

Minutes of the Special Meeting of the Mayor and Council of the City of South Tucson, Arizona, held Wednesday, October 9, 2013, at 6:00 p.m. at the City of South Tucson Council Chambers, 1601 South 6th Avenue, South Tucson, Arizona.

Council Present: Paul Diaz
Miguel Rojas
Mary Soltero
Ildelfonso Green
Vanessa Mendoza
Oscar Patino
Anita Romero

Staff Present: Luis Gonzales, City Manager
Veronica Moreno, City Clerk
Joel Gastelum, Planner
William Lackey, Police Chief
Richard Vidaurri, Police Dept.
Marilyn Chico, Housing Director
Capt. Luna, Fire Dept.
Andrea de Castillo, City Attorney

Mayor Diaz called the meeting to order and led the Pledge of Allegiance.

ITEM #03 – INVOCATION – Councilman Patino led the Invocation.

ITEM #04 – ROLL CALL – All members of the Council were present.

ITEM #05 - APPROVAL OF MINUTES: SPECIAL MEETING, SEPTEMBER 25, 2013 - Motion by Councilman Rojas to approve the minutes of the Special Meeting of September 25, 2013. Seconded by Councilman Green. Correction to minutes: Item #06 states Councilman Green made a motion and seconded the motion as well. The motion was seconded by Councilman Rojas, and the correction was noted. Motion passed unanimously.

ITEM #06 – EXECUTIVE SESSION PURSUANT TO A.R.S. SECTION 38-431(A)(4) – Motion by Councilman Green to adjourn the Special Meeting and enter into Executive Session. Seconded by Councilwoman Soltero. Motion passed unanimously.

Motion by Councilman Green to adjourn the Executive Session and reconvene to Special Meeting. Seconded by Councilman Rojas. Motion passed unanimously.

ITEM #07 – RESOLUTION NO. 13-37 AUTHORIZING SETTLEMENT IN LIEU OF LITIGATION OF DELINQUENT FEES AND INTEREST OWED BY THE CITY OF SOUTH TUCSON FOR INCARCERATION OF PRISONERS AND APPROVAL OF SETTLEMENT – Motion by Councilman Rojas to accept Resolution No. 13-37. Seconded by Councilman Green. Motion passed unanimously.

ITEM #08 – RESOLUTION NO. 13-38 OF THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, PIMA COUNTY, ARIZONA, APPROVING THE SOUTH TUCSON HOUSING AUTHORITY’S NEW FAIR MARKET RENTS (FMRs) FOR THE LOW RENT FLAT RATE AND THE SECTION 8 PAYMENT STANDARDS FOR FISCAL YEAR 2014 AND DECLARING AN EMERGENCY TO EXIST – Mr. Gonzales explained this resolution sets the Fair Market rates for low rent housing. Mr. Gonzales pointed out there is one change in the wording of the resolution in the paragraph stating “Therefore Be It Resolved ... ninety-five percent (95%) ...” should be changed to “one hundred percent (100%).” Motion by Councilman Rojas to pass and adopt Resolution No. 13-38, approving the South Tucson Housing Authority’s New Fair Market Rents (FMRs) for the Low Rent Flat Rate and the Section 8 Payment Standards for fiscal year 2014 and declaring an emergency to exist. Seconded by Councilman Green. Motion passed unanimously.

ITEM #09 – DISCUSSION REGARDING ARIZONA DEPARTMENT OF RACING REQUEST – Mr. Gonzales stated this item is in regards to a letter he received from the State Racing Commission, relative to the dog track and the City’s ordinance prohibiting the use of metabolic steroids on the dogs. Mr. Gonzales informed the Council there have been a number of discussion between the City and the dog track representatives where it was noted that State law states they have total regulatory authority for all racing venues including the dog track located in South Tucson. The letter from the Arizona Department of Racing basically asks the City to revisit the ordinance, cruelty to animals, which was voted on by the residents in 2008. Mr. Gonzales stated the question now is whether or not the City has enforceability over that because of the claims that the State has in regards to their responsibility of enforcement. Mr. Gonzales made reference to an IGA between the City and the County Animal Control whereby the City gives the County authority to enforce all the ordinances that deal with all animal control. He explained that any amendments the Council may draw up includes giving the County authority to act as agents of enforcement. The

County, in the month of August, made two inspections at the dog track, and Mr. Gonzales does not know of any inspections from that point forward. Mr. Gonzales has asked the City Attorney to conduct research regarding the legality of the ordinance and how it affects the State's position.

Ms. Castillo addressed the Mayor and Council, and stated she has researched the law regarding the enforceability of the statute. She explained the City is faced with the desire of the City to enforce a law to prevent animal cruelty, but also has to look at what can be done as a City. Ms. Castillo requested of the Council the opportunity to provide a brief of the cases in point and explain that if the City were to proceed in the fashion it has in the IGA, essentially the City is looking at being challenged from a legal standpoint, and may require the City to engage in litigation. Ms. Castillo stated it is important that the voter's desires be affirmed in the context of how it relates to domestic animals. She stated it is an ambiguous ordinance that essentially allows interpretation for the City to go into the State arena, and the City could be met with a challenge that preempts the movements of the City. Ms. Castillo was available to answer questions from the Council, and stated she would provide case information in about seven days.

Mr. Gonzales stated it is important to understand that if the Council decides to change any part of the ordinance after receiving the case information from Ms. Castillo, it will be necessary to amend the IGA, which expires at the end of the fiscal year. Mr. Gonzales stated that whatever decision the Council ultimately makes, the County will have to decide to either agree to amend the IGA, or to break the contract. He asked the Council to think about what decision they ultimately want to make, and to understand what the consequences could be.

Mayor Diaz asked if there was any public comment in regards to this item.

Debra Wolf: I'm very new to Tucson and I don't have an address yet. As a long-time owner of ex-racing Greyhounds, of course I have a truly committed and personal interest in seeing that the welfare of those dogs is protected. If that is not, or no longer the role of the State Department, then I have to question what the motive is to have this measure re-introduced. I suspect it's not merely to establish legal authority over the decision. And so I would just implore you to consider and give weight to the little people who I believe have the interests of the Greyhounds at heart. And to consider what statement you want to make as a Council with regard to something that is so, I think, a very easy decision when you look at an animal and how it would like to be treated whether it's a pet or not, and whether Greyhounds are being classified as livestock (inaudible). So I know you have some difficult decisions to make, but I would just encourage you to (inaudible) just to do the right thing. Thank you very much.

Gary Vella: I am the chapter coordinator of Tucson's animal protection organization called SPEAK. We have about 174 people in our organization all over the County and we're very concerned about the Tucson Greyhound Park and Greyhound racing as an industry in general. We have continually seen less than favorable behavior from the track, first trying to skirt the whole ordinance by going outside the City limits, drugging the dogs, bringing them back in. And the City of Tucson stepped in as well as the County, which we are grateful for their attention to the matter. I was also heavily involved in the door-to-door campaign, talking to the citizens of the City of South Tucson in respect to the ballot initiative five years ago. I think it would be a travesty to see the people's voice shoved under their, not shoved, swept under the rug by, you know, some mandate from the State. I understand that there are legal questions involved but, you know, I think everything should be done to preserve the decision that the people made here in South Tucson. Again, I'll echo the welfare of the dogs is, you know, it's certainly a high priority. And they are not doing well under the supervision of the track, which frankly, would not even be here today if they hadn't received extra perks from the State back in 1991 that frankly kept them going to this point. But the industry in general, they cast off these dogs, they use them up like Bic lighters (inaudible) groups to take all the overflow that, you know, when the dogs are not viable racers any more. And it's a black spot for Arizona so we hope that you'll respect the people's choice and do what you can to help the dogs.

Tony Fasulo: I've only been in Tucson, Arizona since July and I'm the individual that has been appointed as interim general manager of the Tucson Greyhound Park. The owners knew me from years ago. I used to be a regulator in the State of Florida. I was with the racing commission. The State of Florida appointed by Governor Martinez. So I come from the regulatory side of the mountain. And then, of course, when the governor left, I had to move as well. I moved into the private side of the industry. I'm not here to say you should change this or not change this. I basically want to make a statement on behalf of Tucson Greyhound Park. I've spoken with our veterinarian just this evening, the State vet, etc. I just want all of you to know that we are in total compliance with the ordinance which was passed in 2008. Yes, there was some issues I had heard a while back before I came on board regarding television appearances indicating that trainers went to other sections where it was legally permissible to receive such a form of hormone because that's what I'm being told, that this is not a steroid. It's in the class of a steroid, but it's a hormone and the State does allow it to be administered at a very small dosage. But I can tell you emphatically right now, on behalf of Tucson Greyhound Park that we will respect and are presently respecting the compliance as it exists. Yes, has it caused some hardship to the extent that we've had to reduce our number of racing days because trainers, breeders, and owners when they have the litters, in many instances, the females outnumber the males in litters and so they're not sending Greyhounds to Tucson. If we had more Greyhounds, we'd be able to have more nights of racing. We

employ about 114 people. A lot of City of South Tucson residents. Okay? We're in total compliance with the State. The Pima Animal Care group came out twice as the City Manager indicated. And in both instances we passed with flying colors. We have reports to that effect. They examined every kennel, met with every kennel operator, examined everything about the kennel, which should be examined, in relationship to the IGA. And they found no wrongdoing in any way whatsoever. Okay? I can appreciate the director Bill Walsh's concern because the Phoenix Greyhound Park was running today. He would have to have two sets of rules to regulate the industry if it would be permissible in Maricopa County to have this administration of this hormone in a very small dosage and not permissible in the City of South Tucson. Well, then he has his investigators, his regulators following two sets of rules and that can't be. So that's his real concern. And suppose it winds up going into the horse industry. Now you have Rillito Park and possibly (inaudible) Paradise involved so I only come before you to indicate before you, with all due respect, that we are in total compliance. We have not had one positive test come back. As you may or may not know, we send drug samples to a lab in Colorado because the Greyhounds are tested, you know, before each race. And I spoke with Andy Carlton, our State veterinarian, just minutes before I came into this meeting. And he indicated to me that we have not had one positive result. So we are in total compliance. Have they found some Greyhounds in heat? Yes. Did they segregate them? Yes. So the veterinarians, Gretchen Green, who is a track veterinarian and Andy Carlton, who is the State veterinarian, both indicated to me just minutes before this meeting started that if they suspect the Greyhounds of being in heat, in compliance with the ordinance, that they are scratching that Greyhound and segregating it. Okay? So just wanted to present myself with all due respect. Whatever you decide, will be respected. But I just wanted to make a statement on behalf of the Director, Bill Walsh, who wrote the letter, his concern about having one uniform format of regulation. Thank you so much.

Karen Zolden: My name is Karen Zolden and I've been a Greyhound adopter since 1998. In 2005-2006, more than 150 Greyhounds disappeared from the Tucson track, never to be found. Mr. Fasulo was here at that time. And I know the track keeps saying over and over again that nothing, these, their performance isn't affected and the dogs do not become ill because of steroids. But the people at the track, once these dogs are adopted, they go into people's homes and they have no clue what happens to these dogs. They suffer deformities. They suffer urinary tract infections. They have cardiac arrest. All kinds of things happen to them. One dog didn't even get to go into an adoptive home several years ago when the vet, the local vet was not paid by the track, was paid by the adoption group, opened her up to spay her. All her organs were twisted. So people at the track don't deal with what happens to the dogs afterwards. They don't know. They only know the before and the during. They don't know what else happens to the dogs during the rest of their lives. And that's all I can say. Thank you.

Carolyn Olson: My name is Carolyn Olson. I just want to say that I've been involved with Greyhound adoption for, since 1989. There were days that we were hauling Greyhounds from the track, as many as 50 a month, to homes in California, several places. I've seen it all at its worst. It's actually worn our entire group out because we've worked at it for so long and so hard. The other groups have come into being and helped for these last 10, 12 years. It's been a big help. But I've been fortunate that I've had dogs that have been healthy. But I knew the trainers I got them, the owners, and I'm talking, you know, 25 years ago. But seeing what's going on, has been going on, and all of the hard work that went into passing this bill, the door-to-door knocking and getting the people to vote, I think we have to really honor what they've done. I think it's time that we be rid of Tucson Greyhound Park. It's deplorable what's going on there. Thank you.

Mayor Diaz: At this time I'll entertain a motion that the City Attorney and the City Manager continue to work with the State ...

Mr. Gonzales: The agenda item does not have an action item on it. So it would not be proper to make a motion per se. But you can give instructions to your Manager, your Attorney.

Mayor Diaz: So scratch the motion. And then go to, at this time I'd like to instruct the City Attorney and City Manager to continue to work with the State and County to resolve the issue of enforcement to ensure there's no duplication and/or conflicts on the enforcements section.

Mr. Gonzales: Mr. Mayor, I believe your instructions are fine. However, if you want staff to resolve it as your instructions appear to say, I believe that the best thing that we can do, the way we would want to handle it is to do all of the research and come back with recommendations for the City Council to review and consider any actions that we might recommend to you. Does that sound maybe a little bit better?

Mayor Diaz: Thank you.

ITEM #10 – REPORTS

DEPARTMENTAL REPORT:

PLANNING & ZONING – Mr. Gastelum stated that with respect to development, property at 2750 South 4th Avenue is going to be combined with Old Vail Road. There will be one secure campus. The developer will provide landscaping

modifications and improvements. The Greenway project has begun, which is a 6-mile long portion from downtown Tucson through South Tucson and into the County, and Mr. Gateau informed the Council there may be employment opportunities. Demolition, building codes and ordinances, safety issues, etc. were discussed, and Mr. Gastelum provided a detailed report which was included in the Council agenda packet. Mr. Gastelum was available to answer questions from the Council.

CITY MANAGER REPORT:

Mr. Gonzales provided the Council with a copy of 1st quarter expenditures of the general budget. He informed the Council that staff will have to go back and review because in a couple of departments, the salary expenditures appear to be higher than what was projected for this time of year. Mr. Gonzales stated that overall, the budget looks good and stable. Mr. Gonzales stated he sent a memo to each council member regarding the implementation of the increases in the cost of living (2%), and the merit increases (3%), for a total of 5%. The increases are retroactive to July 1. Mr. Gonzales reviewed the process of merit increases and anniversary dates. Mr. Gonzales answered questions regarding step increase versus merit increase. He stated staff will be changing the step increases to correspond with the 2% increase, and those should be completed in 2 weeks to 1 month. Mr. Gonzales stated he will take another good look at the budget to determine whether or not the City is now in a place where it can unfreeze. He hopes to make a determination within 60 days.

DISCUSSION REGARDING DONATION TO NON-PROFIT ORGANIZATIONS (REQUEST OF THE MAYOR):

Mr. Gonzales stated there are a number of non-profit organizations residing in the City, which request assistance from the City with functions and/or events. Mayor Diaz asked Mr. Gonzales to determine if there is a way to create a line item for non-profits or other organizations within the City that could be awarded monies for assistance. Mr. Gonzales explained that in the budget there is not a specific item for non-profits. But there is a line item, with a small amount, under the Manager's budget that allows for funding of community events. The only item that has been used from that line item was for the community cleaning two weeks ago. Mr. Gonzales explained that at this point, it is up to the discretion of the Manager whether or not the City is able to fund some events or not. Mr. Gonzales stated he finds it surprising that there are no policies to govern that line item, and he will create a policy so all requests are treated in the same manner.

ITEM #11 – CALL TO THE AUDIENCE – No response from the audience.

ITEM #12 – ADJOURNMENT - Motion by Councilman Rojas to adjourn the Special Meeting. Seconded by Councilman Green. Motion passed. The meeting adjourned at 7:09 p.m.

Paul Diaz, Mayor

ATTEST:

Veronica Moreno, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Special Meeting of the City Council of South Tucson, Arizona, held on the 9th day of October, 2013. I further certify the meeting was duly called and a quorum was present.

Dated this _____ day of _____, 2013.

Veronica Moreno, City Clerk