



Mayor Mark S. Nexsen
Vice Mayor Don Callahan
Councilmember Crystal Alger
Councilmember Dean Barlow
Councilmember Donna Brister
Councilmember Jeni Coke
Councilmember David McAtlin

Lake Havasu City

Regular Meeting Minutes - Final

City Council

Lake Havasu City
Police Facility
2360 McCulloch Blvd North
Lake Havasu City, Arizona 86403
www.lhcaz.gov

Tuesday, February 25, 2014

6:00 pm

Regular Meeting

1. CALL TO ORDER

Mayor Nexsen called the meeting to order at 6:00 p.m.

2. INVOCATION: Major Larry J. Feist, The Salvation Army Church

Major Larry J. Feist of The Salvation Army Church gave the invocation.

3. PLEDGE OF ALLEGIANCE

The mayor led in the Pledge of Allegiance.

4. ROLL CALL

Present: 7 - Mayor Mark S. Nexsen, Councilmember Dean Barlow, Councilmember Crystal Alger, Councilmember Donna Brister, Vice Mayor Don Callahan, Councilmember Jeni Coke and Councilmember David McAtlin

5. CALL TO THE PUBLIC

Mr. Frederick Anthony Graff, resident of Lake Havasu City, addressed the City Council and said he was concerned with the investigations that the State conducted regarding an elderly woman in his care. He also said he was before the City Council regarding his property at Site Six.

6. CONSENT AGENDA

6.1 [ID 14-0117](#) Approval of February 11, 2014, Work Session and Regular Meeting Minutes

6.2 [ID 14-0112](#) Recommend Approval of a Special Event Liquor License Application for the Professional/Amateur Skateboarding Competition on March 28, 29 & 30, 2014, at the Patrick A. Tinnell Memorial Sports Park in Rotary Park,

100 Park Avenue / Marchbanks

- 6.3 [ID 14-0113](#) Recommend Approval of a Special Event Liquor License Application for the Havasu for Youth Fundraiser on March 2, 2014, at Ultra Star Cinema, 5601 Highway 95 / Butler
- 6.4 [ID 14-0124](#) Recommend Approval of a Special Event Liquor License Application for the Outdoor Concert for Spring Break Visitors on March 11 & 12, 2014, at 1300 McCulloch Boulevard / Butler
- 6.5 [ID 14-0120](#) Recommend Approval of a Special Event Liquor License Application for the Outdoor Concert for Spring Break Visitors that are with SWAT UP Travel on March 25 & 26, 2014, at 1300 McCulloch Boulevard / Lively-Marchbanks
- 6.6 [ID 14-0125](#) Recommend Approval of a Special Event Liquor License Application for the Outdoor Concert for Spring Break Visitors on March 18 & 19, 2014, at 1300 McCulloch Boulevard / Butler
- 6.7 [ID 14-0115](#) Call for Executive Session Pursuant to A.R.S. 38-431.03(A) 3:00 p.m. Tuesday, March 11, 2014.

Councilmember McAtlin moved to approve the Consent Agenda as presented, seconded by Councilmember Callahan, and carried by the following vote:

Aye: 7 - Mayor Nexsen, Councilmember Barlow, Councilmember Alger, Councilmember Brister, Vice Mayor Callahan, Councilmember Coke and Councilmember McAtlin

7. CORRESPONDENCE, COMMUNICATIONS, PETITIONS, ANNOUNCEMENTS, CITY MANAGER REPORT

- 7.1 [ID 14-0116](#) Announce Vacancies on Lake Havasu City Boards, Committees, and Commissions

City Clerk Kelly Williams announced the current vacancies for various Lake Havasu City Boards, Committees, and Commissions.

Mayor Nexsen announced that the City would be accepting applications through March 15, 2014, for citizens interested in serving on a committee to discuss the best use for the slogan “Home of the London Bridge” in a local environment and not as a part of branding for visitors. He said Vice Mayor Callahan and Mr. Jay Coombs would be heading the committee.

- 7.2 [ID 14-0114](#) City Manager’s Report

City Manager Charlie Cassens reported on the following:

- On February 7, 2014, the City Clerk's office announced that election packets containing information, forms, documents, and petitions necessary for a potential candidate to run for City Council in the fall election are available in the City Clerk's office. One Mayor and three Councilmember positions will be on the ballot in the Fall Primary Election on August 26, 2014. Candidates must be a qualified elector of Lake Havasu City, and have resided within the corporate limits of the City at least one year prior to the election. All properly-executed documents, including nomination petitions containing no fewer than 325 and no more than 651 signatures must be returned to the City Clerk's office no earlier than April 28, 2014, and no later than May 28, 2014. A total of seven packets have been pulled to date: Six for councilmember and one for mayor.
- The City now has 24/7 streaming of Channel 4 on the City's website - www.lhcaz.gov.
- The City received a letter from Mr. and Mrs. Pat Bellavia thanking the firefighters of Truck #1 for their assistance in fixing their smoke alarm.
- The City received a letter from City of Casa Grande Battalion Chief Tony LaFalce thanking Lake Havasu City Fire Chief Dennis Mueller, Battalion Chief Quijada, and personnel from Fire Station 4B Shift; Captain Blomenkamp, Engineer Irula, Firefighter LaLande, and Firefighter Kelm, for their quick response and action on February 12, 2014, regarding his father.
- The City received the Government of Finance Officers Association Distinguished Budget Presentation Award which is the highest form of recognition in governmental budgeting.

8. PUBLIC HEARINGS

8.1 [ID 14-0111](#) Adopt Resolution No. 14-2798 Appointing Member(s) to the Planning & Zoning Commission

City Clerk Kelly Williams stated that the City Clerk's Office received one application requesting consideration for appointment as a regular member to the Planning & Zoning Commission. She said this appointment is needed to fill one regular member vacancy on the Planning & Zoning Commission expiring on July 1, 2016. Ms. Williams noted that the applicant was in attendance to make a brief presentation and answer any questions from the City Council.

Mr. Daniel McGowan stated that he has been a resident of Lake Havasu City for seven years. He said over a year ago he was appointed as an alternate member on the Planning & Zoning Commission, and since that time has learned a great deal about how city government works.

Mayor Nexsen opened the public hearing. There being no comments, he closed the public hearing.

Councilmember Callahan moved to adopt Resolution 14-2798 appointing Daniel McGowan as a regular member to the Planning & Zoning Commission for a term ending July 1, 2016, seconded by Councilmember Barlow, and carried by the following vote:

Aye: 7 - Mayor Nexsen, Councilmember Barlow, Councilmember Alger, Councilmember Brister, Vice Mayor Callahan, Councilmember Coke and Councilmember McAtlin

8.2 [ID 14-0122](#) Adopt Resolution No. 14-2799 Appointing Member(s) to the Parks & Recreation Advisory Board

Ms. Williams advised that the City Clerk's Office received one application requesting consideration for appointment as a regular member to the Parks & Recreation Advisory Board. She said this appointment is needed to fill a regular member vacancy expiring on June 30, 2016. Ms. Williams noted that the applicant was also in attendance tonight.

Ms. Jennifer Luzzi thanked the City Council for considering her for appointment to the Parks & Recreation Advisory Board. She said she has been a resident of Lake Havasu City for almost 20 years and has been involved with Parks & Recreation for about 15 years.

Mayor Nexsen opened the public hearing. There being no comments, he closed the public hearing.

Councilmember Brister moved to adopt Resolution 14-2799 appointing Jennifer Luzzi as a regular member to the Parks & Recreation Advisory Board for term ending June 30, 2016, seconded by Councilmember McAtlin, and carried by the following vote:

Aye: 7 - Mayor Nexsen, Councilmember Barlow, Councilmember Alger, Councilmember Brister, Vice Mayor Callahan, Councilmember Coke and Councilmember McAtlin

8.3 [ID 14-0096](#) Series #12 Liquor License, Pacific Buffet, 91 London Bridge Road/Chen

Ms. Williams advised the City Council that Ming Wu Chen applied for a Series #12 Restaurant Liquor License for Pacific Buffet located at 91 London Bridge Road. She said all posting requirements have been met, all fees have been paid, and no objections were received. Ms. Williams added that the location is properly zoned for a liquor license.

Mayor Nexsen opened the public hearing. There being no comments, he closed the public hearing.

Councilmember Barlow moved to recommend that the Arizona Department of Liquor License & Control approve a Series #12 liquor license for the Pacific Buffet, 91 London Bridge Road, seconded by Councilmember Callahan, and carried by the following vote:

Aye: 7 - Mayor Nexsen, Councilmember Barlow, Councilmember Alger, Councilmember Brister, Vice Mayor Callahan, Councilmember Coke and Councilmember McAtlin

- 8.4** [ID 14-0128](#) Discussion and Possible Action, if Necessary, to Comply with Arizona Open Meeting Law Following the Executive Session Notice Above Regarding:

A) A Request for a Reasonable Accommodation Submitted by the Redmon House Located at 575 Player Lane to Waive the Number of Unrelated Persons that can Reside Together as a Family and to Treat the use of the Dwelling as a Single Family Use

Mayor Nexsen opened the public hearing. There being no comments, he closed the public hearing.

There was no action taken on this item.

- 8.5** [ID 14-0109](#) A request for a major amendment to the approved general development plan for Parcel "I" of Grand Island Estates to allow a clubhouse and pool to be located on Lot 40 instead of the originally proposed single-family residence (14-00200001)

Senior Planner Stuart Schmeling stated that the subject property, Parcel I, Lot 40, is within Grand Island Estates. He said the developer, Trinity Land Development, is requesting to locate a clubhouse and pool on the property. Mr. Schmeling noted that this item is described as a major amendment because per City Code, the City would be changing the General Development Plan.

Mayor Nexsen asked if the amendment had been approved by the Planning & Zoning Commission, to which Mr. Schmeling replied yes.

Mayor Nexsen said from his understanding when there are potential changes to the General Development Plan all property owners must be in agreement. City Attorney Kelly Garry stated that there is a development agreement with respect to these properties. She added that there is one exception within that agreement that if the property is completely sold or is in the hands of the final holder, then the agreement is not applicable to that property. She said because this is dealing with one single property that is in the hands of the final owner, it would be staff's position that the development agreement does not apply to it. She added that is why some of staff's discussions and issues in the past have not come up with respect to this request.

Mayor Nexsen asked if the Homeowner's Association (HOA) was the owner, to which Ms. Garry replied yes. Mr. Schmeling added that the other homeowners have also been notified as part of the 300-foot perimeter that is required.

Councilmember Callahan asked if the parking spaces on the property were adequate, to which Mr. Schmeling replied yes.

Mayor Nexsen opened the public hearing.

Mr. Don Cantral, resident of Lake Havasu City, addressed the City Council and stated that he owns a house in the Grand Town Homes Development and is president of his HOA. He added that there is not a single lot in his tract that is for sale; however, there is a parcel on the island named "Starfish" in Tract I which is owned by the HOA and zoned for open area therefore they would not be able to build on this parcel. He said it was his understanding that no one was able to build a clubhouse or pool on the island unless every property owner on the island is in concurrence. He said knowing that their intentions could be to use that 1.1-acre parcel for a pool or clubhouse he wanted to appeal to the City Council for support in the future.

Mayor Nexsen said because Mr. Cantral's request is not on the agenda tonight the Council cannot address his question because it would be a direct violation of Arizona Open Meeting Law. He said from the City Attorney's response earlier, if the HOA is the final owner they can make the request without the approval of the other parcel owners. Mr. Cantral said he objected to this because he believes it does not fit. He added that he thought there needed to be further discussion on this issue.

Ms. Garry said the City received no objections moving forward until this point. She said if the parties on the island disagree with any interpretations that staff is making, they could obtain counsel to make an interpretation regarding the agreement. She added that staff has tried to take a "hands off" approach to this because the benefit is there for the homeowners, property owners, or developers out on the island and benefits to the City were taken care of a long time ago. She said the agreement is there for the protection purposes of that development and is being used as a sword or a shield between the different developers out there for different purposes. Ms. Garry said if anyone disagrees with the interpretation the City encourages them to obtain counsel to guide them through the interpretation of the agreement and how to remedy some of the problems that have come up with respect to it. She said staff has reviewed and made a determination, but now that an objection has been made Council may want to stand back and allow the property owners to take whatever course they feel necessary. Ms. Garry added that she did not want the City to be put in the middle of another battle between the various developers when the City does not have anything to gain. She said staff certainly encourages development and does not want to stop any development out there. She added that the City has never objected to the things that the property owners want to do; however, they do not agree amongst one another what the other should be allowed to do. She strongly encouraged the property owners to find a remedy to the agreement.

Mr. Greg Clarke, manager of Trinity Land Development, addressed the Council and said he is the owner of Parcels D & E. He added that there is a tract that is owned by the HOA specifically for a clubhouse and pool which has been approved since 2006. Mr. Clarke stated that within the design guidelines and all the agreements there are multiple agreements going back to MCO Properties from the 1980's and 1990's that allow for accessory buildings, clubhouses, pools, and exercise

areas. He said all they are asking for is what they agreed to back in 2005. He added that they have met every requirement the City has asked of them.

Mayor Nexsen asked Mr. Clarke if he would object to another parcel building a clubhouse and swimming pool, to which Mr. Clarke replied no.

There being no further comments, Mayor Nexsen closed the public hearing.

Councilmember Barlow said for clarification, what Ms. Garry was recommending is that the City Council delay the approval of this item until the other issues are settled. Ms. Garry said that was not her recommendation, only that the City Council take that into consideration.

Ms. Garry added that there is a provision within the developers agreement that creates an exception that once that property is in the final owner's hand it is no longer subject to the development agreement, and staff believed that to be applicable to this situation. She added that if there is some other interpretation out there, she does not want to put the City in the middle of whatever might be going on between different property owners or different developers. She stated that was her only concern, and added that in the past the City has been threatened with litigation regarding issues out there. She said she did not take what happened tonight as a threat but as a question of wanting to be treated equally. She added that staff cannot answer any specific questions with respect to a different lot.

Councilmember Barlow said it seemed like nothing could be done tonight unless there was an agreement between the parties, to which Mayor Nexsen said that depended on how it was interpreted.

Mayor Nexsen said what he heard Ms. Garry say is that she believes there is an exception that says if the lot is in the hands of the final owner, in this case the HOA, they are not subject to the development agreement. He said Ms. Garry was only advising the City Council that there is now an objection that needs to be considered. Mayor Nexsen said that is why he specifically asked Mr. Clarke whether or not he would have an objection to Mr. Cantral building a pool and clubhouse on another parcel and Mr. Clarke responded no.

Mr. Clarke added that letters were sent to 381 lots in Grand Island Estates and also to those within a 300-foot boundary. He said a public meeting was also held and no objections were received.

Councilmember Alger said there seemed to be many different parcels and HOA's. She asked whether the City would be brought into litigation if they allowed Parcel I to have a clubhouse and pool, to which Ms. Garry explained that part of the restriction of that development is the City is prohibited from making or approving zoning changes. She said if there was an argument that this

restriction is still applicable, then the City violated that development agreement.

Councilmember Barlow moved to adopt Ordinance No. 14-1110 amending the general development plan for Parcel “I” of Grand Island Estates to allow a clubhouse and pool to be located on Lot 40, seconded by Councilmember Alger, and carried by the following vote:

Aye: 7 - Mayor Nexsen, Councilmember Barlow, Councilmember Alger, Councilmember Brister, Vice Mayor Callahan, Councilmember Coke and Councilmember McAtlin

Mayor Nexsen said for the record his vote was based on the fact that the Mr. Clarke and Mr. Cantral agreed not to object to one another.

8.6 [ID 14-0106](#) Adopt Resolution No. 14-2797 Approving Intergovernmental Agreement (IGA) with the Mohave County Flood Control District

Operations Director Gary Parsons advised that this Intergovernmental Agreement (IGA) with Mohave County Flood Control is an annual item brought before the City Council. He said this agreement allows Lake Havasu City to receive flood control funds allocated by the Mohave County Flood Control District to communities throughout the County. He added that last year the City received over \$2.8 million and this year the City is to receive \$2.1 million. He said these funds are used to repair washes and improve drainage projects throughout the city. Mr. Parsons added that the City Council previously approved an agreement to hire a consultant to design projects throughout the city which would also be reimbursable with these funds. He added that these funds are also used for GIS System to help identify washes throughout the city when applying for permits through the Army Corp of Engineers. Mr. Parsons said some of this funding would also reimburse the City for funds that have already been spent on projects.

Mayor Nexsen opened the public hearing. There being no comments, he closed the public hearing.

Mayor Nexsen commended the new Mohave County Board of Supervisors for developing a new formula to allocate these funds, as the City is now getting substantially more than in prior years.

Councilmember Alger moved to adopt Resolution No. 14-2797 approving and authorizing the Mayor to execute the Intergovernmental Agreement between the Mohave County Flood Control District and Lake Havasu City for flood control purpose, seconded by Councilmember McAtlin and carried by the following vote:

Aye: 7 - Mayor Nexsen, Councilmember Barlow, Councilmember Alger, Councilmember Brister, Vice Mayor Callahan, Councilmember Coke and Councilmember McAtlin

8.7 [ID 14-0118](#) Approve Professional Services Agreement for the Review and Revision of the Development Code and General Plan Update

Community Services Director Greg Froslic advised that the Lake Havasu City General Plan was last updated in 2002 and the Development Agreement in 2004. He said to accomplish updates staff solicited Statement of Qualifications from consultants. Mr. Froslic noted that three firms responded and through the interview process, staff selected Clarion & Associates from Denver, Colorado. He said staff has negotiated a scope of work which includes significant public involvement to update these documents through public meetings and Planning & Zoning Commission meetings. He said it is a very aggressive schedule that spans about 18 months and if everything goes according to plan, both documents should be updated and adopted by the City Council in August of 2015. He said included in the scope of work is a specific section related to code enforcement that will pay special attention to the rewrite of the enforcement sections of the code to allow staff more flexibility and make sure the language supports the City's new code enforcement process. He said he would be before the City Council again on March 11th to explain that process in more detail. Mr. Froslic noted that the cost of the consulting fee if approved by City Council would be \$216,040. He added that since 2002, the City has been setting aside a portion of building permit fees for General Plan maintenance.

Mayor Nexsen said at the City Council Retreat he recalled Deputy City Manager Larry Didion indicating that the General Plan update would include a section focusing on the Channel and Site Six, to which Mr. Cassens explained that the Channel, Site Six, SARA Park, and the Motor Sports Facility, which was requested by Councilmember McAtlin, would be included in the update.

Mr. Froslic clarified that there is already a recreation element in the General Plan and additional funds were included to do specific area plans for SARA Park and Site Six. He said the Motor Sports Complex was not included because it is a private development. Discussion followed concerning Channel improvements.

Mayor Nexsen asked when the Development Code would be complete, to which Mr. Froslic explained that the entire contract spans 18 months. Mayor Nexsen stated he was specifically referring to Title 14, to which Mr. Cassens replied that Title 14 would be the most complex component and would be discussed in greater detail in March. Mr. Cassens added that staff will also be asking the City Council to consider forming a citizen and staff ad-hoc committee to help guide this process.

Mayor Nexsen opened the public hearing.

Ms. Charlene Wilkerson addressed the Council and asked whether other consultants were questioned to get the best price and whether staff considered using a local consultant. Mr. Froslic replied that Arizona State Statutes have very specific guidelines for the selection of professional

services. He added that one of those guidelines prohibits selecting a professional consultant based on cost, but rather on qualifications. Mr. Froslic added that once the highest qualified firm is selected then a contract is negotiated.

There being no further comments, Mayor Nexsen closed the public hearing.

Councilmember Callahan asked whether this was coming out of general fund contingency or money that the City is setting aside from building permit fees, to which Mr. Froslic explained that staff has been accounting for a certain percentage of the building fees going into the general fund. He added that this request is for contingency funds because it is not included in the budget.

Councilmember Callahan asked whether contingency funds are available for this, to which Mr. Cassens replied yes. He explained that there is currently a \$750,000 line item in the budget for contingency funds.

Mayor Nexsen asked if this was an oversight as staff knew there was a General Plan update coming, to which Mr. Froslic said the project was actually motivated through development procedures where staff was identifying some conflicting definitions within the development code. He said staff did not have that thought when the budget was prepared last year.

Councilmember Callahan moved to approve and authorize the City Manager to execute a Professional Services Agreement for the review and revision of the Development Code with Clarion Associates for an amount not to exceed \$216,040 utilizing General Fund Contingency, seconded by Councilmember Alger and carried by the following vote:

Aye: 7 - Mayor Nexsen, Councilmember Barlow, Councilmember Alger, Councilmember Brister, Vice Mayor Callahan, Councilmember Coke and Councilmember McAtlin

- 8.8** [ID 14-0110](#) Ratify Expenditure over \$40,000 for HDR Engineering, Inc., for Emergency Evaluation of Large Flagpoles on McCulloch Boulevard near the London Bridge

Maintenance Services Division Manager Mark Clark advised that he was before the City Council for approval of expenditures exceeding \$40,000 with HDR Engineering for evaluation of the flagpoles near the London Bridge.

Councilmember Alger said it looked like the City would be spending \$10,006 just to analyze whether the flagpoles should be replaced or repaired, to which Mr. Clark replied yes. He explained that this requires an engineer's stamp saying whether the flagpoles are okay or a recommendation is made. Mr. Clark said this amount also includes testing and coring into the steel pipes to see if they have rotted or if the concrete cap is just cracked from 40 years of wind damage.

Councilmember Alger asked what it would cost to replace the flagpoles, to which Mr. Clark estimated a minimum cost of \$45,000 to \$50,000.

Mayor Nexsen opened the public hearing.

Ms. Charlene Wilkerson addressed the Council and requested that work to the flagpoles be done by City employees to save money. She said if it could not be done by City employees then it should be done by local contractors.

Mayor Nexsen said as much as the City would like to hire only local contractors it is prohibited by State law. He said the City must go out to bid and the work must be done by a qualified contractor.

Mr. Clark added that typically City staff will perform any work that the City feels qualified to do; however, in this case, it is way out of bounds as far as safety risks and added that staff does not feel comfortable from an engineering standpoint making a recommendation other than to remove the flags to relieve any additional stress.

Mr. Rick Blake addressed the Council and said Mr. Clark stated that the contract was for \$10,000; however, the item says to exceed \$40,000. Mayor Nexsen clarified that anytime the City anticipates exceeding \$40,000 with any single vendor or contractor it must go before the City Council for approval.

There being no further comments, Mayor Nexsen closed the public hearing.

Councilmember Callahan moved to ratify purchases over \$40,000 for Consultant Services for HDR Engineering, Inc., including Emergency Evaluation of Large Flagpoles on McCulloch Boulevard near the London Bridge, seconded by Councilmember Barlow and carried by the following vote:

Aye: 7 - Mayor Nexsen, Councilmember Barlow, Councilmember Alger, Councilmember Brister, Vice Mayor Callahan, Councilmember Coke and Councilmember McAtlin

9. CURRENT EVENTS

Councilmember Barlow reported that the Partnership for Economic Development met and discussed a few changes and upgrades to be done in the Channel, particularly on the north end. He said there was discussion regarding possible grant funding from the Chemehuevi Tribe. He said the question of who owns the Channel is still not clear.

10. FUTURE MEETINGS

Tuesday, March 11, 2014, @ 4:00 p.m. - Work Session

Tuesday, March 11, 2014, @ 6:00 p.m. - Regular Meeting

11. FUTURE AGENDA ITEMS

There were no requests for future agenda items.

12. ADJOURN

Upon motion by Councilmember Barlow and seconded, the meeting adjourned at 7:08 p.m.

CERTIFICATION

I hereby certify that the foregoing is a full and true copy of the Regular Meeting Minutes of the Lake Havasu City Council held on the 25th day of February, 2014. I further certify that the meeting was duly called and posted, and that a quorum was present.

Kelly Williams, City Clerk