

**MINUTES OF THE GILBERT TOWN COUNCIL IN REGULAR MEETING OF
DECEMBER 1, 2016 AT 6:30 PM, MUNICIPAL CENTER, COUNCIL CHAMBERS, 50
EAST CIVIC CENTER DRIVE, GILBERT, ARIZONA**

COUNCIL PRESENT: Mayor Jenn Daniels, Vice Mayor Jared Taylor, Councilmembers James Candland, Eddie Cook, Victor Petersen, Brigette Peterson and Jordan Ray

COUNCIL ABSENT: none

STAFF PRESENT: Manager Patrick Banger, Assistant Manager Marc Skocypec, Deputy Clerk Kris Kingsmore, Attorney Michael Hamblin, Senior Planner Nathan Williams, Assistant Town Attorney Jack Vincent

AGENDA ITEM

CALL TO ORDER

Mayor Jenn Daniels called the meeting to order at 6:33 p.m.

PRESENTATIONS; PROCLAMATIONS

1. Presentation on the 12k's of Christmas Spirit of Giving Award.

Mayor Jenn Daniels introduced Darryl Toupin who gave an overview of the 12k's of Christmas run and pet adoption event. She then presented the 12k's of Christmas Spirit of Giving Award to Gail Majors for her fostering of animals and advocating of pet adoption.

2. Presentation to Rob Bishop, Renaissance Community Partners, in recognition for his management of the Neighborhood of the Year.

Mayor Jenn Daniels presented a plaque of honor to Rob Bishop of Renaissance Community Partners and Devon Homeowners Association in recognition of their management of the Gilbert Neighborhood of the Year.

INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Jenn Daniels introduced Nate James, a high school student in attendance, who led the Pledge of Allegiance. Minister Velvet Jones of Evident Life Church gave the invocation.

ROLL CALL

Deputy Clerk Kris Kingsmore called roll and declared a quorum present.

COMMUNICATIONS FROM CITIZENS

Pat Hickman, Gilbert resident, petitioned Council to increase the Town's efforts against mosquitos around his Trilogy neighborhood of Power Ranch. He stated the mosquito infestation began two years ago when the Sonoqui Wash was diverted to allow for the Ocotillo Road extension between Power and Recker Roads. Mr. Hickman submitted photos of standing water and a petition signed by 192 Trilogy residents. He stated he had been informed by Town Maintenance and Operations Supervisor Patty Jordan of the impending construction of a low-flow channel at Sonoqui Wash, which has been delayed pending a permit from the Army Corp. He requested more grading and mowing to remove standing water until the permit is granted. Mayor Jenn Daniels requested a special agenda item be added to address this concern.

Claudia Obermeier, Gilbert resident, expressed her concern regarding alley cats in her neighborhood. She presented photos to Council and stated the issue was caused by one resident feeding strays. She believes the stray cats have created safety concerns, health issues, and are destroying property. Mayor Jenn Daniels directed staff to contact Mrs. Obermeier.

CONSENT CALENDAR

A MOTION was made by Vice Mayor Jared Taylor, seconded by Councilmember Eddie Cook, to approve Consent Items 3, 4, 5, 8, 9, 10, and 11; remove Item 7 from the Consent Calendar; remove Consent Item 6 from the agenda; and add Items 16 and 17 to the Consent Calendar appointing Nabeel Ebrahim and Paula Hatch to the Town of Gilbert, Arizona Public Facilities Municipal Property Corporation as regular members with terms ending January 1, 2020 and appointing Marci Norton to the Fire and Police Public Safety Retirement System Local Pension Board as a regular member with a term ending November 30, 2020. *Motion carried 7-0.*

3. ANNEXATION A16-03 – consider adoption of an Ordinance annexing approximately 5.87 acres of right-of-way on Williams Field Road between Power Road and Somerton Boulevard contingent upon approval by the Maricopa County Board of Supervisors.

This item was approved with the Consent Calendar vote. *Ordinance No. 2599 was adopted.*

4. AGREEMENT – consider:

- a) adoption of a resolution approving amendment No. 6 to the Central Arizona Project Water Lease Agreement No. 2011-4108-0063 with the San Carlos Apache Tribe in an amount not to exceed \$5,398,744 for the lease as well as payment to Central Arizona Water Conservation District for the delivery and storage costs and extending the contract one additional year and authorize the Mayor to execute the required documents; and

- b) authorization of a Capital Improvement Plan (CIP) contingency transfer in the amount of \$890,000.

This item was approved with the Consent Calendar vote. *Resolution No. 3884 was adopted.*

5. AGREEMENT – consider approval of amendment No. 5 to the Central Arizona Project Water Lease Agreement No. 2011-4108-0105 with the Fort McDowell Yavapai Nation in an amount not to exceed \$2,452,208 for the lease as well as payment to the Central Arizona Water Conservation District for delivery and storage costs and extending the contract one additional year and authorize the Mayor to execute the required documents.

This item was approved with the Consent Calendar vote.

6. DEVELOPMENT AGREEMENT – consider approval and authorize the Mayor to execute the required documents for:

a) a Resolution approving a Development Agreement with Silent-Aire USA, Incorporated and Trammell Crow Development improvements to Mustang Road;

b) a Contingency Transfer from the Economic Development Reserve in the amount of \$440,000; and

c) a Contingency Transfer from the Capital Improvement Plan (CIP) Project Nos. ST095 and ST174 in the amount of \$820,000.

This item was removed from the agenda.

7. GRANT – consider application and acceptance of an Assistance to Firefighters Grant, Contract No. 2017-3002-0496, from the Federal Emergency Management Agency in the amount of \$43,765.22 for incident command training and authorize the Mayor to execute the required documents.

Councilmember Victor Petersen noted that although he supported the training and how the funds would be used, he did not agree with the funding source.

A MOTION was made by Councilmember Eddie Cook, seconded by Councilmember Brigitte Peterson, to approve Item 7. *Motion passed 5-2 with Vice Mayor Jared Taylor and Councilmember Victor Petersen casting dissenting votes.*

8. ABANDONMENT - consider adoption of a Resolution of abandonment of an Ingress and Egress Easement and a Public Utility Easement located along the 162nd Street alignment, north of Pecos Road.

This item was approved with the Consent Calendar vote. *Resolution No. 3885 was adopted.*

9. PERMANENT EXTENSION OF PREMISES – consider approval of a permanent extension of premises for AZ Ice Gilbert located at 2305 East Knox Road.

This item was approved with the Consent Calendar vote.

10. PERMANENT EXTENSION OF PREMISES – consider approval of a permanent extension of premises for Grubstak located at 384 North Gilbert Road, Suite 106.

This item was approved with the Consent Calendar vote.

11. Minutes - approval of the minutes of the Special Meeting of November 1, 2016; Special Meetings of November 17, 2016; and Regular Meeting of November 10, 2016.

This item was approved with the Consent Calendar vote.

PUBLIC HEARING

Mayor Jenn Daniels opened the public hearing for Items 12 and 13. No one wished to speak and Mayor Jenn Daniels closed the public hearing.

A MOTION was made by Councilmember Eddie Cook, seconded by Councilmember Victor Petersen, to approve public hearing Items 12 and 13. *Motion carried 7-0.*

12. LIQUOR LICENSE – conduct hearing and consider approval of a Series 12 Restaurant Liquor License for Venezias Pizzeria located at 744 West Ray Road, Suite 101.

This item was approved with the Public Hearing Vote.

13. LIQUOR LICENSE – conduct hearing and consider approval of a Series 12 Restaurant Liquor License for Even Stevens Sandwiches located at 384 North Gilbert Road, Suite 104.

This item was approved with the Public Hearing Vote.

14. LIQUOR LICENSE – conduct hearing and consider approval of sampling privileges for an existing Series 9 Liquor Store Liquor License for Winco located at 1363 North Arizona Avenue.

Mayor Jenn Daniels opened the public hearing for Items 14. No one wished to speak and Mayor Jenn Daniels closed the public hearing.

A MOTION was made by Councilmember Eddie Cook, seconded by Councilmember Jordan Ray, to approve public hearing Items 14. *Motion passed 5-2 with Vice Mayor Jared Taylor and Councilmember James Candland casting dissenting votes.*

15. ANNEXATION A16-02 – conduct hearing on the proposed annexation of approximately 41.6 acres located at American Leadership Academy at the northwest corner of Higley Road and the Santan 202 Freeway.

15A. DEVELOPMENT AGREEMENT – consider adoption of Resolution approving a Pre-annexation Development Agreement with Schoolhouse Higley, LLC for development of

property located at the northwest corner of Higley Road and the SanTan Loop 202 Freeway and authorize the Mayor to execute the required documents.

Mayor Jenn Daniels opened the public hearing for items 15 and 15A.

Senior Planner Nathan Williams summarized Item 15, Annexation A16-02, and Item 15A, the adoption of a resolution for a Pre-Annexation Development Agreement (PADA) for the construction of an American Leadership Academy (ALA) Charter School. He also discussed the future item of rezoning case Z16-16, which would rezone 42.7 acres from County Rural 43 to a Business Park (BP) designation. He said a public hearing would be held on December 7, 2016 for the rezoning before the Planning Commission before proceeding to the Council, with the proposed annexation proceeding to Council for a possible adoption at the January 26, 2016 Council meeting.

At the request of Mayor Jenn Daniels, Senior Planner Nathan Williams explained the difference between the Annexation and the Pre-Annexation Development Agreement. Mayor Jenn Daniels noted Council would not be voting on Item 15 at this meeting.

Assistant Town Attorney Jack Vincent explained the annexation process from receipt of the initial application through the collection of petition signatures. He indicated once the signatures are collected, the application goes back to Council for another public hearing, expected January 26, 2016. At that time, Council will consider the merits of the annexation for approval or denial. If Council approves the annexation, there would be a thirty day waiting period when the petition is filed and recorded.

Councilmember Victor Petersen clarified that the pre-annexation agreement has no binding on the annexation ordinance itself, indicating the approval of the pre-annexation agreement would not commit Council to approve the annexation later. Assistant Town Attorney Jack Vincent concurred, also noting a parallel rezoning case would be addressed by the Planning Commission on December 7, 2016.

Councilmember Eddie Cook verified that the property in question is currently zoned with a Rural 43 designation and asked if a school could be built in both a Rural 43 and a Business Park (BP) zone. Assistant Town Attorney Jack Vincent stated both public schools and charter schools can be located in virtually any zoning district. He also explained that a school can legally be built even without the annexation.

Rachell Pintor, Gilbert resident, did not wish to speak, but submitted a written acknowledgment against Public Hearing Item 15.

Dr. Mike Thomason, Queen Creek resident and Superintendent of the Higley Unified School District (HUSD), requested Council consider bringing the area's public and charter schools together to discuss "the fiscally responsible growth of the schools within our boundaries". He voiced concerns on how poor planning and management can lead to more abandoned schools.

He asked Council to review the Arizona Department of Education's School Facilities Board Capacity Report and the growth studies report commissioned by HUSD.

Councilmember Eddie Cook asked for Dr. Thomason to provide the referenced growth study information to Council and it was entered into the record.

Dr. Christina Kishimoto, Gilbert resident and Superintendent of Gilbert Public Schools (GPS), declared there is a lack of clearly defined policy structure and guidelines for charter schools. She noted the achievements of both GPS and HUSD including that both are A-Level districts with a 90% graduation rate, have a history of academic excellence, and are the largest employers in the community. She indicated data over the past two years shows the school-age population is increasing while enrollment with GPS is decreasing, declaring it has contributed to a cumulative loss of \$70 million in state capital funding. While maintaining that GPS and HUSD support Gilbert's economic development and are part of Gilbert's vibrancy, she asked Council to consider the negative impact of another charter school in the district.

Dr. Michael Fowler, Gilbert resident and Director of Facilities and Operations of the Higley Unified School District (HUSD), asked Council to consider the impact the proposed charter school would have on the community. He said HUSD was discouraged by the Town from building on that particular parcel due to its Business Park designation in the Master Plan. He expressed disappointment that a charter school is now being considered for that land without giving HUSD first consideration.

Joe Geusic, Gilbert resident, voiced a safety concern of a school being built by a major interchange of a highway. He suggested if a facility is built there, it should be built in stages.

Venessa Whitener, a "soon to be" Gilbert resident, advocated for Council to "request, engage, expect, and implement healthy communication regarding Town growth". She also asserted the Master Plan should be respected and there should be more communication with the community regarding the building of schools.

Joy Robbins, Gilbert resident, expressed worry that the proposed charter school would create safety and traffic concerns. She also indicated she appreciated competition of schools but not saturation, noting the many schools currently located in that area.

Phil Alibrandi, Gilbert resident, stated taxpayers have a vested interest in the location and size of public infrastructure and these decisions require demographic research. He stated both public and charter schools use state tax money and indicated building a school near the highway would reduce tax base and impact revenue to the Town in perpetuity. He asked Council to delay the annexation until the full financial impact is further researched.

Brooke Garrett, Gilbert resident, stated Council had not been wise in examining the Master Plan of the community and its long term effects. She stated that she started a petition, sent it to Council, and would like them to consider its comments from the citizens. She fears another school in the area would negatively impact the tax base, cause school planning disruption, and

set in motion other requests to change zoning along the SanTan Loop 202 Corridor. She requested Council pause and lead a discussion about the educational environment of Gilbert.

Caroline Lamoreaux, Gilbert resident, urged Council to consider traffic for both drivers and pedestrians. She questioned if there had been conversations between the Town and ALA before the land was purchased. She noted the saturation of schools in Gilbert and believed prime real estate would benefit more from “employment creating, tax generating buildings”.

Erik Huso, Gilbert resident, read a letter from his cousin Jason Barney. Mr. Barney wrote in favor of the annexation and asked that Council’s role be to “regulate compatibility, legality and safety of zoning use.” He asked Council to consider the annexation solely based on its land use compatibility, legality, and safety merits. Mr. Huso noted he is in support of public schools, charter schools, and educational competitiveness.

Councilmember Jordan Ray expressed gratitude for the public comment, stating the best option would be to move forward with the PADA. He detailed it would allow the Town the opportunity to obtain concessions from ALA, rather than being built only with Maricopa County regulations and guidelines. He indicated approval of the PADA would help to ensure the ALA’s development would be done well, otherwise the Town would lose the ability to have a say in the matter.

Councilmember Jordan Ray left the meeting at 8:07 p.m.

Liz Stowell, Gilbert resident, spoke in support of the new ALA Charter School. She expressed the need for non-traditional schools and how they meet a need and increase student morale.

Ralph Pew, Attorney for American Leadership Academy (ALA), spoke on behalf of Schoolhouse Development, LLC. He declared that the issue of enabling municipalities to zone and deal with regulation of land comes from the state legislature. He expressed ALA’s desire to partner with Gilbert and voluntarily yield their parcel to the Town for their regulatory issues. He acknowledged that the PADA would give the Town the ability to bind ALA to the site plan and offer other safeties and governing regulations, including paying for road improvements if deemed necessary. He indicated the charter school would be zoned as Business Park, not destroying the Town’s general plan nor changing the patterns, “just using the land for a school within state legislature requirements”.

Mayor Jenn Daniels asked if the Town could deny water and sewer service if ALA Charter School was built with Maricopa County specifications, versus with Town approval. Ralph Pew responded that state statute mandates a municipality cannot withhold sewer from properties that are within territory of a “county island”, not a specific parcel, and noted this land would be considered a “county island”. When asked his opinion, Town Attorney Mike Hamblin stated he believes that the Town would have to connect the property with water but not sewer.

There was discussion regarding the timing of this project and its effect on roadways that have only recently completed construction. There was also discussion regarding the difference in tax revenue to have a school placed in a Business Park versus having an actual business there. Mayor Jenn Daniels explained that the same message was given to both the Higley Unified School District (HUSD) and the American Leadership Academy (ALA) discouraging schools from being built on that particular land because it was intended for businesses. She stated that HUSD respected the Town's recommendation and changed its course. She asked Ralph Pew to explain why ALA decided to proceed on the project. Mr. Pew stated it is one of the only areas of land large enough to accommodate the school with willing sellers.

Councilmember Brigitte Peterson stated schools require different regulations than Business Park or residential areas. She felt if the Town did not approve the PADA, it would lose its ability to ensure things were done properly.

Councilmember James Candland thanked educators and reiterated that Council is bound by the laws that the state provides to them.

Councilmember Victor Petersen stated that although his preference would be to develop this land differently, he feels the best way to protect the Town's safety, aesthetics, and impact to neighbors is by accepting the agreement.

Vice Mayor Jared Taylor spoke of challenges and traffic issues that occurred when other schools were denied annexation in the past. He stated that the PADA process should allow for communication and public questioning, while allowing the applicant to go through a fair process.

Councilmember Eddie Cook told Council he would be offering an alternative motion knowing it may not be supported.

Mayor Jenn Daniels closed the public hearing on Item 15.

Mayor Jenn Daniels closed the public hearing on Item 15A.

A MOTION was made by Councilmember Victor Peterson, seconded by Councilmember James Candland, to approve Item 15A. *Before a vote could be taken an alternative motion was offered.*

A MOTION was made by Councilmember Eddie Cook, to remove the language under Recital C, to remove Recital Agreement No. 2, remove Recital 5.2 and 5.6, remove any references to Exhibits B, C, and D; remove language found in 7.2 striking out "including the guidelines found in exhibit D, preserving everything to allow any commercial property to be part of a Business Park, in favor of annexing with more generic language."

Mayor Jenn Daniels requested clarification that the pre-annexation application under Item 15 is specific to use. Town Attorney Mike Hamblin confirmed, but stated that the vote was only in regards to the PADA and that Councilmember Cook's motion is not contrary to law and should proceed. *Motion failed for lack of a second.*

Mayor Jenn Daniels thanked the public for their active participation and encouraged the audience to contact the state legislature regarding issues and to continue dialogue regarding legislative control.

A MOTION was made by Councilmember Victor Petersen, seconded by Councilmember James Candland, to approve Item 15A and to adopt Resolution No. 3886, approving a Pre-Annexation Development Agreement with Schoolhouse Higley, LLC for development of property located at the northwest corner of Higley Road and the SanTan Loop 202 Freeway and authorize the Mayor to execute the required documents. *Motion carried 5-1, with Councilmember Eddie Cook casting the dissenting vote and Councilmember Jordan Ray absent. Resolution No. 3886 was adopted.*

Town Attorney Mike Hamblin reminded Council that the passing of the PADA does not mean the property has been annexed.

ADMINISTRATIVE ITEMS

16. BOARDS AND COMMISSIONS – consider appointment of two regular members to the Town of Gilbert, Arizona Public Facilities Municipal Property Corporation with a term beginning December 31, 2016 and ending January 1, 2020.

This item was approved with the Consent Calendar vote. Nabeel Ebrahim and Paula Hatch were appointed to the Arizona Public Facilities Municipal Property Corporation as regular members with terms beginning December 31, 2016 and ending January 1, 2020.

17. BOARDS AND COMMISSIONS – consider appointment of one regular member to the Fire and Police Public Safety Retirement System Local Pension Boards with a term beginning December 1, 2016 and ending November 30, 2020.

This item was approved with the Consent Calendar vote. Marci Norton was appointed to the Fire and Police Public Safety Retirement System Local Pension Board as a regular member with terms beginning December 1, 2016 and ending November 30, 2020.

18. BOARDS, COMMISSIONS, AND COMMITTEES - reports from Council Liaisons for the:

- a) Subcommittee on Board and Commission Application Screening, Interview, and Selection
- b) Other Council Subcommittees
- c) Regional Meetings
- d) Arts and Culture Board
- e) Environmental and Energy Conservation Advisory Board
- f) Human Relations Commission
- g) Industrial Development Authority
- h) Mayor's Youth Advisory Committee
- i) Parks, Recreation and Library Services Advisory Board
- j) Planning Commission

- k) Redevelopment Commission
- l) Town of Gilbert, AZ Public Facilities MPC
- m) Town of Gilbert, AZ Water Resources MPC
- n) Town of Gilbert, AZ Self-Insured Trust Fund for Health Benefits
- o) Utility Board

POLICY ITEMS

None.

FUTURE MEETINGS

None.

COMMUNICATIONS

Report from the TOWN MANAGER on current events.

At the request of Vice Mayor Jared Taylor, Town Manager Patrick Banger gave an update on the water main breaks in Downtown Gilbert.

Report from the COUNCIL on current events.

Vice Mayor Jared Taylor thanked staff for their prompt response of handling of the water main break during the Gilbert Days Parade.

Report from the MAYOR on current events.

Mayor Jenn Daniels expressed gratitude to the Parks and Recreation Department regarding the Gilbert Days Parade and the other events during this busy time of year.

ADJOURN

Mayor Jenn Daniels adjourned the meeting at 8:50 p.m.

ATTEST:

Jenn Daniels, Mayor

Kris Kingsmore, Deputy Town Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the special meeting of the Town Council of the Town of Gilbert held on the 1st day of December 2016. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____.

Kris Kingsmore, Deputy Town Clerk

DRAFT