Sierra Vista City Council
Work Session Agenda
October 12, 2021

1. Call to order - 3:00 p.m. in the Council Chambers, City Hall, 1011 N. Coronado
   Drive, Sierra Vista, Arizona.

2. Presentation and Discussion:
   A. October 14, 2021 Council Meeting Agenda Items (agenda attached)
   B. Presentation/Discussion on the Industrial Development Authority
   C. Report on Recent Trips, Meetings and Future Meetings
   D. Future Discussion Items and Council Requests

3. Adjourn

City Council work sessions are informal meetings of the elected body designed to allow the Mayor and
Council Members to prepare for upcoming regular meetings, have staff briefings on issues, and provide an
opportunity for more detailed discussions amongst themselves. The meetings are limited by City Ordinance to
90 minutes; but with Council consensus may be extended by an additional hour. The meetings are set in
accordance with the State Open Meeting Law and no discussion can take place on issues/topics that have not
been posted on the agenda at least 24 hours in advance. The public is welcome to observe the meetings in
person or on Cox Channel 12, but time is not reserved on work session agendas for public comment. The
public may, however, address the City Council at their regular twice monthly meetings or share written views
through the City website, www.SierraVistaAZ.gov. For special needs and accommodations, please contact Jill
Adams, City Clerk, 72 hours prior to the meeting or activity at (520) 458-3316 or through the Arizona Relay
Service at 1-800-367-8939, or by dialing 7-1-1.
Sierra Vista City Council  
Meeting Agenda  
October 14, 2021

Call to Order

5:00 p.m., City Hall Council Chambers, 1011 N. Coronado Drive, Sierra Vista, Arizona

Roll Call

Invocation – Father Del McCune, St. John the Divine Church

Pledge of Allegiance

Item 1 Acceptance of the Agenda

Awards and Presentations

Recognition of the Marketing & Communications Department’s Silver Circle Award from 3CMA for the Save the Santa’s Campaign

Proclamation declaring October as National Domestic Violence Awareness Month

City Manager’s Report: Upcoming Meetings, Bid Openings and Bid Awards

Item 2 Consent Agenda

Item 2.1 Discussion and Possible Action of the Regular City Council Meeting Minutes of September 23, 2021

Item 2.2 Resolution 2021-065, Discussion and Possible Action on the Acceptance of Public Improvements for Summit Heights Phase 2, Lots 97-187, Release of Third-Party Trust and Subdivider’s Agreement

Item 2.3 Resolution 2021-066, Discussion and Possible Action on the Acceptance of Public Improvements for Canada Vista, Phase 1, Lots 1-29, Release of Third-party Trust and Subdivider’s Agreement

Item 2.4 Resolution 2021-067, Discussion and Possible Action on the Reappointment of Wesley Hewitt and Berlynda Schaaf to the Parks and Recreation Commission, said terms to expire December 31, 2023

New Business

Item 3 Resolution 2021-068, Discussion and Possible Action on Approval of the proceedings of the Industrial Development Authority of the City of Sierra Vista regarding the issuance of its Economic Development Revenue Bonds, and declaring an emergency

For special needs and accommodations, please contact Jill Adams, City Clerk, 72 hours prior to the meeting or activity at (520) 458-3315 or through the Arizona Relay Service at 1-800-367-8939, or by simply dialing 7-1-1.
**Item 4** Resolution 2021-069, Discussion and Possible Action to Authorize the Acceptance of the Arizona Governor’s Office of Highway Safety Grant Funding, Contract #2022-AL-034

**Item 5** Resolution 2021-070, Discussion and Possible Action to Designate the City Attorney as the individual authorized to sign formal and binding documents related to the Arizona Opioid Settlement

Call to the Public

Comments and Requests of Council

Adjournment
1. Call to Order

Mayor Mueller called the October 12, 2021, City Council Work Session to order at 3:00 p.m., Council Chambers, City Hall, 1011 N. Coronado Drive, Sierra Vista, Arizona.

Mayor Rick Mueller – present
Mayor Pro Tem Rachel Gray – absent
Council Member William Benning – absent
Council Member Gregory Johnson – present
Council Member Angelica Landry – present
Council Member Mark Rodriguez - present
Council Member Carolyn Umphrey - present

Mayor Mueller announced that Mayor Pro Tem Gray is at the Transportation Conference, and although, Council Member Benning is absent, he will be viewing the work session video.

Others Present:
Chuck Potucek, City Manager
Victoria Yarbrough, Assistant City Manager
Nathan J. Williams, City Attorney
Jon Kosmider, Deputy Police Chief
Don Foster, Fire Marshal
Jeff Pregler, Planner
Tony Boone, Economic Development Manager
Jill Adams, City Clerk
Michael Slania, IDA Attorney
Frank Moro

2. Presentation and Discussion:

a. October 14, 2021 Council Meeting Agenda Items (agenda attached)

Mayor Mueller stated that the Council Meeting for Thursday, October 12, 2021, starts at 5:00 p.m. with the call to order, roll call, invocation, pledge, and acceptance of the agenda. He asked Council if there is anything to be added/deleted on the agenda. There was no response.

Mayor Mueller stated that there will be some awards and presentations. Ms. Hector’s Department is going to receive an award and the proclamation presented to the Police Chief is on domestic violence.

In response to Mayor Mueller, Mr. Potucek stated that he will be attending a SEACOM JPA Board Meeting on Thursday, October 14, 2021 during the morning; therefore, he will report on it. He added that Mount Dooley will finally be taken down due to Mr. Boone and the Public Works crew. The bid was to be awarded to CNG for $852,000, which was far less than what had been budgeted, which will certainly help in preparing the airport for any future development that might
occur. He further reported that the EMS substation is underway as well, and the soil from Mount Dooley is being given to the Post as they have graciously agreed to accept it, which will also help hold down the cost.

Council Member Umphrey voiced her appreciation at having the list of projects in writing and in their packets.

Item 2.1 Discussion and Possible Action of the Regular City Council Meeting Minutes of September 23, 2021 – There was no discussion.

Item 2.2 Resolution 2021-065, Discussion and Possible Action on the Acceptance of Public Improvements for Summit Heights Phase 2, Lots 97-187, Release of Third-Party Trust and Subdivider's Agreement

Council Member Rodriguez asked if there was any discussion about height limitation before it was built. Mr. Pregler stated that there was not a particular limit on height for some of the buildings. He explained that twenty-eight feet is the maximum height that any residential home can be constructed.

Council Member Rodriguez stated that he asked the question for future reference in moving forward. He added that it is too late now, but there are some neighbors on Savannah that are concerned in that their view is now gone of the mountains. These people were not expecting a two-story house to be built right outside their house, looking into their backyard. They have that to the west of their house. He added that this is something to keep in mind and noted that he has received a lot of comments about this, and he does not know what feedback they were provided on how the process works. He asked if there were comments before they were built. Mayor Mueller stated that this is an issue that comes up consistently across the City, and the only thing that the homeowner can do to preserve his view is to buy the property that is between him and his view. This is the only reasonable way to do this. The fact that the City does not allow anything over 28 feet is probably shorter than most communities. There is always a risk if they bought the house for the view and they do not own the land that is going to protect it, which is on them in making that error. He added that he does not how the City is going to develop and grow, unless the City starts with the houses with the great views first and then move back, but that is not the way to develop. Lastly, he shared that his family had a house where they had great views, even with the 28 feet, they were ok, but large pine trees were brought in that were put on the edge of the property that basically cut off the view.

Item 2.3 Resolution 2021-066, Discussion and Possible Action on the Acceptance of Public Improvements for Canada Vista, Phase 1, Lots 1-29, Release of Third-party Trust and Subdivider's Agreement

Mayor Mueller stated that he has a technical question. He added that he knows that there is a drainage basin that is in this area. City standards noted that basins are supposed to be able to be drained within 36 hours to prevent pupa from maturing for mosquitoes because the mosquitoes can carry diseases that affect pregnant women and others. However, during the recent great rains this year, that basin did not drain. He asked how does the City make sure that they are meeting that 36-hour drainage standards so that the water is not stagnant for 36 hours. Mr. Pregler stated that this is one of the public improvements that is expected by the Public Works Department. This is one of the things they review to ensure that it is going to drain appropriately. He added that he has received word from the Public Works Department that everything is ready to be accepted; therefore, he assumes that Public Works has inspected the
Mayor Mueller stated that he will talk to the Public Works Director. He understands that if it rains today and it rains tomorrow, the clock starts over again because this deals with the stagnant surface of the pond. Mr. Potucek stated that this is a difficult issue because the City requires retention of the onsite runoff that occurs because of development, and there are unfortunately examples of some of these basins around town that, especially during this last monsoon where the water seems to be sitting for a long time, which is a function of the soils underneath where the basin is constructed. The only way to do that is to have appropriate soil testing and pilot the sites before they are constructed.

Mayor Mueller stated that it is his understanding that when the City laid the requirement on them, that the engineering would be done ahead of time. Mr. Potucek stated that he hopes that this was the case.

Item 2.4 Resolution 2021-067, Discussion and Possible Action on the Reappointment of Wesley Hewitt and Berlynda Schaaf to the Parks and Recreation Commission, said terms to expire December 31, 2023

Mayor Mueller asked if there is still a requirement that commissioners be citizens of Sierra Vista. Ms. Adams stated that they must be within the postal boundaries postal.

Mayor Mueller suggested changing address to home address because he noticed that one of the applications has listed the workplace address. He assumes that both people, since they work for the city, also live in the city, but he does not know that. He added that he would like to know whether the person nominating is from the City. The other application has listed the zip code, but no address.

Item 3 Resolution 2021-068, Discussion and Possible Action on Approval of the proceedings of the Industrial Development Authority of the City of Sierra Vista regarding the issuance of its Economic Development Revenue Bonds and declaring an emergency – Mr. Potucek stated that this is the first IDA bond proposal that has been brought before the Council for some years maybe going on nine or ten years. He explained that Mr. Moro brought this proposal to the City, who is representing the IDA this matter. He added that it had occurred to him, that only Mayor Mueller and maybe Mayor Pro Tem Gray were the only ones who were present at the time when the IDA had bonds issued; therefore, he thought that maybe a little primer on the IDA would be important for the rest of the Council to understand what the IDA is and what they do.

Mr. Potucek stated that Mr. Moro and Mr. Slania, IDA Attorney are present to answer questions. He added that the IDA is an interesting part of the Arizona Revised Statutes. It calls it out and allows for municipalities, counties to create Industrial Development Authorities. Once they are created, they are in place pretty much in perpetuity, and the oddest thing about it is that even though it requires the council to create it, there are really only two roles that the council has with regards to the IDA once it is created. Those two primary roles are appointment of IDA members when there is a vacancy and approval of bonds when a bond deal is brought before a council. There has been a lot of questions regarding the IDA through the years, but it is its own standalone organization with just those two requirements for a council oversight. Before Council is discussion of a proposed bond deal that is being brought forward by the Sierra Vista IDA, which Mr. Moro will brief on the actual deal itself. He added that they must move quickly because the deal needs to be closed by the end of the month; therefore, an emergency clause is required.
Mayor Muller stated that he has a procedural question and noted that Item B is the presentation for the Industrial Development Authority, and he wonders if both items can be discussed together. Mr. Potucek stated that he thinks that they can both be knocked out here since they are both on the agenda.

Mr. Slania stated that he has been hired by the Sierra Vista IDA and they he has represented them at his prior firm for several years. He added that he also represents other Industrial Development Authorities around the State. IDAs are an odd entity that are created under Arizona Statutes. They are nonprofit corporations done exclusively for the purpose of issuing revenue bonds and by that action given the power to act as a political subdivision of the State of Arizona, which allows those bonds to be exempt from tax in terms of revenue bonds. The reason Industrial Development Authorities were originally created were to separate them from the credit and the debt of the governing body, such as the City Council. Therefore, any obligation or debt that is incurred, any revenue bond issued by the Industrial Development Authority is separate and apart from any bonds issued from the city. The credit rating and the analysis done for the revenue stream of a bond of the city is separate and apart from that of the Industrial Development Authority. For that reason, they are only authorized to issue for projects within the statutory authority that includes several different options. One option is for 501C3 entities.

The resolution before Council to consider on Thursday, October 14, 2021, is for a 501C3 entity. The Statute also allows it to be inside or outside the State of Arizona, and that is again allowed by the legislature under the statute. The reason that other IDAs, particularly in Pima, Phoenix, the State, and Maricopa, have all done deals outside of their jurisdiction is because of the revenue that is derived back to the IDA. They are allowed under federal law to charge an annual administrative fee that can also be paid up front to the Industrial Development Authority, which then allows the money to be used typically for economic development or housing.

The original goals stated in the Legislature when the Industrial Development Authority Act was promoted, was for economic development, housing, and other purposes of the of the governing body. The reason that they exist is to facilitate and support their governing body, but they have an intent to be separate from that entity. They can act under the reason under the Statute. City Council are the elected officials and select the members of the Industrial Development Authority as every governing body does, and therefore under the Statute, the elected officials approved the proceedings of the bonds. Therefore, as in this case there is a public hearing that is held by the Industrial Development Authority, Council approves that action being taken as well.

Council Member Johnson thanked Mr. Slania for being present and stated that he has been doing some research on the Industrial Development Authority. He added that he spoke with Mr. Moro before the meeting and stated that he will be asking some dumb questions because sometimes people will not ask because they do not want to sound stupid. He asked if there is any liability to the City of Sierra Vista upon the issuance of these bonds or a possible default on the bonds. Mr. Slania stated that there is no fiscal liability to the City of Sierra Vista or to the Industrial Development Authority once the bonds are issued. He further stated that this was part of the reason this was all set up, to separate the credit and the credit worthiness of the governing body from the Industrial Development Authority. In each case, the offering document is very clear that there is no obligation. They are called special limited obligations and they are not general obligations. They are only of the issue, and in this case, it is the Sierra Vista IDA.

Council Member Johnson noted that the bond issue says, "in an amount not to exceed $50
million.” He asked about the amount that the City would derive from the issuance of the $50 million worth of bonds from the Authority. Mr. Slania stated that the Sierra Vista IDA has not yet acted because of the timing, but what has been negotiated is an upfront fee of $100,000 to be paid to the Sierra Vista IDA. The intent in accordance with their economic development fund is that at least half of the money would be put into the economic development fund.

Council Member Johnson stated that he reviewed the IDA’s agenda and summary, and he noticed that they want to start a fund. He added that Council has been talking about an Economic Development Commission, and so, he is just trying to sound this out for his own edification. He further added that he had mentioned to Mr. Moro that this project is going to take place in Seattle and one of the things that bothers him is that Seattle City Council has defunded their police department. He is aware that it has nothing to do with this, but those things still stick in his mind. Additionally, some of these properties, based off his research on MapQuest, are just blocks from the former chop zone that was taken over by activists during this past summer. This Georgetown Community Development Authority has only been in existence since September 3, 2019. Mr. Morrow put a lot of these questions to rest, but he thought that he would at least air them publicly.

Mayor Mueller asked if the Georgetown Community Development Authority got any type of a credit rating or track record. Mr. Slania stated that it is a brand-new entity and has received its 501C3 status from the IRS. He further stated that at the time that they do that, they must do projections, but they are a brand-new entity, and they are looking to acquire several different properties to make a conglomeration of all of those, to turn it into an artisan marketplace and to use the upper floors of some of those buildings as future affordable housing, in keeping with their 501C3 status.

Council Member Johnson noted that the letter attached to the information was quite explanatory, which he appreciates.

Council Member Rodriguez thanked Mr. Slania for being present and explaining this to Council. He noted that a lot of the properties are warehouses, and some of them are already artist-like because there is already work there, i.e., metalworks, ceramics, etc. However, a few of them look like houses, and he is aware that the letter stated that it may include housing as well, but some of these properties were bought in 2021 and 2020 for about $700,000 at that time by somebody else, and he wonders if this is the same entity that bought these properties. Mr. Slania stated that the bond issue is to acquire all of those within the control of nonprofit, and so, they could have been purchased by anyone. He added that he does not know who the current holders of all the different properties are, but the goal with the proceeds of the bond is to use that money to allow the nonprofit to acquire those facilities. Council Member Rodriguez noted that one of them was a whole street, and it looks like they are trying to take over the whole block and build something out of it from what is there now.

Council Member Rodriguez asked about public comments received during the public hearing on January 28, 2021. Mr. Slania stated that he is not aware of any and explained that at the time of a revenue bond issue, the federal tax regulations require both the host issuing body, the Sierra Vista IDA and the local body, the City of Seattle, to hold a public hearing for comment. That hearing is scheduled for October 20, 2021 and just like the City of Sierra Vista must approve the proceedings of the Sierra Vista IDA, the mayor or elected official of that city must approve those proceedings.

Council Member Rodriguez noted that he looked online, and they are the same addresses and
notice of the public hearing is at 1:00 p.m. on Thursday, June 28, 2021 along with zoom information to be able to log into the meeting, and he would like to know if the meeting took place. Mr. Slania stated that he is now aware whether it happened or not. He added that due to this bond issue, they must hold a new one because they must identify the City of Sierra Vista IDA as the issuer.

Council Member Rodriguez asked about the other meeting and noted that it was broken down into Project one, two, and three. They are all the same addresses, Project 1 is $21,000,000; Project two is $29 million, and Project three is $6 million, altogether $36.5 average. Mr. Slania stated that the expectation at this point is that the amount that is being requested is not to exceed $50 million, but it’s probably going to be closer to $42 million. He explained that part of the reason that this is being seen and the reason that it has come to Sierra Vista, is that the Washington State issuer has already provided a loan to assist with this facility, but they cannot issue the bonds and allow for what is called taxable bonds. In this case, there will be two series, one for the tax-exempt acquisition of those properties, and then a second series, which is called taxable that will allow them to have operating funds and monies to allow this project to work. The Washington State rules do not allow for that; therefore, that is the reason in part that they are coming to an out of state issuer.

Council Member Rodriguez stated that he was concerned that they were coming to Sierra Vista because they had tried this already with somebody else and it did not work out. Council Member Umphrey stated that she was also going to ask about why the were coming to Sierra Vista.

Mr. Moro stated that the intent of the IDA passing a resolution to create the Sierra Vista IDA Economic Development Incentive Fund is to create a set of funds that can be used to incentivize companies to locate to Sierra Vista, and local companies to expand. More specifically, a fund that is designed to create grants and loans that can leverage other sources of funds and tied to performance, the creation of jobs similar by using a formula like an EDA grant or the economic strength grant that is used at the Department of Commerce. They want to be very specific. They are talking about sizable companies and getting the biggest impact for the dollar, and it is not about seeding programs or using it for marketing. They have been developing proposals for economic development to attract companies to Sierra Vista. This area could use just a few more dollars to be competitive and they really do not have any place to turn to and they keep looking towards Mr. Potucek, who has asked that they no longer look at the City and for them to do their own thing. Mr. Potucek stated that the State limits the City’s ability to incentivize a lot of these projects and the City’s participation is limited to infrastructure, i.e., Mount Dooley being taken down, which is an example of that. The City must look to other partners to find other funding to incentivize some sort of economic development prospect to come in. Although, the City has generally been involved in affordable housing, but certainly the City would like to try to expand what they can do in the economic development role as well.

Mr. Moro stated that the IDA owns some real estate, and those funds are used for economic development. This is a way to create another source of funding to build that fund to promote economic development, and more specifically, to incentivize new companies locating to Sierra Vista and the expansion of existing companies with plans that are plausible and that can have their job creation monitored.

Council Member Umphrey asked Mr. Moro if he would be present during the Thursday, October 14, 2021 meeting. Mr. Moro stated that he would be present.
Item 4 Resolution 2021-069, Discussion and Possible Action to Authorize the Acceptance of the Arizona Governor's Office of Highway Safety Grant Funding, Contract #2022-AL-034 – Deputy Police Chief Kosmider stated that this is an annual grant that is offered by the Arizona Governor's Office of Highway Safety. The City has participated with the Southeastern Arizona DUI task force for over 20 years as an agency. This allows the City to have officers out dedicated to DUI and impaired driving enforcement without being subject to having to address other calls as they come in. The grant through the Governor's office is provided annually and it covers the overtime costs and the employee related expenses. This year, the grants that were applied for and awarded would cover overtime in the amount of $21,549, the employee related expenses of $8,451, and the funds to purchase four portable breath testers which are used during the DUI investigations, totaling $32,500.

Mayor Mueller asked if PSPRS is covered. Deputy Police Chief Kosmider stated that not fully, there is still some PSPRS liability that is not covered.

Council Member Umphrey stated that somewhere in the application for the grant listed is the City's population at 40,000. Mayor Mueller stated that they are using the old data, and it should be the current population.

Council Member Umphrey asked if that would have an effect. Mayor Mueller stated that it will not for this year.

Council Member Johnson asked about the City's liability with respect to PSPRS. Deputy Police Chief Kosmider stated that he does not know the exact amount, but he does know that it does not cover all the PSPRS liability. Mr. Potucek explained that PSPRS contribution is an employee related expense, and it is budgeted. They are only covering the amount during the duration of the time that they are out on the street. There will be ongoing PSPRS because of the extra hours they worked that the City would have to pick up on an ongoing basis.

Item 5 Resolution 2021-070, Discussion and Possible Action to Designate the City Attorney as the individual authorized to sign formal and binding documents related to the Arizona Opioid Settlement – Mr. Williams stated that over the last several years, states and local governments have been involved in several litigations against opioid manufacturers and distributors to help pay for the fallout that has resulted from the opioid epidemic. During the last couple of years, Arizona Attorney General's Office was involved in some of the negotiations with several of these entities, three distributors in particular, McKesson, Cardinal Health, and Amerisource Bergen, and one manufacturer, Janssen Pharmaceuticals, a subsidiary of Johnson and Johnson, Incorporated. They are at a point where they have two major settlements that they are hoping to get through the courts. However, for these settlements to be finalized, they need state and local authority or local approval, or sign on. Last year, the Attorney General's Office, tentatively or conditionally approved the settlement structure for and on behalf of the 91 cities and towns in Arizona. At that time, Sierra Vista joined in saying that they agree to the conditional approval of this; however, it is now at a point where the rubber meets the road, and they need some final authority sign on behalf of local state and local governments.

If the City sign on than Sierra Vista gets to participate and receive portions of the settlement proceeds. Arizona is set to receive up to $549 million out of this several billion-dollar settlement. A portion of that would come to Cochise County and then Cochise County's share would get distributed even further among the County and then the cities and towns located within Cochise County. The amount of the settlement that Arizona receives is entirely dependent on the number of cities and towns that sign on, and so the more participation there is, the more money
is set to be received. The only reason that this is coming up is because to sign off on the final version of Arizona’s approval of the settlement, and to sign off on these settlements, there must be somebody designated on behalf of the City of Sierra Vista to authorize and enter these final binding legal arrangements. It made sense that the City Attorney’s Office be the legal signee for the City in this regard.

b. Presentation/Discussion on the Industrial Development Authority

This item was briefed by Mr. Slania during the discussion in Item 3.

c. Report on Recent Trips, Meetings and Future Meetings

There was no discussion.

d. Future Discussion Items and Council Requests

Mayor Mueller stated that one of the things that was left on the table during the last time that Council met dealt with Council pay, and hopefully everybody has seen the document that was requested that has to do with the Council’s pay of cities the size of Sierra Vista and where they average. He added that after seeing that the Sierra Vista Council is in the middle on council reimbursement, he wonders if there is any follow-up discussion on changing Council’s renumeration.

Council Member Johnson stated that the Sierra Vista Council is right in the sweet spot and Council is not serving up on the dais to make money. Council is present to serve the public, and he would not entertain any increases. Maybe down the road, but not currently.

Mayor Mueller stated that he feels the same way and as far as he is concerned that issue is closed until the next time it needs to be reviewed.

In response to Mayor Mueller, Ms. Yarbrough stated that the Economic Development Council Group is scheduled for discussion during the November meeting. Coming up at the next meeting or November is the presentation on the MPO Short Range Transportation Plan by the Mayor Pro Temp. There is also a Personnel Rules update coming to Council for a future agenda, and the Council Handbook update as well.

Council Member Johnson stated that he is aware of a memo that went back and forth regarding the November meetings because of the Thanksgiving Holiday. Mr. Potucek stated that the normal work session will be on Tuesday in between the two holidays and the Council Meeting will be on the Thursday between the two. Ms. Yarbrough stated that the work session will be on November 16, 2021 and the Council Meeting will be on November 18, 2021.

3. Adjourn

Mayor Mueller adjourned the City Council Work Session at 3:39 p.m.

[Signature]

Frederick W. Mueller, Mayor
Minutes prepared by: Maria G. Marsh, Deputy Clerk

Attest: Jill Adams, City Clerk