

MINUTES OF THE REGULAR MEETING OF THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, held in the Council Chambers, 88 E. Chicago Street, on Monday, December 9, 2013 at 7:00 p.m.

THE MEETING WAS CALLED TO ORDER BY MAYOR JAY TIBSHRAENY.

The following members answered roll call:

Jay Tibshraeny	Mayor
Jack Sellers	Vice-Mayor
Trinity Donovan	Councilmember
Nora Ellen	Councilmember
Kevin Hartke	Councilmember
Rick Heumann	Councilmember
Jeff Weninger	Councilmember

Also in attendance:

Rich Dlugas	City Manager
Pat McDermott	Assistant City Manager
Kay Bigelow	Acting City Attorney
Marla Paddock	City Clerk

INVOCATION: Councilmember Kevin Hartke gave the invocation.

PLEDGE OF ALLEGIANCE: Mayor Tibshraeny led the Pledge of Allegiance.

CONSENT:

MOVED BY VICE MAYOR SELLERS TO APPROVE THE CONSENT AGENDA AS PRESENTED. THE MOTION WAS SECONDED BY COUNCILMEMBER HARTKE.

MOTION CARRIED UNANIMOUSLY (7-0).

1. MINUTES:

The following City Council meeting minutes were approved:

- 1a. Regular Meeting of November 4, 2013
- 1b. Special (Exec Session) Meeting of November 7, 2013
- 1c. Special (Growth/Report) Meeting of November 7, 2013
- 1d. Regular Meeting of November 7, 2013
- 1e. Special (Group Home) Meeting of November 8, 2013

2. REZONING: The Met at Fashion Center Ord. #4500

ADOPTED Ordinance No. 4500, DVR13-0013, The Met at Fashion Center, rezoning from Planned Area Development (PAD) Mixed Use with a Mid-Rise Overlay to PAD (Multi-Family Residential) on approximately 7 acres and PAD (Mixed Use with a Mid-Rise Overlay) on approximately 5 acres.

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3. POWER TRANSMISSION EASEMENTS: Salt River Project Ord. #4501

ADOPTED Ordinance No. 4501 granting two no-cost power transmission easements to Salt River Project (SRP) to accommodate the Coronado Street Improvement Project.

4. POWER EASEMENTS: Salt River Project Ord. #4502

ADOPTED Ordinance No. 4502 authorizing the assignment to Salt River Project (SRP) of certain power easements acquired by the City of Chandler for the Alma School Road and Ray Road Intersection Project.

5. IRRIGATION EASEMENT: Salt River Project Ord. #4507

ADOPTED Ordinance No. 4507 granting a no-cost irrigation easement to Salt River Project (SRP), on Cooper Road just north of the 202 Santan Freeway.

6. REZONING: Wise Family Home Ord. #4509

ADOPTED Ordinance No. 4509, DVR13-0029 Wise Family Home, rezoning from Agricultural District (AG-1) to Planned Area Development (PAD) for construction of one single-family residence.

7. REZONING: Santa Maria Village Ord. #4510

ADOPTED Ordinance #4510, DVR13-0009 Santa Maria Village, rezoning from Planned Area Development (PAD) for residential and commercial uses to PAD for single-family residential.

8. REZONING: Queen Creek Commerce Center Ord. #4511

ADOPTED Ordinance No. 4511, DVR13-0040 Queen Creek commerce Center, rezoning from Agricultural to Planned Area Development for office/warehouse/industrial type uses.

9. CITY CODE AMENDMENT: Chapter 30 Ord. #4512

ADOPTED Ordinance No. 4512 amending Chapter 30 of the Chandler City Code, adopting new definitions in Section 30-2, modifying the provision for a public nuisance in Section 30-5, and adding provisions for emergency abatement and court-ordered abatement in Section 30-6.

10. CITY CODE AMENDMENT: Chapter 12 Ord. #4508

ADOPTED Ordinance No. 4508 amending Chapter 12 of the Chandler City Code adopting a definition for stored vehicle in Section 12-1 and prohibiting the parking of stored and other oversized vehicles in section 12-4.

PUBLIC HEARING:

- PH1. Western Broadband Cable Television License Agreement with Western Broadband, L.L.C.

MAYOR TIBSHRAENY opened the public hearing at 7:06 p.m.

MARGARET COULTER, Regulatory Affairs Manager reviewed the statutory requirements for the public hearing and reported no inquiries have been received. She continued to explain the nature of the request, stating the license would be for 15 years and cover the Sunbird Community.

MAYOR TIBSHRAENY asked if the City's cable channel would be available. Ms. Coulter said they would make arrangements to carry any programming on a dedicated channel as directed by the Communications and Public Affairs Director. Ms. Coulter noted that there was a time when the broadcast was available but it did not work well.

COUNCILMEMBER WENINGER said many of these residents don't have Internet, so their access is limited. He expressed his desire to make it work and provide the access (Channel 11) to citizens.

**BACKGROUND:**

Robson Communities operated a private cable business (Sun Lakes Cable, L.L.C.) for its active-adult communities for 20 years before Western Broadband, L.L.C. obtained it on October 27, 2004. The service area is within the boundaries of Sun Lakes (located in an unincorporated area of southeastern Maricopa County) and its adjacent community of Sun Bird (located in Chandler).

Until now, the company has operated solely in private easements within the City limits so the company was not required to obtain a Cable Television License pursuant to the requirements in Chapter 46, primarily Section 46-8, Cable Services/Television and Related Services, of the Chandler City Code. At this time, the company wishes to upgrade its fiber system to improve the quality of its cable, telephone and internet services. To do this, the company will need to cross Chandler right-of-way at Hunt Highway to the south in order to connect to a new fiber system adjacent to its system that the company intends to lease in unincorporated Maricopa County, unincorporated Pinal County, and/or the Gila River Indian Reservation. This entry into City right-of-way triggers the need for a Chandler Cable Television License.

This license would be adopted per Ordinance No. 4514 which is on the City Council agenda for December 9, 2013, and December 12, 2013.

Chandler City Code Section 46-8.4E requires a Public Hearing with reasonable notice to the public published in a newspaper once a week for two consecutive weeks. The first publication shall not be less than 14 days before the day of the hearing. Such notifications were published in The Arizona Republic on November 19, 2013, and November 26, 2013. Contact information was published as part of this notification for those interested in reviewing a copy of the proposed license or to make comments.

MAYOR TIBSHRAENY closed the public hearing at 7:10 p.m.

11. **CABLE TELEVISION LICENSE AGREEMENT:** Western Broadband, L.L.C. Ord. #4514

MOVED BY COUNCILMEMBER HEUMANN TO APPROVE THE INTRODUCTION OF ORDINANCE NO. 4514 AUTHORIZING A CABLE TELEVISION LICENSE AGREEMENT WITH WESTERN BROADBAND L.L.C. THE MOTION WAS SECONDED BY COUNCILMEMBER DONOVAN. THE MOTION CARRIED UNANIMOUSLY (7-0).

BACKGROUND:

Robson Communities operated a private cable business (Sun Lakes Cable, L.L.C.) for its active-adult communities for 20 years before Western Broadband, L.L.C. obtained it on October 27, 2004. The service area is within the boundaries of Sun Lakes (located in an unincorporated area of southeastern Maricopa County) and its adjacent community of Sun Bird (located in Chandler).

Until now, the company has operated solely in private easements within the City limits so the company was not required to obtain a Cable Television License pursuant to the requirements in Chapter 46, primarily Section 46-8, Cable Services/Television and Related Services, of the Chandler City Code. At this time, the company wishes to upgrade its fiber system to improve the quality of its cable, telephone and internet services. To do this, the company will need to cross Chandler right-of-way at Hunt Highway to the south in order to connect to a new fiber system adjacent to its system that the company intends to lease in unincorporated Maricopa County, unincorporated Pinal County, and/or the Gila River Indian Reservation. This entry into City right-of-way triggers the need for a Chandler Cable Television License.

Because the company is considered an over-builder rather than a primary cable provider for the City (Cox Communications), and because the amount of City right-of-way being accessed is so small (60 linear feet), and the company is serving only 1,600 Chandler homes, the proposed license is less restrictive than that given to Cox Communications for their cable services. The Letter of Credit will be \$5,000 instead of \$10,000; there will be fewer reporting requirements as long as customer service standards fall into an acceptable range and more flexibility will be authorized on the location of Western Broadband's customer service office as detailed in Section 5 of the License Agreement. Also, because of the technical limitations of its system, the broadcasting of Public, Educational and Government (PEG) programming will be coordinated with the Communications and Public Affairs Department pursuant to Section 4 of the Agreement.

The term of the proposed agreement is fifteen (15) years.

FINANCIAL IMPLICATIONS

In accordance with Section 46-8.8(E) of the City Code, Licensee shall pay to the City a License Fee in an amount equal to five percent (5%) of Licensee's gross revenues during the term of this license, for those revenues associated with the service area depicted in Exhibit A of the agreement. Western Broadband, L.L.C. paid a \$10,000 application fee. The application fee shall be offset by future license fees paid to the City as required by Arizona State Statutes and Chandler City code.

UNSCHEDULED PUBLIC APPEARANCES:

None.

CURRENT EVENTS:

The Mayor deferred current event announcements to the Thursday City Council meeting.

Adjournment: The meeting was adjourned at approximately 7:12 p.m.

