manager
David Fitzhugh, Assistant City Manager
Rogene Hill, Assistant City Manager
Kevin Artz, Finance and Budget Director
Ken Galica, Development Services
Eric Morgan, Development Services
Barbara Chappell, Water Quality Manager
Andrew McGuire, City Attorney
Carmen Martinez, City Clerk

1) ROLL CALL AND STATEMENT OF PARTICIPATION BY THE CITY CLERK

Carmen Martinez, City Clerk, read a statement of participation regarding public appearances.

2) UNSCHEDULED PUBLIC APPEARANCES

David Iwanski, Planning Commission Member, thanked staff for the hard work they have done on the community's behalf. The Planning Commission has no hesitation about asking tough questions and staff is always ready to answer them. He commented the Mayor and City Council for raising the bar in terms of development-related expectations which the Planning Commission intends to meet.

Mr. Iwanski reported that the Fashion Fantastico event was attended by over 200 people last Saturday. He thanked Commissioner Scott for advocating on behalf of Avondale in the Citizen's Advisory Group on Superfund Sites. The City needs to continue to put pressure on Crane Co. to clean up their plume.

3) CONSENT AGENDA

Items on the consent agenda are of a routine nature or have been previously studied by the City Council at a work session. They are intended to be acted upon in one motion. Council members may pull items from consent if they would like them considered separately.

a. APPROVAL OF MINUTES

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b. LIQUOR LICENSE SERIES 12 (RESTAURANT) – COWGIRL'S STEAKHOUSE AND SALOON

A request from Ms. Amy Nations for a Series 12 Restaurant License to sell all spirituous liquors at Cowgirls Steakhouse and Saloon located at 1733 N Dysart Road in Avondale.

c. LIQUOR LICENSE SERIES 6 (BAR) – ESTRELLA VISTA RECEPTION CENTER A request from Ms. Maria Del Carmen Gonzales for a Person Transfer and a Location Transfer of a Series 6 Bar License to sell all spirituous liquors at Estrella Vista Reception Center located at 1471 N Eliseo Felix Jr. Way in Avondale.

d. APPOINTMENT OF JUDGES PRO TEMPORE

A request to re-appoint seven judges pro tempore to one year terms expiring on June 1, 2012.

e. SERVICE AND LICENSE AGREEMENT - ICON ENTERPRISES, INC. (DBA CIVICPLUS)

A request to approve a Service and License Agreement and an Addendum to the same with Icon Enterprises, Inc. (DBA CivicPlus) for support, maintenance and hosting services for the City's website in the amount of \$8,103.00 per year with the option to renew for three additional years with increases of not more than 5% per annum, and authorize the Mayor or the City Manager and City Clerk to execute the applicable contract documents.

f. PURCHASE AGREEMENT - BASIC CHEMICAL SOLUTIONS, LLC

A request to approve a Purchase Agreement with Basic Chemical Solutions, LLC for the bulk purchase of Sodium Bisulfite and Sodium Hydroxide for wastewater treatment in an amount not to exceed \$140,000 annually and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

a. PURCHASE AGREEMENT – F2 INDUSTRIES

A request to approve a Purchase Agreement with F2 Industries LLC for the purchase of Granular Calcium Hypochlorite 100 pound drums in an amount not to exceed \$10,000 annually and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

h. PURCHASE AGREEMENT - HILL BROTHERS CHEMICAL COMPANY

A request to approve a Purchase Agreement with Hill Brothers Chemical Company for the purchase of bulk 12.5% liquid sodium hypochlorite for an amount not to exceed \$290,000 annually and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

i. PURCHASE AGREEMENT – POLYDYNE, INC.

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A request to approve a Purchase Agreement with Polydyne, Inc. for the purchase of polymer coagulant for an amount not to exceed \$115,000 annually and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

j. PURCHASE AGREEMENT – WEST COAST TURF INC.

A request to approve a piggyback agreement to the City of Scottsdale's Maintenance Services Contract with West Coast Turf for sports field maintenance in an amount not to exceed \$85,000 and authorize the Mayor or the City Manager and City Clerk to execute the applicable contract documents.

k. PURCHASE AGREEMENT – DESERT EDGE AUTO BODY LLC

A request to approve a Purchase Agreement with Desert Edge Auto Body LLC, for auto body repairs for an annual aggregate amount not to exceed \$49,000.00, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

PURCHASE AGREEMENT – INTERNATIONAL SURFACING SYSTEMS INC.

A request to approve a purchase agreement with International Surfacing Systems, Inc. for a polymer modified asphalt rubber chip seal application on various City streets within Avondale in the amount of \$425,000 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

m. CONSTRUCTION CONTRACT AWARD – WEBER GROUP LLC – WELL 25 WELL SITE IMPROVEMENTS

A request to award a construction contract to Weber Group LLC for construction of Well 25 well site improvements in the amount of \$944,247 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

n. CONSTRUCTION CONTRACT AWARD - STANDARD CONSTRUCTION COMPANY, INC. FOR RILEY DRIVE IMPROVEMENT PROJECT

A request to approve a Construction Contract with Standard Construction Company, Inc. to provide construction services for the Riley Drive Improvement Project in the amount of \$286,075.28 and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

o. RESOLUTION 2970-511 – INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX FOR FEDERAL TRANSIT FUNDING

A resolution approving an Intergovernmental Agreement with the City of Phoenix for Federal Transit Administration Funding to pass through grant funding in the amount of \$2,004,881 and authorize the Mayor or City Manager and City Clerk to execute this agreement.

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p. RESOLUTION 2972-511 – INTERGOVERNMENTAL AGREEMENT WITH THE REGIONAL PUBLIC TRANSIT AUTHORITY FOR THE AVONDALE CIRCULATOR A resolution approving an Intergovernmental Agreement with the Regional Public Transit Authority in the amount of \$761,000 for the operation of the Avondale Circulator and authorize the Mayor and City Clerk to execute this agreement.

q. RESOLUTION 2975-511 – SUPPORTING A GRANT PROPOSAL TO THE GILA RIVER INDIAN COMMUNITY FOR AFTER SCHOOL YOUTH DEVELOPMENT PROGRAMMING

A resolution authorizing the submission of a grant proposal to the Gila River Indian Community for funding in the amount of \$373,620 to support after school youth development programming for a three year period and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

r. RESOLUTION 2976-511 - SUBMISSION OF A GRANT PROPOSAL TO THE GILA RIVER INDIAN COMMUNITY FOR MONUMENT HILL TRAIL CENTENNIAL PROJECT

A resolution supporting the submittal and acceptance of a grant proposal to the Gila River Indian Community for funds to assist with the Monument Hill Trail Centennial Project in the amount of \$250,000 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

Vice Mayor McDonald moved to approve the consent agenda as presented. Council Member Weise seconded.

ROLL CALL VOTE AS FOLLOWS:

| Vice Mayor McDonald | Aye |
|-------------------------|-----|
| Council Member Scott | Aye |
| Council Member Vierhout | Aye |
| Mayor Rogers | Aye |
| Council Member Weise | Aye |
| Council Member Karlin | Aye |
| Council Member Buster | Aye |

Motion carried unanimously.

4) RESOLUTION 2973-511 – MEMORIALIZING DEVELOPMENT FEE PLEDGES

A resolution memorializing prior pledges of development impact fees to repay debt service on public facilities.

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Mr. McGuire reported that the final version of S.B. 1525, while bad for the City of Avondale, is not as bad as it could have been. One of the key points of contention was the impact that the proposed changes would have on previously financed infrastructure. For many years, Avondale has had two fees that now fall into the category of uses that would not be allowed to have development fees collected for them: general government, and libraries over 10,000 square feet. Avondale's city hall, police facility and city courts all utilized development fees to repay the bonds used to build them. In the future, Avondale would still be able to use development fees to build police facilities, but not the other buildings. This bill would have caused tremendous havoc if previously financed infrastructure were to suddenly have its source of debt service repayment removed.

Mr. McGuire said that the City of Avondale worked very hard on two provisions of the bill, allowing a carve-out for previously financed and built infrastructure. Avondale memorialized its existing debt service for government buildings in a resolution to make it clear that even if someone were to come up with a different interpretation than what was intended the City could still use development fees to repay debt service on the existing buildings. Everyone who was involved with the inclusion of the provision understood what it was saying. The deal that has already been made to finance existing buildings has been committed to the permanent record.

Council Member Weise questioned how the bill would impact future development by cities trying to develop their infrastructure. Mr. McGuire said the bill will affect everything moving forward. Any expansion of government buildings, growth related or not, will have to come from the general coffers, either through a separate debt issuance that the whole city pays for, or out of sales tax. Development fees can still be used for police and fire-related buildings.

Council Member Scott asked if parks are included. Mr. McGuire responded that parks under 30 acres still qualify for development fee collections, but parks over 30 acres have to demonstrate a direct benefit to the property that is being charged. Parks of that size are regional parks, but the bill does not clarify what is meant by "direct benefits." In response to an inquiry from Council Member Buster, Mr. McGuire explained that the original language contained a prohibition on parks altogether. The fallback was for parks over 30 acres. He said he would have liked more time to clarify the language, but was unable to obtain it.

Mayor Rogers inquired about the League of Cities' reaction to this legislation. Mr. McGuire responded that Avondale shouldered a large portion of the legal effort against this bill. Other communities are having to take more drastic measures. The City of Surprise is issuing bank debt on their city hall. Avondale will mainly feel the impact of this bill prospectively. In the future, capital improvements will have to be funded by citywide sources rather than new growth sources. Mayor Rogers expressed appreciation for the efforts that Mr. McGuire made to soften the impact of the bill.

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Vice Mayor McDonald moved to adopt resolution 2973-511, memorializing prior pledges of development impact fees to repay debt services on public facilities. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

| Vice Mayor McDonald | Aye |
|-------------------------|-----|
| Council Member Scott | Aye |
| Council Member Vierhout | Aye |
| Mayor Rogers | Aye |
| Council Member Weise | Aye |
| Council Member Karlin | Aye |
| Council Member Buster | Aye |

Motion carried unanimously.

5) RESOLUTION 2974-511 - TENTATIVE BUDGET ADOPTION FOR FISCAL YEAR 2011-2012

A resolution setting forth the tentative budget and establishing the expenditure limitation for Fiscal year 2011-2012. The Council will take appropriate action.

Mr. Artz reported that the tentative budget for FY 2011-2012 is in the amount of \$163,154,810. This sets the maximum budget capacity for the next fiscal year. The final budget can be less. The budget is down approximately \$22 million, primarily because of the completion of the Sports Center. One capital project has been added for the design of wastewater treatment plant filters. In future years, construction money will have to be identified in order to build this project.

Mr. Artz said \$65,000 was added for a false alarm contract. There is offsetting revenue available for this. Also, \$1.3 million of supplementals have been included in the budget. Fire equipment replacement funds were transferred from supplementals to an equipment replacement fund. Transit has been increased by \$1.2 million with offsetting revenue, as part of an accounting agreement with the City of Phoenix. Staff added \$380,000 in carryovers to complete several projects next year. The personal service adjustments item pertains to the proposed health insurance adjustments for employees. He reported that the budget will be advertised in the newspaper for two consecutive weeks. Council will consider an ordinance for a tax levy on July 5.

Council Member Weise asked about the insurance fund balance. Mr. Artz explained that it included a \$1.4 million rebate from the insurance company. This money was set aside for future needs.

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Council Member Buster asked whether the schedule, tax rates and dollar amounts had changed since the last time Council reviewed them. Mr. Artz responded that the schedule, rates, and dollar amounts are the same as those presented at the April 11 meeting. The secondary property taxes for 2011-2012 still do not cover what the debt service requires, and staff proposes taking that balance out of fund balance. Council Member Buster inquired about plans for further debt service. Mr. Artz responded that voters have authorized further GO debt, but the CIP does not currently have any proposed debt coming from the GO. Council Member Buster expressed concern about any increases in long term debt.

Council Member Weise said the City has been trying to keep the property tax burden as low as possible. When property values went up the rates went up, but when property values went down, the rates continued to go up. He inquired about public outreach efforts on the budget. Mr. Artz responded that public hearings are scheduled for June 20, and July 5.

Vice Mayor McDonald inquired about property tax rates. Mr. Artz said for the past several years, the property tax rate was transferred between primary and secondary, but the overall tax amount actually decreased from previous years.

Vice Mayor McDonald moved to adopt resolution 2974-511, setting forth the fiscal year 2011-2012 tentative budget, and establishing the expenditure limitations, and to authorize staff to proceed with the required publication process. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

| Vice Mayor McDonald | Aye |
|-------------------------|-----|
| Council Member Scott | Aye |
| Council Member Vierhout | Aye |
| Mayor Rogers | Aye |
| Council Member Weise | Aye |
| Council Member Karlin | Aye |
| Council Member Buster | Ave |

Motion carried unanimously.

6) MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF AVONDALE AND IAFF LOCAL 3924

A request to approve the inaugural Memorandum of Understanding with the International Association of Firefighters (IAFF) Local 3924 pursuant to Avondale Ordinance 1323-808 adopted by City Council on August 8, 2008.

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Mr. McClendon announced that the City of Avondale has come to a labor agreement with IAFF Local 3924 for the upcoming year and introduced Assistant City Manager Rogene Hill review the inaugural MOU. In August of 2008, City Council set forth a deadline that IAFF present any monetary issues they wished to have considered. They did not meet that deadline. In order to put the agreement in place, both sides agreed to limit discussion to non-budgetary items, memorialize the current wage structures, and clarify a number of pay practices that are unique to the fire service.

Ms. Hill reported that the firefighters were interested in several issues. They wanted the use of absence with relief (AWR). They also wanted sick leave to count as hours worked to fulfill the 120-hour shift. Another issue was move-up pay, and this agreement reduces it to 12 hours. The firefighters wanted a grace period to fill in for others without being considered late. Bereavement/civic duty hours are also now to be counted as hours worked. Firefighters wanted assurances that they would not lose their vacation accrual in the unlikely event that they had to do a vacation sellback. If there is a layoff, they requested that it be done in reverse order of hire, with a rehire preference. They also wanted to be sure that any increase given to City staff in 2011-2012 would apply to the unit members.

Ms. Hill stated that one of the issues important to management was the ability to maintain management rights. The parties were able to come to an agreement that a breach of the MOU would be resolved at the City Manager level, and not through binding arbitration. The estimated costs associated with these items will be absorbed by the Fire Department budget, and the Department feels they can cover those. Staff recommends approval of the MOU.

Council Member Scott said he is glad the parties could work out an agreement. He queried whether the budgetary impacts were estimated. Ms. Hill explained that they are estimates, and are dependent on variables such as the utilization of sick leave and the schedule. Council Member Scott requested an update once the actual numbers become available.

Vice Mayor McDonald moved to approve the Memorandum of Understanding between the City of Avondale, and the IAFF Local 3924, effective July 1, 2011. Council Member Scott seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

| Vice Mayor McDonald | Aye |
|-------------------------|-----|
| Council Member Scott | Aye |
| Council Member Vierhout | Aye |
| Mayor Rogers | Aye |
| Council Member Weise | Aye |
| Council Member Karlin | Aye |
| Council Member Buster | Ave |

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Motion carried unanimously.

7) PUBLIC HEARING AND RESOLUTION 2971-511 - COLDWATER INDUSTRIAL MINOR GENERAL PLAN AMENDMENT (PL-11-0017)

A public hearing and a resolution approving a request by Mr. Jack Gilmore, Gilmore Parsons Design Group, to amend the General Plan Land Use Map for approximately 4.26 acres of real property from Freeway Commercial to Employment located north of the northwest corner of Van Buren Street and Eliseo C. Felix Jr. Way.

Mr. Galica stated that the property in question is very difficult to see from either Van Buren or I-10. Its current zoning is C-2 Community Commercial. Surrounding uses include an ADOT service yard, a contractor storage yard, the Agua Fria High School District offices, and the rear of a shopping center. The existing General Plan shows the property is designated Freeway Commercial, which is intended to accommodate high intensity commercial users that are dependent upon high visibility and easy vehicular access. The Employment designation encourages uses that provide employment opportunities such as general office and enclosed industrial uses.

Mr. Galica explained that staff believes that Avondale has inadequate property for employment that would be accommodating to the A-1 General Industrial zoning district. This property would be problematic from a development standpoint were it to be developed as Freeway Commercial, since it does not have direct access to an arterial street. Eliseo C. Felix Jr. Way is an industrial collector with very limited access and low capacity. It also has limited visibility, which is necessary to attract passersbys. There is no planned connectivity to the north, east or west. The new designation would mesh well with the adjacent properties.

Mr. Galica stated that this change would affect less than 1% of the City's Freeway Commercial land. It would have little impact on the City's tax base and no impact on City services. The zoning ordinance and design manuals will ensure that future development on the site will be of high quality. The proposed change is consistent with various land use and economic development goals. It meets the four findings required for General Plan amendments and staff recommends approval of the application. The Planning Commission recommended approval.

Mayor Rogers opened the public hearing.

Jack Gilmore, representing the owners, Coldwater Industrial LLC, indicated he was available to answer questions from Council regarding the development. Council Members did not have any questions for Mr. Gilmore.

Mayor Rogers closed the public hearing.

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Vice Mayor McDonald moved to accept the findings and adopt Resolution 2971-511, approving the application (PL-11-0017), request to amend the General Plan Land Use Map, approximately 4.26 acres from Freeway Commercial to Employment. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

| Vice Mayor McDonald | Aye |
|-------------------------|-----|
| Council Member Scott | Aye |
| Council Member Vierhout | Aye |
| Mayor Rogers | Aye |
| Council Member Weise | Aye |
| Council Member Karlin | Aye |
| Council Member Buster | Aye |

Motion carried unanimously.

8) PUBLIC HEARING AND ORDINANCE 1457-511 - COLDWATER INDUSTRIAL REZONING (PL-10-0133)

A public hearing and consider an ordinance approving a request by Mr. Jack Gilmore, Gilmore Parsons Design Group, to amend the Zoning Atlas for 4.26 acres of real property from C-2 (Community Commercial) to A-1 (General Industrial) for a property located north of the northwest corner of Van Buren Street and Eliseo C, Felix Jr. Way.

Mr. Galica explained that the A-1 General Industrial district allows for warehousing, wholesaling, and manufacturing uses. There is a limited outdoor storage component that could be pursued through approval of a conditional use permit. The zoning ordinance and municipal code already prevents noise, smoke, dust, or odors. Staff feels that A-1 zoning is appropriate for this location mainly because the immediate development is occupied with office and industrial facilities. There is little potential for retail use, and no plans to expand access. The Planning Commission approved this recommendation subject to the following six staff-recommended stipulations; two Commissioners were absent.

- 1. Development of the site shall be in conformance with the Coldwater Industrial Rezoning Narrative date stamped February 7, 2011.
- 2. Development shall be completed in accordance with the City of Avondale General Engineering Requirements Manual and City of Avondale Supplement to the MAG Uniform Standard Specifications and Details.
- 3. Development shall adhere to the City of Avondale Design Manual for Commercial, Industrial, and Multi-Family Residential Development and all applicable provisions of the Avondale Zoning Ordinance.
- 4. Financial assurance for all work within the public right-of-way shall be paid prior to issuance of the first construction permit.

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- 5. Street improvements along the entire length of the property frontage adjacent to Eliseo C. Felix Jr. Way shall be completed with the first phase of development on the subject property. Improvements include installation of curb and gutter, street lights, sidewalk, right-of-way landscaping, and any other improvements deemed necessary by the City at the time of site plan review.
- 6. Development may not cross property lines. Approval of a final plat shall be required to combine the two parcels and dedicate any necessary right-of-way prior to issuance of a building permit if the two subject parcels are developed as a unified site.

Mayor Rogers opened the public hearing.

Jack Gilmore on behalf of the owners indicated that they have addressed the concerns of neighbors and staff. Rezoning will make it easier for the owners to market the site. Mayor Rogers inquired about the letters that were sent in opposition to the rezoning. Mr. Gilmore explained that the Estrella Vista Reception Center was initially concerned about the industrial uses, but they were satisfied once they understood what the proposal entailed.

Vice Mayor McDonald inquired about setbacks. Mr. Galica explained that the largest setbacks will be required off Eliseo Felix. Perimeter setbacks will be required around the entire site. If an outdoor storage permit is required in the future, staff can look at increasing the setbacks.

Mayor Rogers closed the public hearing.

Vice Mayor McDonald moved to accept the findings and adopt ordinance 1457-511, approving application (PL-10-1033), request to amend the zoning for approximately 4.26 acres from C-2 Community Commercial to A-1 General Industrial, subject to the six recommended stipulations. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

| Vice Mayor McDonald | Aye |
|-------------------------|-----|
| Council Member Scott | Aye |
| Council Member Vierhout | Aye |
| Mayor Rogers | Aye |
| Council Member Weise | Aye |
| Council Member Karlin | Aye |
| Council Member Buster | Aye |

Motion carried unanimously.

9) PUBLIC HEARING - CONDITIONAL USE PERMIT FOR AT&T, FOR A PERSONAL WIRELESS SERVICE FACILITY AT VALLEY GOLF (PL-10-0149)

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A public hearing and consider a request by Ms. Michelle Evans, FM Group, Inc., for a Conditional Use Permit to construct and operate a personal wireless service facility on property zoned Community Commercial (C-2).

Mr. Morgan stated that the subject property is approximately 13.6 acres in total, but the subject site is much smaller. The Valley Golf site is zoned C-2, and is approved as a special use district for a golf driving range. The property currently contains a 70-foot high monopole for another wireless service, which was permitted in 1999.

Mr. Morgan reported that the request meets all the required portions of the zoning ordinance. There must be a demonstrated coverage gap, towers must be used only when they cannot be located on existing structures, a paved parking space must be provided for access, and the setback has to be the equivalent of one foot for every foot of tower height. Facilities must utilize an alternative design to disguise the tower, and the ground equipment must be appropriately screened.

Mr. Morgan said the applicant had to request a new wireless facility because factors prevented them from using existing structures. The existing monopole is nonconforming, so it cannot be added to. There are existing power poles along Indian School Road, but the City does not allow equipment yards to be located in the right-of-way. The Valley Golf owner was not willing to locate the equipment yard there. The netting around the golf facility could not be used because of problems accessing the equipment yard. The owner of an adjacent landfill site was not willing to grant vehicle access through their site. There is a 100-foot tall tower in a nearby City facility but the applicant could not come to terms with the City.

Mr. Morgan said that the proposal meets the required setbacks. It is enclosed by an 8-foot high screening wall. Additionally, the proposal meets the five findings required for a conditional use permit: the facility is consistent with the land use, its use is compatible with the driving range, and the facility is adequate in size and shape to accommodate safe use. No variances are needed for this site and it meets all requirements of the zoning ordinance. Adequate conditions have been imposed on the application. The applicant has agreed to conform to the design presented. The conditional use permit would expire in two years if they fail to pull a building permit.

Mr. Morgan said the Planning Commission voted unanimously to recommend approval of the proposal. Nobody showed up to a neighborhood meeting. One of the Commissioners stipulated that having two trees of the same height would not be aesthetically appealing. The property owner and the applicant both are amenable to the idea of varied heights. The property owner would like to have date palms, but the highest one they could find is 35 feet. Mexican fan palms grow to about 40 feet. An additional stipulation would be needed to specify the height. He concluded by saying that Staff is recommending approval subject to the following stipulations:

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- 1. The development shall comply with the approved Project Narrative, Photo Simulation, and Site Plan.
- 2. The Conditional Use Permit approval shall expire two years from the approval date if a building permit is not obtained.

Council Member Karlin preferred either staggered heights or just the monopole by itself. Council Member Weise agreed that the staggered look would be best. Vice Mayor McDonald said palm tree cell towers have never been convincing, but at least the applicant is willing to try to hide it. Council Member Vierhout said the staggered trees would look more natural.

Mayor Rogers opened the public hearing.

John DeLuca, representing the FM Group, said the applicants have been working on this site for more than two years. The choice of trees is not to save money; date palms would blend in better. Live trees will make the site look more natural as they grow.

Mayor Rogers closed the public hearing.

Vice Mayor McDonald moved to accept the findings and approve application (PL-10-0149) request for approval of a conditional use permit for a personal wireless communication facility on the Valley Golf property subject to the two recommended stipulations. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

| Vice Mayor McDonald | Aye |
|-------------------------|-----|
| Council Member Scott | Aye |
| Council Member Vierhout | Aye |
| Mayor Rogers | Aye |
| Council Member Weise | Aye |
| Council Member Karlin | Aye |
| Council Member Buster | Aye |

Motion carried unanimously.

10) PUBLIC HEARING, ORDINANCE 1458-511- CORRECTING A SCRIVENER'S ERROR, TIME EXTENSION FOR AVONDALE COMMERCE PARK, ALTERNATIVELY ORDINANCE 1459-511- ZONING REVERSION

A public hearing and consideration of an ordinance correcting a scrivener's error in Ordinances 1294-308 and 1296-308 which rezoned the properties described therein and consider a request by Mr. Michael J. Curley of Earl, Curley, and Lagarde, P.C., for a one-year extension of PAD zoning for Avondale Commerce Park, located on approximately 80 acres of land at the northeast corner of 103rd Avenue and Van Buren Street. Alternatively,

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the Council consideration of an ordinance reverting the zoning on such property from Planned Area Development to Agricultural.

Mr. Morgan said the property was zoned PAD in 2008. The zoning ordinance requires that construction begin within 3 years and allows a maximum of four one-year extensions. This is the first extension request for this property. The PAD, as approved, meets the requirements of the zoning ordinance and design manuals. It varies somewhat in building heights, permitting 56-foot tall buildings, whereas the A-1 would only allow 45-foot buildings. The PAD offers specifics on architectural materials and colors, because it was adopted before the design manuals. It is a little more flexible than the standard PAD is today. Staff recommends approval. Staff is recommending approval subject to the following stipulation:

1. The property shall be subject to the Public Art Ordinance 1324-808.

Mayor Rogers opened the public hearing.

Mike Curley said he submitted a letter to City Council outlining the marketing efforts that his client has conducted in the past few years. The Rockefeller Group was negotiating a joint venture with his client when the expiration issue came up. They suspended the discussions pending the extension. This property is on the shortlist for three different users, an internet company, a food company, and a beverage company. This would be an excellent site for Foreign Trade Zone designation.

Mayor Rogers closed the public hearing.

Vice Mayor McDonald moved to adopt ordinance 1458-511, correcting a scrivener error in ordinance 1294-308 and ordinance 1296-308, which rezoned the properties described therein from Agriculture to Planned Area Development. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

| Vice Mayor McDonald | Aye |
|-------------------------|-----|
| Council Member Scott | Aye |
| Council Member Vierhout | Aye |
| Mayor Rogers | Aye |
| Council Member Weise | Aye |
| Council Member Karlin | Aye |
| Council Member Buster | Aye |

Motion carried unanimously.

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Vice Mayor McDonald moved to approve application (PL-11-0034) a request for a one-year extension of PAD zoning for Avondale Commerce Park, to expire April 16, 20012, subject to one recommended condition of approval. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

| Vice Mayor McDonald | Aye |
|-------------------------|-----|
| Council Member Scott | Aye |
| Council Member Vierhout | Aye |
| Mayor Rogers | Aye |
| Council Member Weise | Aye |
| Council Member Karlin | Aye |
| Council Member Buster | Aye |

Motion carried unanimously.

11) ORDINANCE 1452-511 - AMENDMENT AVONDALE CITY CODE CHAPTER 24 - PRETREATMENT

An Ordinance amending the City of Avondale Municipal Code, Chapter 24, Water, Sewers and Sewage Disposal relating to Pretreatment of Industrial Wastewater.

Ms. Chappell said the major objectives of the pretreatment code are to protect the publicly-owned treatment works and its operators, to prevent pass through, and to produce quality effluent and sludge. Council adopted the code on April 19, 2010. The code includes a set of local limits that were developed by the Subregional Operating Group. It does not meet ADEQ or EPA requirements for local limits. POTWs are required to develop their own technically based site specific local limits. Last summer Public Works developed a study to develop their own local limits.

Staff requests:

- A technical change to the definition of SIU to be consistent with 40 CFR 403.
- To remove swimming pool drainage from the prohibited discharge list.
- To delete the classification of industrial users that has needlessly complicated the code.
- Amend the general permit section to allow the Director to permit an industrial user even if they were not significant or categorical.
- Amend the enforcement section so that all notifications are sent certified mail/return receipt, to be consistent with other City departments and the International Property Maintenance Code.

Ms. Chappell said staff used the EPA guidelines to develop the local limits study, using the 15 pollutants of concern. Based on existing data, the study was able to determine the treatment capacity and the industrial loading. Once the industrial loading was known, staff

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used a uniform concentration method to calculate the proposed local limit. The study found that molybdenum was not present in any flows. The proposal includes eliminating molybdenum from the list of regulation contaminants. The local limit was set slightly lower than the system's actual capacity. The study and pretreatment program document was sent to ADEQ and the EPA on September 15. ADEQ sent a letter of intent to approve the program without comment on November 16. Following the public process, the ADEQ sent their approval on February 22, 2011.

Ms. Chappell said staff continues to identify local industrial users and works with Development Services as new businesses move into the city. Staff is also working to create a database of all grease interceptors to ensure that they are properly maintained. Restaurant inspections will begin in the summer. Staff recommends approval.

Council Member Vierhout questioned how swimming pool water can be disposed of. Ms. Chappell explained it can be used on landscaping as long as it does not leave the originating property, although the City prefers that the water be disposed of into the sewer cleanout.

Vice Mayor McDonald moved to approve ordinance 1452-111 amending the City of Avondale's municipal code, Chapter 24, Water, Sewer and Sewage Disposal Pretreatment code. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

| Vice Mayor McDonald | Aye |
|-------------------------|-----|
| Council Member Scott | Aye |
| Council Member Vierhout | Aye |
| Mayor Rogers | Aye |
| Council Member Weise | Aye |
| Council Member Karlin | Aye |
| Council Member Buster | Aye |

Motion carried unanimously.

12) EXECUTIVE SESSION

a. The Council may hold an executive session pursuant to ARIZ. REV. STAT. § 38-431.03 (A)(4) for (i) discussion or consultation with the City's Attorney in order to consider its position and instruct the City Attorney regarding the Council's position regarding the SLT Expressway litigation and (ii) discussion or consultation with the City's Attorney in order to consider its position and instruct the City Attorney regarding the Council's position regarding a potential Intergovernmental Agreement with the City of Litchfield Park regarding a potential annexation.

May 16, 2011

Vice Mayor McDonald moved to enter into executive session. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

| Aye |
|---------|
| Abstain |
| Aye |
| |

Motion carried 6-0.

13) ADJOURNMENT

There being no further business before the Council, Council Member Buster moved to adjourn the meeting. Council Member Vierhout seconded the motion.

Meeting was adjourned at 9:27 p.m.

Mayor Rogers

Carmen Martinez, CMC

City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of the Council of the City of Avondale held on the 16th day of May 2011. I further certify that the meeting was duly called and held and that the quorum was present.

City Clerk