APPROVED

MINUTES

SCOTTSDALE CITY COUNCIL

WEDNESDAY, MAY 26, 2004

CITY HALL KIVA
3939 DRINKWATER BOULEVARD
SCOTTSDALE AZ 85251

MINUTES
SCOTTSDALE CITY COUNCIL
Wednesday, May 26, 2004

CALL TO ORDER

Mayor Manross called to order a Special Meeting of the Scottsdale City Council on Wednesday, May 26, 2004 in the Kiva, City Hall, at 5:00 P.M.

ROLL CALL

Present: Mayor Mary Manross
Vice Mayor Wayne Ecton
Council Members Robert Littlefield, Ned O'Hearn, Roberta Pilcher, David Ortega, and Tom Silverman

Also Present: City Manager Jan Dolan
City Attorney Joseph Bertoldo
City Clerk Carolyn Jagger

Pledge of Allegiance

The members of Daisy Girl Scout Troop #2352, Cochise Elementary School, and their leader, Lisa Ozee, led the audience in the pledge.

Invocation

Pastor John Coffe, St. Anthony's Episcopal Church, gave the invocation.

Presentations/Information Updates

Colleen McKaughn, Deputy Director of EPA Region 9, presented the Mayor with the EPA National Environmental Performance Track Award in honor of Scottsdale's many commitments to environmental concerns.

Minutes

SPECIAL MEETINGS	REGULAR MEETINGS
May 17, 2004	May 17, 2004

COUNCILMAN ORTEGA MOVED FOR APPROVAL OF THE SPECIAL AND REGULAR MEETING MINUTES OF MAY 17, 2004. VICE MAYOR ECTON SECONDED THE MOTION, WHICH CARRIED 7-0.

Public Comment

B. J. Gonzales, 6349 N Cattletrack Rd, 85253, discussed the compensation policy for Council members and recommended an increase.

CONSENT AGENDA ITEMS 1 - 3

1. **Canvass Results of the May 18, 2004 Runoff/Special Election**
Request: Adopt Resolution No. 6496 as the official canvass of the Runoff/Special Election held Tuesday, May 18, 2004.
Related Policies, References:
- Arizona Revised Statutes 16-642.A requires the governing body to canvass election results.
- A.R.S. 16-646 sets out the form and content of the official canvass.

Staff Contact(s): Carolyn Jagger, City Clerk, 480-312-2411, cjagger@scottsdaleaz.gov

2. **Proposed Changes to the City Privilege and Use Tax Rates**
Request: Consider adopting Ordinance No. 3569 providing for the privilege tax rate to be increased from 1.4% to 1.65% and the use tax rate to be increased from 1.2% to 1.45%, effective July 1, 2004.
Related Policies, References: The proposed changes will amend Sections 405, 410, 415, 416, 417, 420, 425, 427, 430, 435, 444, 445, 450, 455, 460, 470, 475, 480, 485, and 610 of Appendix "C" of the Scottsdale Revised Code to reflect the proposed tax rate increases.
Staff Contact(s): Craig Clifford, Chief Financial Officer, 480-312-2364, clifford@scottsdaleaz.gov; Debora Johnson, Customer Service Director, 480-312-5925, dejohnson@scottsdaleaz.gov; Philip K. Montalvo, Tax Audit Manager, 480-312-2629, pmontalvo@scottsdaleaz.gov

3. **Amended Mayo/TGen Development Agreement**
Request: Authorize the Mayor to sign contract No. 2004-023A-COS between the City and The Center for Translational Drug Development ("TD2"), an "Amended and Restated Development Agreement."
Related Policies, References:
- Council Action 12/9/03 authorizing Mayor to sign Development Agreement
- Contract No. 204-023-COS (Development Agreement) signed 2/23/04
- Economic Vitality Strategic Plan

Staff Contact(s): David Roderique, Economic Vitality General Manager, 480-312-7601, droderique@scottsdaleaz.gov

MOTION AND VOTE – CONSENT AGENDA

COUNCILMAN SILVERMAN MOVED FOR APPROVAL OF CONSENT AGENDA ITEMS 1-3. COUNCILWOMAN PILCHER SECONDED THE MOTION, WHICH CARRIED 7-0.

REGULAR AGENDA ITEMS 4 - 5

4. Coronado Park Site - 8-UP-2004

Requests:

- Approve a conditional use permit for a Municipal Use Master Site Plan for a public park to include passive recreational areas and facilities available for professional baseball training activities on 44 +/- acres located southeast of the southeast corner of Miller Road and Thomas Road with Open Space District (O-S) zoning;
- Direct a reevaluation of two alternate site locations, reviewed previously. These sites are located at Eldorado Park and Scottsdale Stadium vicinity. Staff is to return to City Council in September 2004 with the results of the analysis.

Key Items for Consideration:

- Request is for approval of a master site plan with 2 options.
- Consistent with the General Plan and zoning.
- Provides 36 - 44 acres of public open space and extension of Eldorado Park, south of the site.
- Provides for passive recreation on the site.
- Minimal traffic impacts with either option.
- Extensive out-reach program was conducted to address potential impacts to the nearby residents.
- Provides a training facility for a professional baseball team.
- Parks & Recreation Commission recommended approval 6-0 on the Municipal Use Master Site Plan for both master site plan options.
- Planning Commission recommended in favor 5-1 of Option A2 and recommended denial 4-2 of Option B.

Staff Contact(s): Kroy Ekblaw, General Manager, Planning and Development Services, 480-312-7064, kekblaw@scottsdaleaz.gov; Kurt Jones, Current Planning Director, 480-312-2524, kjones@scottsdaleaz.gov

Ms. Dolan noted that, after further discussions with the Giants, two other potential sites will be re-evaluated. Therefore, two-fold action was being requested to direct staff to analyze the sites and to approve a municipal use permit for the Coronado site.

Mr. Ekblaw presented two site plans created for the Coronado location, noting that Plan A2 (utilizing all forty-four acres) was the option preferred by staff.

Barbara Burns reviewed previous hydrology concerns at the Eldorado Park location, explaining that other options will be analyzed. Results would be presented to Council in September of 2004.

Responding to Councilman Ortega's concerns about legal issues and lawsuits surrounding the golf course property, Mr. Bertoldo explained that the requested action would simply acknowledge that the city is willing to look at the site for the project without obligating the city to proceed.

Vice Mayor Ecton questioned the importance of moving ahead with the use permit tonight. Ms. Burns stressed that timing is important to the project and the city's commitment to the Giants as it impacts funding from the Tourism and Sports Authority. Ms. Dolan clarified that the Coronado site requires a municipal use permit before the city can move forward.

Ms. Dolan confirmed for Councilman Silverman that the use of the stadium as a second practice site was a significant change from the Giants' original requirements. In addition, the detailed hydrology work conducted at Coronado also supplied new information that will be used to re-evaluate the other sites.

Mayor Manross opened public testimony.

Harry Lundgren, 2837 N 76th Pl, 85257, expressed concern regarding the loss of property values, the loss of a unique golf course, and parking lot lights.

Lyle Wurtz, 6510 E Palm Ln, 85257, felt the taking of the golf course was an obscene act. He expressed concern about how the project would be paid for and how taxpayers would be affected. He stated his belief that there are many unanswered questions.

Amy McAulay, 8738 E Highland, 85251, comtemplated the issue of neighborhood preservation. She questioned the city's priorities, guidelines, and policies regarding the issue. She stated examples of neighborhoods that were saved for different reasons.

Charles Luthy, 955 N 86th Wy, 85257, noted that the golf course was a successful business that paid real estate taxes and collected sales tax. He stated his belief that adjoining property owners should be awarded damages of at least $10,000 for losing their golf course frontages.

John Greco, 2843 N 76th Pl, 85257, said the use permit approval would trigger a lawsuit. As a neighborhood leader, he was concerned that the neighborhood was never involved in any of the decision making meetings. He noted that noise, real estate, and density studies were never completed. He wondered why the city was paying for open space up north, while letting this open space go.

Cary Ley, 2571 N Miller Rd, 85257, expressed approval of Plan A2 and his belief that property values would increase. He thanked the Charros for all they have done and asked that the Council not be swayed by a small group of nay-sayers.

Robert Usdane, 2413 N 76th Pl, 85257, read a 'Notice of Claim' for $14,400,000 into the record (attached).

C. Kimball Rose, 6419 E Windsor, 85257, stated that the mark of a good elected public servant was to make the right decision. He urged Council to do so.

Eric Planeta, no address given, said since there are alternatives, Council should put this site on the back burner. He suggested consideration of the water treatment facility site and the city owned property located at Miller and McKellips.

Karl Milhauer, 2527 N Miller Rd, 85257, suggested using the Los Arcos property as a viable alternative site, creating a Baseball Museum, a Hall of Fame, as well as other facilities.

Francine Randall, 3614 N 80th Pl, 85251, spoke against having the Gaint's project in the Coronado neighborhood.

James McCay, 2647 N Miller Rd, #21, 85257, presented photos of the current Giant's training facility and discussed the six guiding principles to be used in planning decisions. He felt the south area of Scottsdale needed a preserve. He hoped the Council would continue this item and find a win-win site for the Giants.

Shari Zanoff, 2846 N 77th Pl, 85257, spoke on behalf of the neighborhood in opposition to the proposed conditional use permit. She stated that she submitted a detaled report for Council and requested that Council direct staff to respond in writing within five business days. She presented a document indicating that Mr. Planeta's land was to be used solely as a golf course.

Rick Kidder, Chamber of Commerce, 7343 Scottsdale Mall, 85251, stated that the project is important to Scottsdale's future. He noted that many businesses rely on customers who are attracted to the area by spring training. He recognized that the loss of the golf course would not be taken lightly, but it was also important to recognize the needs of the entire community.

Shauna McKallor, 7755 E Thomas #11, 85251, expressed concern about parking, lighting, noise, and odors. She stated that many homes would be overlooking a parking lot instead of a golf course.

David Bentler, 8821 N 85th Pl, 85258, presented a petition signed by 90% of the neighbors who do not want the baseball facility at the Coronado site. He felt the site would be a big mistake because of the potential for a major challenge in court. He stated his belief that the Eldorado site would have less impact on neighbors, no lawsuit potential, no condemnation, and less hydrology issues.

Darlene Petersen, 7327 E Wilshire Dr, 85257, urged Council to go ahead with the project. She further related that this for-profit golf course has been renting the land from the city for the past twenty-five years for $1 per year and made it look like a cow pasture. The Giants would bring in more money than the golf course could generate in fifty years.

Ed Hendricks, Attorney for Henry Galbraith, 3003 N Central Av, #1200, 85012, said his client was in opposition to the conversion of any part of the gifted land, saying implementation of either plan would be illegal. He continued that the law says, 'when a donor gives a gift to a donee, subject to a restricted covenant, the covenant becomes a binding contract. If the donee breaches the contract, the donor can rescind the gift and take back the property'. Mr. Hendricks stated the City Attorney was wrong if he thought the proposed facilities were consistent with a park, or that it was Mr. Galbraith's intent that the land would be used for the enjoyment of the public. If the city decides to dishonor Mr. Galbraith's gift, Mr. Hendricks has been instructed to rescind the land donations and revert the land back to the Galbraiths.

Responding to Councilman Ortega in regard to tonight's action for a use permit, Mr. Hendricks said it would be taking steps toward a breach before the actual breach occurred. Mr. Bertoldo stated that the issuance of a permit did not mean the use would occur, in which case the use permit would vanish. He also reiterated that Council hadn't yet decided where they were going to locate the project.

Jeannette Ibing, 7532 E Cambridge Av, 85257, stated her opinion that the project does not belong in the middle of a neighborhood and Council should find another location.

Mayor Manross concluded public testimony. Three additional citizen comment cards were received from citizens not wishing to speak: two in favor and one against the item.

Ms. Dolan confirmed that Council would have to approve a municipal use permit for the other sites as well.

Councilman Littlefield asked for clarification in regard to approving a use permit when there are two additional sites to be analyzed. Councilman Silverman wondered why it had to be done tonight.

Ms. Dolan invited Kirk Johnson of the Charros to respond to Council's questions. Mr. Johnson confirmed that timing is important to the Giants; however, it is also important to consider all the sites. He noted that the additional drainage information and the willingness of the Giants to accept one and a half fields instead of two and a half fields made the alternative sites viable options warranting further review.

MOTION AND VOTE – ITEM 4

COUNCILMAN LITTLEFIELD MOVED TO DIRECT STAFF TO TAKE 90 DAYS OR LESS TO FURTHER EVALUATE ALL THREE SITES. (Vice Mayor Ecton seconded the motion, which carried 7/0.)

Councilman Silverman said he agreed that in ninety days Council needed to make a decision on a site.

Councilman O'Hearn said it appears momentum towards the Coronado site has slowed, while the momentum towards the other two sites has increased. However, if the use permit for the site was passed tonight, it would keep the timeline intact.

Vice Mayor Ecton clarified with Ms. Dolan that there was no handicap in waiting and approving use permits at a later time.

VICE MAYOR ECTON SECONDED THE MOTION.

Councilman Littlefield commented it was better to find the site first, then approve the municipal use permit.

Mayor Manross said she has spoken with the president of the Giants. The organization has confidence that the city will make a decision in ninety days and move forward diligently from there.

After further discussion, THE MOTION CARRIED 7-0.

5. City Manager's Compensation
Request: Authorize adjustments to the City Manager's compensation package.
Staff Contact(s): Neal Shearer, Human Resources General Manager, 480-312-2604, nshearer@scottsdaleaz.gov

Mayor Manross explained it has been three years since the City Manager's compensation was adjusted. Council felt it appropriate to complete the review and adjustment during this budget cycle.

Mayor Manross opened public testimony:

Dewey Schade, 7051 E Fifth Av, 85251, felt this would limit a future Council's ability to act prudently. In most cities, no notice was required for a Council to take action against a City Manager. His opinion was that this Council had the right to evaluate performance, but the new Council should decide the future.

Marion Murray, no address given, agreed with Mr. Schade and added that it was a great imbalance to give percentage raises across the board, especially when the salary was over $100,000.

Sam West, 8160 N Hayden, J-210, 85250, said he was aware of the spending policies of the City Manager. What she has done for the city has been very good. He stated that when someone does a good job, you need to take care of them.

Darlene Petersen, 7327 E Wilshire Dr, 85257, believed the City Manager has been the most effective person working in the city as she has answered every e-mail. She felt the Council should support this and not turn it over to the next Council.

Lyle Wurtz, 6510 E Palm Ln, 85257, felt our economy would be turning again because of the war and waning tourism, so it was inappropriate to give such a huge pay raise. He further felt it should be left to the new Council.

Mayor Manross closed public testimony.

Mayor Manross reiterated the reasoning, and added it was important to keep good charter officers. The next Council would still have an opportunity to make changes as well.

Councilman Silverman believed the City Manager was key to the city and the compensation was well deserved.

Vice Mayor Ecton expressed his belief that Scottsdale has a good City Manager and wants to keep her.

Councilman Littlefield said he was willing to support the pay increase, but did not support paragraph three regarding severance terms, as that should be left up to the new Council.

Councilman Ortega was concerned about some past issues and agreed that paragraph three should be removed. He also expressed concerns about paragraphs two and four as being too generous.

Councilwoman Pilcher said she also questioned paragraph number three of the adjustment package.

Councilman O'Hearn felt it very appropriate for this Council to make decisions about the City Manager. He added approval of this item would be a vote of confidence, and that she was extremely deserving.

MOTION AND VOTE – ITEM 5

COUNCILMAN O'HEARN MOVED TO AUTHORIZE ADJUSTMENTS TO THE CITY MANAGER'S COMPENSATION PACKAGE AS PROPOSED IN THE COUNCIL ACTION REPORT. COUNCILMAN SILVERMAN SECONDED THE MOTION, WHICH CARRIED 5-2, WITH COUNCILMEMBERS ORTEGA AND PILCHER DISSENTING.

Public Comment - None

City Manager's Report - None

Mayor and Council Items - Outgoing Council members O'Hearn, Ortega, Pilcher, and Silverman gave their farewells, as this was their last Council Meeting.

Adjournment

With no further business to discuss, Mayor Manross adjourned the meeting at 8:27 P.M.

SUBMITTED BY:

Sandra K. Dragman

Sandy Dragman
Recording Secretary

REVIEWED BY:

Carolyn Jagger

Carolyn Jagger
City Clerk

CERTIFICATE

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Special City Council Meeting of the City Council of Scottsdale, Arizona held on the 26th day of May 2004.

I further certify that the meeting was duly called and held, and that a quorum was present.

DATED this 2nd day of June 2004.

CAROLYN JAGGER
City Clerk