



## Minutes Regular City Council Meeting August 27, 2015

Minutes of the Regular Council Meeting of Thursday, August 27, 2015, held at 6:00 p.m. in the Harry E. Mitchell Government Center, Tempe City Hall, City Council Chambers, 31 E. Fifth Street, Tempe, Arizona.

### **COUNCILMEMBERS PRESENT:**

Mayor Mark W. Mitchell  
Councilmember Robin Arredondo-Savage  
Councilmember Lauren Kuby  
Councilmember David Schapira

Vice Mayor Corey D. Woods  
Councilmember Kolby Granville  
Councilmember Joel Navarro

### **STAFF PRESENT:**

Andrew Ching, City Manager  
Ken Jones, Deputy City Manager – Chief Financial Officer  
Steven Methvin, Deputy City Manager – Chief Operating Officer  
Dave Nakagawara, Community Development Director  
Shelley Hearn, Community Services Director

Judi Baumann, City Attorney  
Brigitta M. Kuiper, City Clerk  
Ryan Levesque, Deputy Community Development  
Director - Planning  
Various Department Heads or their representative

**Mayor Mitchell called the meeting to order at 6:00 p.m.**

1. Çetin Akkaya, Executive Director, Foundation for Intercultural Dialogue, gave the invocation.
2. Mayor Mitchell led the audience in the **Pledge of Allegiance**.

### **3. MINUTES**

#### **A. Approval of City Council Meeting Minutes**

**Motion by Councilmember Schapira to approve agenda items 3A1 – 3A2 and accept agenda items 3B1 – 3B13; second by Councilmember Kuby. Motion passed unanimously on a voice vote 7-0.**

1. Regular City Council Meeting - June 25, 2015
2. Executive Session - July 30, 2015

#### **B. Acceptance of Board, Commission and Committee Meeting Minutes**

1. Aviation Commission - June 9, 2015
2. Development Review Commission - July 28, 2015
3. Development Review Commission Study Session - July 28, 2015
4. Hearing Officer - March 3, 2015, April 7, 2015, and August 4, 2015
5. Historic Preservation Commission - June 11, 2015
6. Mayor's Commission on Disability Concerns - February 5, 2015
7. Mayor's Youth Advisory Commission - March 17, 2015
8. Mayor's Youth Advisory Commission Community Service Project Subcommittee - July 2, 2015 and July 16, 2015

9. Municipal Arts Commission - April 20, 2015, May 13, 2015, and June 17, 2015
10. Neighborhood Advisory Commission - March 4, 2015 and April 1, 2015
11. Tempe Fire Public Safety Personnel Retirement System Board - July 9, 2015
12. Tempe Police Public Safety Personnel Retirement System Board - June 4, 2015
13. Transportation Commission - June 2, 2015

#### 4. REPORTS AND ANNOUNCEMENTS

##### A. Mayor's Announcements

Mayor Mitchell invited Michael Greene, Central Services Manager, and procurement staff members to the podium and presented them with the 2015 Annual Achievement of Excellence in Procurement Award.

##### B. City Manager's Announcements

Andrew Ching, City Manager, recognized various staff members for their work on coordinating the donation of a Tempe Fire Medical Rescue Department fire pumper truck and equipment to the Town of Kearny, Arizona.

##### *Tempe Public Library Fines and Fees Program*

Shelley Hearn, Community Services Director, highlighted improvements made the Public Library Fines and Fees Program to encourage patrons to return items and to reduce the amount of fees owed. She outlined outstanding fines, the fee structure, and discussed the implementation of the Water for Fines Program and how that benefits the homeless population. Staff continues to look at potential program improvements.

#### 5. CONSENT AGENDA

All items listed on the Consent Agenda will be considered as a group and will be enacted with one motion by the City Council unless an item is removed for separate consideration. Members of the public may remove public hearing items for separate consideration. Public hearing items are designated by an asterisk (\*). Councilmembers may remove any item for separate consideration.

Mayor Mitchell announced that agenda item 5A9 has been moved to the September 10, 2015, Regular Council Meeting.

**Motion by Councilmember Kuby to approve the consent agenda with the exception of item 5B6, which was removed for separate consideration; second by Vice Mayor Woods. Motion passed unanimously on a roll call vote 7-0.**

##### A. Miscellaneous Items

- 5A1. Approved the May, June, and July 2015 Reports of Claims Paid to be filed for audit.

*Fiscal Impact:* Total payments in May \$19,413,090.50; June \$20,253,384.72; and July \$29,522,681.40.

- 5A2. Approved a fiscal year 2015-16 Capital Improvements Program budget appropriation transfer from project number 5406139, Potential Federal Grants Contingency; to project number 5405361, Railroad Crossing Safety Improvements to provide fiscal year 2015/16 spending authority for safety improvements at the Union Pacific Railroad crossing on University Drive.

*Fiscal Impact:* \$113,099.04 of fiscal year 2015/16 appropriations will be transferred from Capital Improvement Project No. 5406139, Potential Federal Grants Contingency, to Project No. 5405361, Railroad Crossing Safety Improvements – University Drive. Total Capital Improvement Program appropriations will not increase as a result of the

transfer. The funding source for the Railroad Crossing project is dedicated funding in Transportation Capital Projects Fund 54; however, the construction costs for this project, which approximate 90% of the total project, are reimbursable through a Highway Safety Improvement Program Section 130 grant through the Federal Highway Administration.

- 5A3.** Approved a Final Subdivision Plat for THE MOTLEY, located at 1221 East Apache Boulevard. The applicant is Wood, Patel & Associates, Inc.

**Fiscal Impact:** There is no fiscal impact on City funds.

*The following conditions of approval apply:*

1. The Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office on or before August 27, 2016. Failure to record the plat within one year of City Council approval shall make the plat null and void.
2. All property corners shall be set and verified with staff upon final recordation of the subdivision plat, no later than three (3) months from the date of County recordation or as determined by staff.

- 5A4.** Approved a Subdivision Plat for a new single family subdivision for RHYTHM, located at 9330 South Priest Drive. The applicant is Chris Jones of Andersonbaron.

**Fiscal Impact:** There is no fiscal impact on City funds.

*The following conditions of approval apply:*

1. The Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Community Development Department on or before August 27, 2016. Failure to record the plats within one year of City Council approval shall make the plats null and void.
2. All property corners shall be set and verified with staff upon final recordation of the subdivision plats, no later than three (3) months from the date of County recordation or as determined by staff.

- 5A5.** Approved a Final Subdivision Plat for four single family detached homes for 19th STREET HOMES, located at 647 West 19th Street. The applicant is Marcus Jacobson.

**Fiscal Impact:** There is no fiscal impact on city funds.

*The following conditions of approval apply:*

1. The Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Community Development Department on or before August 27, 2016. Failure to record the plats within one year of City Council approval shall make the plats null and void.
2. All property corners shall be set and verified with staff upon final recordation of the subdivision plats, no later than three (3) months from the date of County recordation or as determined by staff.

- 5A6.** Approved the Tempe Diablos Charities, Inc., grant award in order to accept and disburse grant funds to the Tempe History Museum for youth education programming.

**Fiscal Impact:** The amount of the grant award is \$8,000. Sufficient budget appropriation for expenditure of this grant was authorized in the Government Grants Fund (Fund 46) as part of the fiscal year 2015-2016 adopted budget.

- 5A7.** Approved the Tempe Diablos Charities, Inc. grant award in order to accept and disburse grant funds to Recreation Services for community programming.

**Fiscal Impact:** The amount of the grant award is \$67,500. Sufficient budget appropriation for expenditure of this grant was authorized in the Government Grants Fund (Fund 46) as part of the FY 2015-2016 adopted budget.

- \*5A8. Held a public hearing and recommended the approval of a series 09 liquor store license for Tempe Liquor 2015, LLC, dba Fox Tobacco & Liquor Tempe, 1025 West Broadway Road.

**Fiscal Impact:** N/A

- 5A9. ~~REMOVED/DELETED Approve (re)appointments to City of Tempe boards, commissions, and committees.~~

**B. Award of Bids/Contracts**

- 5B1. Approved the utilization of a one-year State of Arizona (Western States Contracting Alliance) contract with Lowe's and a one-year Maricopa County contract with Home Depot for store-wide purchase agreements for maintenance, repair, operating materials, tools, and supplies.

**Fiscal Impact:** Total combined cost of these two contracts will not exceed \$150,000 during the one-year contract period. Sufficient funds have been appropriated in various funds and cost centers citywide for the anticipated expenditures in the current fiscal year.

- 5B2. Approved the utilization of a one-year City of Phoenix contract with Chapman Ford, Courtesy Chevrolet, Cummins Rock Mountain, Earnhardt Ford, Empire Southwest, Phoenix Transmission and Engine, Rush Truck Center, RWC International, and W.W. Williams for vehicle maintenance and repair services.

**Fiscal Impact:** Total cost of these nine contracts will not exceed \$250,000. Sufficient funds have been appropriated in the General Fund – cost center 3262 (Fleet Services Maintenance) – for the anticipated expenditures in the current fiscal year.

- 5B3. Approved the renewal of a one-year contract with Stanley Convergent Security Solutions for the purchase, repair, installation and upgrades of security systems throughout the City.

**Fiscal Impact:** Total cost of this contract will not exceed \$200,000 during the one-year contract renewal period. Sufficient funds have been appropriated in various citywide funds and cost centers for the anticipated expenditures in the current fiscal year.

- 5B4. Approved one-year contract renewals with ProForce Law Enforcement, San Diego Police Equipment Co. Inc., and Adamson Police Products for the supply of ammunition for the Police Department.

**Fiscal Impact:** Total combined cost of these contracts shall not exceed \$350,000 over the one-year renewal period. Sufficient funds have been appropriated in the General Fund (cost center 2251) for the anticipated expenditures in the current fiscal year.

- 5B5. Approved the renewal of a one-year contract with RDO Equipment Company for the purchase of backhoe loaders.

**Fiscal Impact:** Total cost of this contract shall not exceed \$81,000 during the contract renewal period. Sufficient funds have been appropriated in the Water/Wastewater Fund – cost center 3022 (Distribution and Collection) – for the anticipated expenditures in the current fiscal year.

- 5B6. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Approve the four-month renewal of contracts with Arizona Catering, Inc., Atlasta Catering and Event Concepts, Fabulous Food, and Santa Barbara Catering Company for food and beverage services at the Tempe Center for the Arts.
- 5B7. Approved two-year contracts, with two, two-year renewal options to Accutest Laboratories, Northern California, Inc., Aquatic Consulting and Testing, Inc., Eurofins Eaton Analytical, Inc., Legend Technical Services of Arizona, Inc., TestAmerica Laboratories, Inc., and Trans West Analytical Services for potable water quality, wastewater, and soil testing services. **(Contract #2015-180A-G)**
- Fiscal Impact:* Total combined cost of these contracts will not exceed \$650,000 during the two-year contract period. Sufficient funds have been appropriated in the Water/Wastewater Fund - cost center 3041 (Environmental - Laboratory) for the anticipated expenditures.
- 5B8. Awarded a two-year contract with three, one-year renewal options to Chemtrade Chemicals US, LLC for the purchase of lime-blended alkali. **(Contract #2015-181)**
- Fiscal Impact:* Total cost of this contract will not exceed \$75,000 during the two-year contract period. Sufficient funds have been appropriated in the Water and Wastewater Fund - cost centers 3013 (Johnny G. Martinez Plant) and 3014 (South Tempe Water Plant) for the anticipated expenditures in the current fiscal year.
- 5B9. Awarded a one-year contract with four one-year renewal options to Prema LLC for products and services related to the City's green organics program. **(Contract #2015-182)**
- Fiscal Impact:* Total cost of this contract will not exceed \$150,000. Sufficient funds have been appropriated in the Solid Waste Fund – cost center 3718 (Uncontained Refuse) – for the anticipated expenditure in the current fiscal year.
- 5B10. Awarded a one-year contract with four, one-year renewal options to Sun Country Truck Equipment for the purchase of utility truck bodies. **(Contract #2015-183)**
- Fiscal Impact:* Total cost of this one-year contract will not exceed \$200,000. Sufficient funds have been budgeted in various funds and cost centers for the anticipated expenditure in the current fiscal year.
- 5B11. Approved the First Amendment to the Solar Services Agreement **(Contract #2015-20A)** and Amendment to the Performance Guarantee & Limited Warranty Agreement **(Contract #2015-20.1A)** for the Tempe Public Library solar photovoltaic electric generating system.
- Fiscal Impact:* The upfront (out of pocket) capital cost of the revised Library Complex solar project will increase the City's prepayment amount by \$16,600 from \$118,920 to a revised total prepayment amount of \$134,920. This additional capital cost will come from the "Tempe Public Library Complex Solar Project and Landscape Improvements" CIP project #6707619. This change will have no impact to the previously agreed per kWh cost the City will pay for energy generated by the solar system.
- 5B12. Awarded a construction contract to Interstate Mechanical Corporation for improvements to the heating, ventilation, and air conditioning system at City Hall. **(Contract #2015-184)**
- Fiscal Impact:* The construction contract amount is \$304,939 and the project contingency amount is \$30,400. Funds to cover this contract and related costs are appropriated for fiscal year 2015/16 in Capital Improvement Project No. 6705629, City Hall HVAC Piping Replacement.

C. Resolutions

- 5C1. Adopted **RESOLUTION NO. R2015.89** authorizing the Fire Medical Rescue Department Chief to execute the Subgrantee Award Agreement between the Arizona Department of Homeland Security and the City of Tempe for the purpose of accepting and spending a federal grant in order to sustain the Tempe Fire Medical Rescue Department's Rapid Response Team Special Vehicle Request. (Contract #2015-185)

*Fiscal Impact:* The amount of the grant award is \$40,000 in federal funds. Acceptance of this grant does not require any matching City funds. This grant award will supplement the Fire Medical Rescue Department's existing General Fund budget appropriation. Sufficient budget appropriation for expenditure of this grant was authorized in the Governmental Grants Fund (Fund 46) as part of the fiscal year 2015-16 adopted budget.

- 5C2. Adopted **RESOLUTION NO. R2015.91** authorizing the Mayor to sign a Memorandum of Understanding between the City of Tempe and the Arizona Department of Revenue to establish performance measures for the timely and accurate processing of municipal tax matters. (Contract #2015-186)

*Fiscal Impact:* There is no direct fiscal impact. The performance standards contained in the Memorandum of Understanding (MOU) have been agreed upon by both parties, but payments from the City of Tempe to the Arizona Department of Revenue (ADOR) for the performance of tax administration functions are required by law and are not contingent upon ADOR meeting the agreed-upon performance standards.

- 5C3. Adopted **RESOLUTION NO. R2015.92** authorizing the Mayor to execute a Development Agreement (Contract #2015-187) and License Agreement (Contract #2015-187A) with Transmosis Corporation relating to the operation of a pilot workforce accelerator program focused on creating, building, and growing technology companies and training underserved regional populations for careers in the broader technology industry within the Tempe Performing Arts Center building, located at 132 East Sixth Street.

*Fiscal Impact:* The City will pay all utility expenses for the portion of the Tempe Performing Arts Center building licensed to the developer, up to \$2,000 per month. The developer will pay all utility expenses that exceed this amount. Sufficient funds have been appropriated in General Fund cost center 3241 (Facilities Services) as part of the fiscal year 2015/16 adopted budget to cover the utility expenses.

**CONSENT AGENDA ITEM REMOVED FOR SEPARATE CONSIDERATION:**

- 5B6. **Contracts with Arizona Catering, Inc., Atlasta Catering and Event Concepts, Fabulous Food, and Santa Barbara Catering Company for food and beverage services at the Tempe Center for the Arts.**

Councilmember Granville stated that he voted no on the initial contract because he would like to add a condition to the contract to allow food trucks on the grounds of the Tempe Center for the Arts (TCA), and allow patrons to bring food into the facility. This would allow the market to drive which vendors patrons wish to use. Currently, TCA caterers have a monopoly as there are no food alternatives near that location. He noted that staff is currently working on this issue.

Councilmember Kuby echoed Councilmember Granville's concerns and stated that she has shared her concerns with staff. Originally the contracts were to be renewed for 16 months. This four month contract renewal will allow for catering services to be provided at TCA while staff explores expanding the contract to allow on-site food trucks and local caterers to operate at this location.

Councilmember Navarro voiced support for agenda item 5B6 and stated that there is a committee looking into TCA functions and best practices.

**Motion by Councilmember Kuby to approve agenda item 5B6; second by Councilmember Navarro. Motion passed on a roll call vote 6-1 with Councilmember Granville voting no.**

- 5B6.** Approved the four-month renewal of contracts with Arizona Catering, Inc., Atlasta Catering and Event Concepts, Fabulous Food, and Santa Barbara Catering Company for food and beverage services at the Tempe Center for the Arts.

***Fiscal Impact:*** There is no cost to the City for this contract. The contractor compensates the City with commission revenues and annual listing fees.

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## 6. NON-CONSENT AGENDA

All items listed on the Non-Consent Agenda will be considered separately. Agenda items scheduled for Introduction and First Public Hearing will be heard, but will not be voted upon at this meeting. Agenda items scheduled for Second Public Hearing and Final Adoption will be voted upon tonight.

Quasi-judicial items are indicated by "q-j". The City Council sits as a quasi-judicial body when hearing certain items as determined by the City of Tempe Zoning and Development Code or State law. In this situation, the City Council must conduct itself as a court, not as a legislative body. Pre-meeting contact with the City Council on quasi-judicial matters is prohibited. Any materials or conversations concerning the item shall only be presented to the City Council at the scheduled public hearing.

Agenda item 6A1 is designated as a quasi-judicial (q-j) item.

### A. Miscellaneous Items/Bids/Contracts/Resolutions

- q-j \*6A1. **Public hearing for an Appeal of the Development Review Commission decision for a Use Permit for an animal kennel and outdoor dog run for TEMPE DOGS 24/7, 937 East Broadway Road, Suite 7.**

Mayor Mitchell opened the public hearing.

John and Mary Hoyt, Tempe, Appellants, stated that they are representing almost 700 people, including residents, businesses, and Our Lady of Mount Carmel (OLMC) Church and School members. They have collected 238 signatures in opposition to Tempe Dogs 24/7 (Tempe Dogs), for this location. The Appellants displayed an illustration of the Tempe Dogs dog run outlining its proximity to OLMC School and surrounding residences.

The Appellants discussed the following concerns: safety of children; preservation of quality of life for residents in the Hughes Acres neighborhood; the location is not appropriate for Tempe Dogs; dogs not on leashes; dogs potentially jumping a wall that is adjacent to the OLMC School; and, the current zoning is not reflective of new business models such as Tempe Dogs. An industrial park would be a more appropriate location for this type of business. Mr. and Mrs. Hoyt also discussed interviews with employees of the Chandler and Gilbert dog businesses owned by the Applicant, Steven Biles, and described each of their business operations, including non-compliance with use permit provisions in those jurisdictions. Feedback from the customers in Chandler and Gilbert was positive.

Mr. Hoyt stated that the initial use permit was issued in error. Much of the information provided in the applicant's presentation to the Hearing Officer was not fully representative of the Applicant's business practices; there was

information provided at the Hearing Officer meeting that did not match the information provided at the Development Review Commission (DRC) hearing. The scope of the DRC interpretation of the case was too narrow. DRC members disagreed on whether to consider the concerns of neighbors and whether to limit consideration to five use permit criteria. At the DRC hearing, Mr. and Mrs. Hoyt outlined the use permit criteria the applicant is unable to meet, as follows: sound and noise will contribute to the deterioration of the neighborhood and disruptive behavior of dogs getting loose. They also presented their research findings as follows: the applicant initially proposed that the maximum capacity at the facility was for 75 dogs; however the most recent proposal is to have an average of 100 dogs. The proposed dog pick-up/drop off hours have fluctuated between the initial application, the Hearing Officer meeting, and the DRC appeal meeting. The business hours being proposed are from 6:30 a.m. to 6:30 p.m. with the provision that clients may pick-up/drop off dogs after regular business hours if they make an appointment. However, the business website indicates that no appointment is needed for dog pick-up/drop off after regular business hours. The DRC indicated that business practices and violations of use permit conditions in other jurisdictions have no bearing on the Tempe Dogs use permit.

Mr. Hoyt requested that the City Council revoke the use permit. The use permit currently has eight stipulations. He requested that if the use permit is not revoked, that Councilmembers consider adding twelve stipulations, eight of which directly reflect business practices, as stated by the applicant. The use permit would then be reviewed in six months, to gauge compliance. (*Clerk's Note*: see below the *revised* stipulations proposed by the appellant, dated 8/25/15, and distributed at the 8/27/15 Council meeting). Mr. Hoyt read proposed stipulations 9 – 16 (below) and stated that the proposed stipulations 17 – 20 (below) are related to safety and preservation of quality of life for the neighborhood.

**REVISED Stipulations Proposed by the Appellant**  
dated 8/25/15; distributed at the 8/27/15 Council meeting

Stipulations 1 – 8 are in the current use permit.

1. This Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
3. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to reevaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit.
4. Animals ~~shall~~ shall be attended by staff during entire outdoor time and immediately brought into the facility if ~~noise becomes a disturbance~~ they begin to bark or create other types of noise that may cause a disturbance. No animals shall be left unattended outdoors. **(Agreed by original applicant & appellant)**
5. All nonconforming building lighting shall be removed and replaced with compliant light fixtures. Details can be resolved during Building Safety Plan Review. HEARING OFFICER MINUTES May 5, 2015 Page 4
6. All rear exit doors require a lexan vision panel. Details to be approved through Building Safety Plan Review.
7. Development Plan Review approval for the outdoor area and proposed shade canopy on the south side of the building is required. Obtain all necessary Development Services clearances and permits for structures in this area.
8. The applicant shall return to the Hearing Officer ~~on January 5, 2016,~~ 6 months after occupancy of the site, for a review of compliance with these conditions as a public hearing. **(Modifications requested by appellant)**

**REVISED Stipulations Proposed by the Appellant, continued.**  
**dated 8/25/15; distributed at the 8/27/15 Council meeting**

Stipulations 9 – 16 are to document the applicants stated business practices.

9. Dog run times of use be limited to 7 AM to 9 PM. **(Agreed by original applicant & appellant)**
10. Dog run usage limited to once every two to three hours, not to exceed a total of two hours per day, for bathroom breaks only. **(Agreed by original applicant & appellant)**
11. No more than 7 dogs in the dog run at any one time. **(Requested by appellant)**
12. Total number of dogs on site at any time not to exceed 75. **(Requested by appellant)**
13. Sound level at OLMC / Neighborhood wall not to exceed 36 dB. **(Requested by appellant)**
14. Drop off and pickup hours limited to 8 AM to 8 PM. **(Requested by appellant)**
15. A water disposal drain shall be installed inside the dog run for cleaning and maintenance purposes. The dog run shall be cleaned daily. **(Agreed by original applicant & appellant)**
16. All dog boarding shall be limited to the 14x39 kennel area. No boarding permitted outside the kennel area at any time. **(Requested by appellant)**

Stipulations 17 – 20 are additional stipulations sought by the Neighborhood and OLMC (Our Lady Mount Carmel)

17. Raise the block wall between the south parking lot and OLMC / Neighborhood. **(Requested by appellant)**
18. All dog drop off and pickup shall be conducted from the north parking lot. The gate between the two buildings shall be self-closing and maintain use of a latching gate (unlocked). **(Requested by appellant)**
19. Fully enclose the proposed dog run. **(Requested by appellant)**
20. Organic waste that is removed daily, shall be placed in sealed bags placed in exterior refuse containers on pick-up days only. All other waste receptacles and waste on non-pick up days shall be stored inside the main building (not the dog run) at all times. **(Requested by appellant)**

Councilmembers, Judi Baumann, City Attorney, Ryan Levesque, Deputy Community Development Director – Planning, and the Appellants discussed the following: the Zoning and Development Code (ZDC) requires that DRC hearings be limited to issues raised in the petition on appeal. City staff does not have documentation of violations occurring from the Chandler and Gilbert Dogs businesses. The Appellants have provided information on the Chandler and Gilbert business operations. Tempe has similar businesses operating in primarily industrial and commercial areas of the City; one similar business borders a residential development at McClintock Drive and Baseline Road.

Steven Biles, Tempe Dogs 24/7 business owner, discussed the use permit for the Chandler facility. The odor issue is due to ceiling and roof problems, which the landlord is addressing. Mr. Biles provided background information on how he acquired the Gilbert and Chandler Dogs businesses, which operate 24 hours a day, 7 days a week, and have approximately 30 employees. Both facilities have received positive reviews in the media. He discussed his business operations as follows: dogs are evaluated by trained staff before they are accepted into the facility; dogs are out of cages, under control, and monitored by trained behaviorists; sound is kept under control; and, hours of operation are for the convenience of clients.

Social media was used to determine where his clients would like to see a new business open, which is in Tempe. Mr. Biles stated that he would like to employ 15 people at Tempe Dogs 24/7 facility, with salaries far above the minimum wage. This location will have more square footage than the Chandler and Gilbert facilities. An emphasis is placed on public safety.

Mr. Biles discussed site visits to four business competitors in south Tempe, who also went through the permit processes. He noted that the proximity to schools for a majority of those businesses is closer than the Tempe Dogs site is to OLMC. If the City Council grants the stipulations, then the stipulations should apply to his competitors as well, to ensure a fair marketplace.

Grant Olds, Tempe, Architect, provided an illustration of the Tempe Dogs site and outlined various features of the business location. He discussed the Tempe Dogs proximity to OLMC facilities and the surrounding neighborhood. Tempe Dogs is located 251' from the Hoyt residence. He then provided a graphic comparison of competitor facilities in Tempe, and their distances from surrounding neighborhoods. City staff has indicated that no odor or noise complaints have been received regarding like type facilities in Tempe.

Mr. Olds compared the smaller sizes of the Chandler and Gilbert facilities to the Tempe Dogs facility, which is approximately 6,000 square feet, without the dog run portion of the facility. The dog run is three times larger than the other business locations and has an 8' wall with a canopy; this area is only used for bathroom breaks, and not as an exercise yard; dogs are under the control of staff while in the dog run area. Mr. Olds reviewed the floor plan and use of space for the facility. The property also includes a landscape buffer, and is adjacent to a 20' alley. To mitigate potential complaints, the following has been offered: 1) raise the wall surrounding the facility from 6' to 8'; 2) use fluted block as a sound absorbing barrier, however that has not been well received, and it is an expensive option; and, 3) rebuild a shared interior tenant wall to stop vibration and act as a sound board.

Councilmembers and Mr. Olds discussed the following: the pick-up/drop off process on the Broadway Road portion of the property; the number of dogs is based on an average; during the holiday season, many facilities will be at capacity; dogs are segregated by size for safety and operational reasons; the maximum number of dogs in the dog run will be 10, with supervision at all times; the outside area will be used between 7:00 a.m. and 9:00 p.m.; the dog run and the facility interior is cleaned and disinfected throughout the day; dog waste is bagged, sealed, and placed in another container; and, the dog run surface material has not yet been selected, however the dog run will include shade and a drainage system.

Mr. Olds explained that the reason some of the information changed since the initial application is because the data was based on activity from the two smaller facilities, and did not take into account that the Tempe Dogs facility is much larger.

Mr. Biles stated that his businesses are among only a few in the country that are open 24 hours a day, 7 days a week. Tempe Dogs is the only facility in the City that keeps dogs out of cages all the time.

Councilmembers and Mr. Biles discussed the square footage of Tempe Dogs competitors and number of dogs in those facilities. There should be an equal playing field among competitors in terms of stipulations and square footage. Stipulations can vary depending on area and circumstances. Expenses increase with additional square footage. Tempe Dogs tries to accommodate after hours pick-up/drop off requests, from its clients.

Mr. Olds stated that the Applicant has also added filtering systems to HVAC systems and will add a self-closing hinge latch on the gate that is located between the Tempe Dogs facility and the neighboring building, so that it cannot be locked. The shopping center landlord would be the party responsible to raise the wall, versus the tenant that is leasing the space. He emphasized that the dogs are socialized.

Mr. Olds reviewed the following: traditional pick-up/drop off hours are 6:30 a.m. to 8:30 p.m., with appointments available for after-hours pick-up/drop off; the facility is locked after-hours. The Applicant has agreed to the following stipulations: include a disposal drain on the exterior of the building; raise the dog run wall from 6' to 8' and place a shade structure over the dog run; use advertising and social media to inform clients that the dog pick-up/drop off location is from the north parking entrance; sealed waste is double bagged and placed in a dumpster that is emptied 5 times per week. The Applicant does not agree to the following stipulations: 14 x 39 kennel because dogs are not kept in kennels; fully enclose the dog run; and, have the dumpster emptied 7 days per week.

Mayor Mitchell stated that Councilmembers have received various e-mails and letters concerning the issues and staff has provided Councilmembers with *revised* stipulations proposed by the Appellant. (*Clerk's Note*: see pages 8-9 for the *revised* stipulations proposed by the appellant, dated 8/25/15, and distributed at the 8/27/15 Council meeting).

He asked staff to read the revised stipulations that the appellant and applicant have agreed to or agreed to modify.

The remaining revised stipulations under consideration by both parties were then discussed as follows:

- #11 – No more than 7 dogs in the dog run at one time – both parties agree to this stipulation.
- #14 – 6:30 a.m. to 8:30 p.m., hours of operation – both parties agree to the modified stipulation as proposed by the Applicant. Late pick-up/drop off will be by appointment only, from the north parking lot entrance. There was discussion about placing guidelines on the number of times the late pick up/drop off activity should be allowed to occur; the latching gate on the north side alleviates concerns regarding loose dogs and noise; and, surrounding businesses may benefit from the activity generated by Tempe Dogs. Concerns raised include dogs jumping over the south wall when pet owners use the back parking lot; dogs getting hit by cars in the north parking lot; and, owners not using a leash on their dogs.

Councilmembers discussed a use permit review that is scheduled before the Hearing Officer six months after the business becomes operational. The Applicant and Appellant both agreed that the City Council hold a public hearing to review compliance with use permit stipulations versus the Hearing Officer, due to the sensitivity of the issues. Business operation data regarding after-hours pick-up/drop off activity will be provided to City staff, in preparation for the review of compliance with use permit stipulations. Clients will be encouraged by the business owner to pick-up/drop off their dogs during regular business hours.

Mr. Biles stated that the dogs are kept indoors at night, making it unlikely they will be heard from 100 yards away.

- #16 – All dog boarding shall be limited to the 14 x 39 kennel area. No boarding permitted outside the kennel area at any time – the Appellant conceded this stipulation.
- #12 – total number of dogs on site at any time not to exceed 75, as originally proposed by the Applicant.

Regarding stipulation #12, the Applicant, Appellant, and staff continued discussions as follows: due to the size of the facility and because this is a low margin business, only allowing 75 dogs will cause the business to fail. There is no industry standard for number of dogs allowed; business competitors have up to 200 dogs on site, with no stipulations placed on the maximum number allowed. The Chandler and Gilbert locations have turned away dogs because they either reached their limit for number of dogs allowed or because of safety reasons. Averaging 100 dogs would be acceptable to the Applicant. The number of employees on site and safety also factor into the number of dogs allowed on site. Dave Nakagawara, Community Development Director, clarified that the fire code regulations do not pertain to animals.

Mr. Hoyt offered to concede the 150 dog limit if the Applicant agreed to raising the block wall to the south and fully enclosing the dog run, to prevent dogs from jumping over the fence. (*stipulations 17 and 19 respectively*). Odor and noise are additional areas of concern. Training animals to use the bathroom indoors was not supported by Councilmember Kuby.

Chris Berg, Phoenix, Wineguard Realty, landlord representative, voiced support of Tempe Dogs at this location and stated that he is not in a position to spend \$100,000 to build a wall. He discussed the changing environment of the retail industry and how various uses are moving into strip centers. He stated that he will ensure the gate has the proper locking mechanism, post signage that states no dog pick up/drop off in the rear of the facility, and work on dumpster odor concerns. The business owner can also inform clients on where to park for animal pick-up/drop off. There is a noise provision in the tenant's leases that includes a termination clause if surrounding tenants file complaints on another tenant.

Councilmembers and Mr. Levesque discussed that both parties have agreed to modify stipulation #12 to allow a monthly average of 85 dogs per day and upon a six month review, evaluate for potential 100 dogs average per day, and the challenge of calculating and monitoring average dogs per day, versus minimum number of dogs allowed.

- #19 – Fully enclosed dog run. Mr. Olds described the layout of the 1,500 square foot dog run, including access points.
- #20 - Organic waste removed daily. Mr. Olds stated that refuse pick-up occurs 5 days a week. Councilmembers, Mr. Hoyt, and Mr. Biles, discussed the distance of the dumpster from OLMC and surrounding

residences, consideration of tabling this issue until the six month review, and businesses near similar facilities in Tempe have no confirmed odor issues. The Appellants and Mr. Biles agreed to add Saturday to the refuse pick-up schedule.

Mayor Mitchell opened the public hearing.

Sharon Wilson, Chandler, spoke in support of Tempe Dogs as follows: she has been a client of the Chandler and Gilbert Dogs businesses. Trained staff assists clients with transporting dogs from the parking lot. Dogs are in a quiet and controlled environment; kennels are kept clean. Grooming and free microchipping are available.

Connie Vekre, Tempe, expressed disappointment and encouraged neighborhood engagement earlier in the process. It would have provided more time for more research and given both parties an opportunity to discuss the issues. Had there been a neighborhood meeting prior to the first appeal, the issues may have been resolved. She discussed her concerns regarding the number of dogs allowed, after-hours pick up/drop off times, and support for clients using the north parking lot. She noted that the neighborhood is transitioning to rental versus owner occupied housing.

At the request of the Mayor, Ms. Baumann outlined the ZDC use permit appeals process. The ZDC does not require a neighborhood meeting; however, that is something that staff could consider. She noted that the process is similar to what other jurisdictions do.

Carlos Johnson, Queen Creek, Manager of Chandler and Gilbert Dogs, stated that these are safe and clean establishments; keeping animal waste inside the facility is unsanitary. Animal waste will be kept in a container that is 150' from the back fence to the school and 250' from the wall to closest neighbor; odor will not be an issue. All dogs are evaluated; there is no discrimination among dog breeds. What happens inside the facility is under the control of the owner. The business owner cannot control how pet owners control their pets.

Mayor Mitchell stated that Christine Evans, Tempe, is against the use permit, but does not wish to speak.

Trish Monikey, Tempe, spoke in favor of Tempe Dogs. She currently uses the Gilbert facility and is a shift worker. The Tempe location would attract business to neighboring businesses and provide a convenience to pet owners.

Vince Herman, Tempe, stated that there are concerned people that care about Tempe. He noted that this process puts people at odds with one another.

Robert Moriarty, Tempe, voiced support for the appellants. Noise and cleanliness are important to him. While he is pro-business, he is concerned about maintaining 150 dogs.

Michael Waxman, Tempe, served as Mr. Bile's Real Estate Agent in finding this business location. He stated that the number of dogs for the facility is not great. Raising the fence 2' is cost prohibitive and will not impact smell or block noise. Enclosing the outdoor area would trigger additional building code requirements such as sprinklers and additional parking, creating an undue burden on the Applicant. If enclosing the space is required, Mr. Biles will not occupy space.

Heidi Richmond, Tempe, discussed her experience with Gilbert and Chandler Dogs. There is no noise or smell at these facilities. Although her dog has therapy dog certifications, the staff conducted a temperament test to ensure that her dog was appropriate for the situation. The dogs at these facilities are well trained, behaved dogs. This locally owned and operated business is responsible and should be welcomed to Tempe. The business will have a positive impact on Tempe's economy.

Bruce Hermie, Fountain Hills, OLMC Principal, stated that his primary concern is the learning environment of students. He requested that two stipulations be considered: 1) enclose the kennel; and, 2) reduce noise. If no progress has been made during the first six months of business operation, he will invite Councilmembers to the OLMC Elementary School for a site visit, to discuss his concerns about the business.

Erica Kruse, Tempe, Chandler Dogs, dog handler and behaviorist, spoke in favor of Tempe Dogs and stated that Chandler Dogs has an outdoor bathroom area; the dogs are monitored in small groups for safety and noise reasons. Noise has not been an issue at the Chandler Dogs facility. The Chandler facility is kept at 70 degrees; it is beneficial to dogs and clients that dogs remain indoors. Dogs go through a behavioral assessment, which is done by appointment only. The dogs are not dangerous and will not jump over the wall. The facility also has the ability to limit the types of dogs that it accepts.

Christopher Hawk, urged support of the appeal because the location is inappropriate, unscreened dogs could come into contact with children or individuals in neighboring businesses, and dog bites could occur.

Patricia Drechsler, Tempe, compared the number of dogs in Tempe Dogs with the Wiggles and Wags businesses. The industry standard is 100 square feet per dog; size of dogs also impacts the square footage.

Mr. Levesque continued as follows:

- #12 – both parties agreed to modify the stipulation to allow a monthly average of 85 dogs per day and upon a six month review, evaluate the potential for an average of 100 dogs per day.
- #17 – raise the block wall between the south parking lot and OLMC and the neighborhood. Both parties agreed to strike stipulation #17, at this time.
- #19 – fully enclose the proposed dog run. This stipulation was modified as follows: allowance of only one door from the exit of enclosure, unless otherwise required for life and safety. Wrought iron extended on top of 8' wall and an additional 2', for a total of 10+ feet. Canvass will cover the entire top and be adjacent to the wrought iron. Also, explore the cost of adding fluted block that does not exceed 10% of the current cost required for exterior modifications.

In addition, Mr. Levesque confirmed that the current proposal for a six month review identifies that the applicant shall return to the City Council six months after occupancy of the site for review of compliance with the conditions, as a public hearing.

At the request of Councilmembers, Ms. Baumann clarified that the City Council could make a motion to vote to deny the appeal to allow the use and impose conditions that were stipulated to by the appellant and applicant.

**Motion by Councilmember Schapira to deny the appeal for agenda item 6A1 and to approve the amended stipulations (outlined below); second by Vice Mayor Woods. Motion passed on a roll call vote 6-1 with Councilmember Granville voting no.**

- q-j \*6A1. Held a public hearing and denied an appeal of the Development Review Commission decision, and approved amended stipulations, for a Use Permit to allow an animal kennel and outdoor dog run for TEMPE DOGS 24/7, located at 937 East Broadway Road, Suite 7. The appellants are John and Mary Hoyt.

***Fiscal Impact:*** There is no fiscal impact on City funds.

*The following stipulations of approval apply:*

1. This Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
3. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to reevaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit.

4. Animals shall be attended by staff during entire outdoor time and immediately brought into the facility if they begin to bark or create other types of noise that may cause a disturbance. No animals shall be left unattended outdoors.
5. All nonconforming building lighting shall be removed and replaced with compliant light fixtures. Details can be resolved during Building Safety Plan Review.
6. All rear exit doors require a lexan vision panel. Details to be approved through Building Safety Plan Review.
7. Development Plan Review approval for the outdoor area and proposed shade canopy on the south side of the building is required. Obtain all necessary Development Services clearances and permits for structures in this area.
8. The applicant shall return to the City Council, 6 months after occupancy of the site, for a review of compliance with these conditions as a public hearing. Prior to the review hearing, the applicant shall provide data pertaining to the number of after-hour (8:30 pm to 6:30 am) customer visits to the business.
9. Dog run times of use be limited to 7:00 am to 9:00 pm.
10. Dog run usage limited to once every two to three hours, not to exceed a total of two hours per day, for bathroom breaks only.
11. No more than 7 dogs in the dog run at any one time.
12. Total number of dogs on site at any time not to exceed a monthly average of 85 dogs per day. The six month review will evaluate a request for 100 per day.
13. Drop off and pickup hours limited to 6:30 am to 8:30 pm, with after hours by appointment.
14. A water disposal drain shall be installed inside the dog run for cleaning and maintenance purposes. The dog run shall be cleaned daily.
15. All dog drop off and pickup shall be conducted from the north parking lot. The gate between the two buildings shall be self-closing and maintain use of a latching gate (unlocked).
16. The dog run shall have only one door, unless required for life safety. Perimeter wall to 8'+ in height with an additional 2" wrought iron above, total 10' or more. The canopy canvas shall extend to the perimeter of the wall. Interior fluted block walls shall be installed, unless the cost exceeds 10% of the total cost of the dog run.
17. Organic waste that is removed daily shall be placed in sealed bags and placed in exterior refuse containers. Exterior refuse pick-up shall be provided 6 days a week.

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**6A2. Contract amount increase with Oracle Corporation for software support fees and new licenses for PeopleSoft Financials, Human Resources Management, and Enterprise Learning Management.**

There was no discussion on agenda item 6A2.

**Motion by Councilmember Navarro to approve agenda item 6A2; second by Vice Mayor Woods. Motion passed unanimously on a roll call vote 7-0.**

- 6A2.** Approved an increase in the contract amount with Oracle Corporation for additional software support fees and new licenses for the City's enterprise level applications that include PeopleSoft Financials, Human Resources Management, and Enterprise Learning Management.

**Fiscal Impact:** Increase the contract amount by \$130,647.71 from \$4,336,435.70 to \$4,467,083.41 during the five-year contract period. Sufficient funds are available in General Fund cost center 1991 (IT Administration) for the anticipated expenditures. The City will pay for additional software fees and new licenses on an annual basis.

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The meeting recessed at 9:07 p.m. and reconvened at 9:14 p.m. with all Councilmembers present.

Councilmember Granville discussed the possibility of reconsidering agenda item 6A1, *Appeal of the Development Review Commission decision for a Use Permit for an animal kennel and outdoor dog run for TEMPE DOGS 24/7*, as he was unclear that all parties had agreed to a compromise. Had he known that, he would have voted yes on that agenda item. It was determined that the applicant and appellant for this agenda item were no longer in attendance. No further action was taken on this item.

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- 6A3.** Contract with PCL Construction, Inc. authorizing procurement of electrical equipment for the South Tempe Water Treatment Plant.

Motion by Councilmember Granville to approve agenda item 6A3; second by Councilmember Arredondo-Savage. Motion passed unanimously on a roll call vote 7-0.

- 6A3.** Awarded a Construction Manager at Risk pre-construction services contract with PCL Construction, Inc. authorizing procurement of electrical equipment for the South Tempe Water Treatment Plant. (Contract #2015-188)

**Fiscal Impact:** The pre-construction services contract amount is \$1,361,550. Funds to cover this contract and related costs are appropriated for fiscal year 2015/16 in Capital Improvement Project No. 3205909, South Tempe Water Treatment Plant Main Power Equipment Replacement.

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**B. Ordinances and Items for Introduction and First Hearing**

- \*6B1.** Ordinance for a Zoning Map Amendment and a Planned Area Development Overlay for UNIVERSITY VILLAGE 2.0, 920 South Terrace Road.

Mayor Mitchell introduced the ordinance and opened the public hearing. There was no discussion or public comment on agenda item 6B1.

- \*6B1.** Introduced and held the first public hearing to adopt an ordinance for a Zoning Map Amendment and a Planned Area Development Overlay for UNIVERSITY VILLAGE 2.0, located at 920 South Terrace Road, for a new mixed-use development containing 260 units and commercial. The second and final public hearing was scheduled for September 10, 2015. A public hearing to adopt a resolution authorizing a General Plan Projected Land Use Map Amendment from Residential to Mixed-Use and a General Plan Projected Density Map Amendment from High Density-Urban Core (more than 65 du/ac) to High Density (up to 65 du/ac), and, to approve a Development Plan Review, was scheduled for September 10, 2015. The applicant is Gammage & Burnham P.L.C. (Ordinance No. O2015.41; Resolution No. R2015.88)

*Fiscal Impact:* While this ordinance change does not directly impact revenue, the planned development will result in collection of the standard development fees, calculated according to the approved fee structure at the time of permit issuance.

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- \*6B2. Ordinance for a Zoning Map Amendment and a Planned Area Development Overlay for BROADSTONE LAKESIDE, 500 West 1st Street.**

Mayor Mitchell introduced the ordinance and opened the public hearing.

Jennifer Spade, Tempe, Regatta Point resident, spoke in opposition to agenda item 6B2 for the following reasons: this high density, urban core project conflicts with the General Plan 2040. The traffic study does not reference Lakeside Drive. There is one ingress and egress point of access, which causes evacuation concerns; surrounding properties have two points of access. Special event road closures will impact property access from Lakeside Drive. The area also has a high level of pedestrian activity. Parking and traffic problems for Regatta Point will occur. The City denied a request by Regatta Point to install a traffic control gate. There are also air quality and fire wall setback issues.

Ms. Spade recommended the following project amendments: add an ingress and egress access point on First Street; modify the design to allow 25 units per acre, as approved in May, 2014; allow Regatta Point to install a traffic control gate; establish commercial space in the project; and, replace 11 parking spots on Lakeside Drive with landscaping.

Laurie Mitchell, Tempe, Regatta Point resident, expressed concern regarding increased traffic, parking, and towing issues, and how special events will impact parking lot access. The project should have parking access from First Street.

Mitchell VanHorn, Tempe, Regatta Point resident, expressed concern about increased traffic and how that will impact property assessments.

Charles Huellmantel, applicant representative, stated that some of the concerns mentioned are new and will be addressed at the next City Council meeting.

Councilmembers and Mr. Huellmantel discussed concerns about the proposed increase to 70 dwelling units per acre, the high density, how properties are deeded, and the way dwelling units are counted. Mr. Huellmantel indicated that he is in the process of compiling information and will meet with Councilmembers to discuss their concerns, as well as the concerns of the speakers.

Mayor Mitchell closed the public hearing.

- \*6B2. Introduced and held the first public hearing to adopt an ordinance for a Zoning Map Amendment from GID to MU-4 and a Planned Area Development Overlay, for BROADSTONE LAKESIDE, located at 500 West 1st Street, for a new four-story mixed-use development containing 168 units and co-work office space. The second and final public hearing was scheduled for September 10, 2015. A public hearing to adopt a resolution authorizing a General Plan Projected Density Map Amendment from Medium to High Density (up to 25 du/ac) to High Density-Urban Core (more than 65 du/ac), and, to approve a Development Plan Review, was scheduled for September 10, 2015. The applicant is Huellmantel & Affiliates. (Ordinance No. O2015.42; Resolution No. R2015.90)

*Fiscal Impact:* While this resolution and ordinance changes do not directly impact revenue, the planned development will result in collection of the standard development fees, calculated according to the approved fee structure at the time of permit issuance.

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C. Ordinances and Items for Second Hearing and Final Adoption

- \*6C1. **Ordinance for an Amended Planned Area Development Overlay and a Development Plan Review for 1000 EAST APACHE, 1000 East Apache Boulevard.**

Mayor Mitchell opened the public hearing.

Nick Wood, Snell and Wilmer and applicant representative, stated that the applicant has met with ASU officials to discuss student housing projects and how that relates to student conduct. The applicant has also worked with the Tempe Police Department on preparing a security plan, as well as meeting with neighborhood representatives to discuss the project. The Development Review Commission has approved the project and the applicant is requesting that Councilmembers approve the project, subject to the stipulations that are in the meeting materials.

Councilmembers commended the applicant on working with ASU, City officials and neighborhood representatives to address safety concerns and improve the project design. The building height has been lowered and property management is in place.

**Motion by Councilmember Arredondo-Savage to approve agenda item 6C1; second by Councilmember Navarro. Motion passed unanimously on a roll call vote 7-0.**

- \*6C1. Held the second and final public hearing and adopted **ORDINANCE NO. O2015.40** for an Amended Planned Area Development Overlay and a Development Plan Review for a new mixed-use 14-story development for 1000 EAST APACHE, located at 1000 East Apache Boulevard. The applicant is Snell & Wilmer LLC.

*Fiscal Impact:* While this ordinance change does not directly impact revenue, the planned development will result in collection of the standard development fees, calculated according to the approved fee structure at the time of permit issuance.

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- \*6C2. **Ordinance for an Amended Planned Area Development Overlay and a Development Plan Review SOUTHBANK LOT 6, 1190 East Vista del Lago Drive.**

Mayor Mitchell announced that the applicant has requested that agenda item 6C2 be continued to the September 10, 2015 Regular Council Meeting. Councilmember Schapira suggested that a continuance be granted to the September 24, 2015 Regular Council Meeting, in order to give the City Council an opportunity to discuss the vision at the upcoming City

Council Retreat. Charles Huellmantel, Applicant, agreed and suggested that the item could also be continued to a date uncertain.

Darin Sender, Sender Associates and Springbrook Development (Springbrook) representative, owner and developer of Lot 5, requested that a continuance not be granted, especially to an uncertain date; it would not be reasonable or acceptable for either property. If a continuance is granted, she requested that it be to the September 10, 2015, Regular Council Meeting. No significant progress or vision of the master plan has been achieved over the past two weeks. If the applicant did propose a project that met the master plan, it would require a new application and would have to go back through the process. The stipulations that staff has proposed were either eliminated, weakened, or modified at the Development Review Commission level. She noted that the owner of Springbrook, Robert Fransway, is in attendance and that the Applicant mailed Springbrook a letter and also contacted Springbrook by telephone a few days ago.

Councilmember Schapira voiced discomfort with continuing this item to an uncertain date and requested that the item be continued to the September 24, 2015, Regular Council Meeting.

John Kane, Architecton, displayed a rendering of the vision for Lot 6, including a red line version of the proposed project; the projects are aesthetically and radically different. It is important that the right project be built in order to provide sustainability, walkability, and change the dynamics of the area.

Mayor Mitchell agreed with Mr. Kane's comments. The City had a vision for lake; it is important that the vision remain intact. The development on the north side of the lake is not what was intended. He discussed the timing and development of the Hayden Ferry Lakeside masterplan and the Marina Heights development, both of which are quality construction; the infrastructure for the area is in place. During the economic downturn, Councilmembers approved an apartment complex that is located beside the Hayden Ferry Lakeside project. He voiced concern that the applicant is proposing the same structures as what has already been presented and because the applicant just recently contacted the appellant to discuss the issues.

**Motion by Councilmember Schapira to continue agenda item 6C2 to the September 24, 2015, Regular Council Meeting; second by Councilmember Granville. Motion passed on a roll call vote 5-2 with Mayor Mitchell and Councilmember Kuby voting no.**

- \*6C2. *Continued to the September 24, 2015 Regular Council Meeting, the second and final public hearing to adopt an ordinance for an Amended Planned Area Development Overlay and a Development Plan Review consisting of a new mixed-use development containing 272 apartment units and 5,071 square feet of retail space within a six-story, 84'-5" high building for SOUTHBANK LOT 6, located at 1190 East Vista del Lago Drive. The applicant is Huellmantel & Affiliates. (Ordinance No. O2015.39) (Note: A legal zoning protest has been filed; therefore, a 3/4 City Council majority vote (6 of 7) is required for approval.) (At the request of the applicant, this item was continued from the August 13, 2015 Regular Council Meeting.)*

*Fiscal Impact:* While this ordinance change does not directly impact revenue, the planned development will result in collection of the standard development fees, calculated according to the approved fee structure at the time of permit issuance.

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- \*6C3. **Ordinance for an Amended Planned Area Development Overlay and a Development Plan Review for SOUTHBANK LOT 1, 1200 East Rio Salado Parkway.**

Mayor Mitchell introduced the ordinance and opened the public hearing.

Charles Huellmantel requested that Councilmembers continue agenda item 6C3 to the September 24, 2015, Regular Council Meeting.

Darin Sender, Sender Associates and Springbrook Development (Springbrook) representative, owner and developer of Lot 5, requested that no continuance be granted. If Councilmembers grant a continuance, she requested that it be continued to the September 10, 2015, Regular Council Meeting. Her concern is that no progress has been made on the project over the last two weeks. Springbrook has a project in the site plan review stage and this project impacts the Springbrook property. She is concerned that the continuance could potentially extend beyond the two week extension period.

Councilmembers and Ms. Sender discussed that a vision currently exists; however, Councilmembers Schapira and Kuby have not yet participated in the visioning discussions. There is value in providing Councilmembers an opportunity to further discuss the vision. If Councilmembers were to commit to not continuing agenda item 6C3 at the September 24, 2015, Regular Council Meeting, then Ms. Sender's client would support a continuance to that meeting date.

**Motion by Councilmember Schapira to continue agenda item 6C3 to the September 24, 2015, Regular Council Meeting; second by Councilmember Granville. Motion passed on a roll call vote 5-2 with Mayor Mitchell and Councilmember Kuby voting no.**

\*6C3. *Continued to the September 24, 2015 Regular Council Meeting, the second and final public hearing to adopt an ordinance for an Amended Planned Area Development Overlay and approve a Development Plan Review consisting of a new mixed-use development containing 273 apartment units, 4,500 square feet of retail space, and 1,130 square feet of office space within four live-work units within a five-story, 69'-6" high building for SOUTHBANK LOT 1, located at 1200 East Rio Salado Parkway. The applicant is Huellmantel & Affiliates. (Ordinance No. O2015.38) (Note: A legal zoning protest has been filed; therefore, a 3/4 City Council majority vote (6 of 7) is required for approval.) (At the request of the applicant, this item was continued from the August 13, 2015 Regular Council Meeting.)*

*Fiscal Impact:* While this ordinance change does not directly impact revenue, the planned development will result in collection of the standard development fees, calculated according to the approved fee structure at the time of permit issuance.

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## 7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

Mayor Mitchell left the meeting at 9:48 p.m.

Councilmember Schapira

- Thanked Mayor Mitchell for allowing Çetin Akkaya, Executive Director, Foundation for Intercultural Dialogue, to deliver the invocation and thanked Councilmember Granville for facilitating this activity. He discussed the importance of diversity.

Councilmember Kuby

- Sunday, August 30, 2015, Arizona Interfaith Power and Light, Going Green ice cream social at the Community Christian Church.

Councilmember Granville

- Thanked community members for their participation regarding issues that impact the community.
- Thanked Mayor Mitchell for allowing Çetin Akkaya, Executive Director, Foundation for Intercultural Dialogue, to deliver the invocation. The invocation should be a reflection of the diversity of the community.

8. PUBLIC APPEARANCES

A. Scheduled – None.

B. Unscheduled – None.

The meeting adjourned at 9:56 p.m.

I, Brigitta M. Kuiper, the duly-appointed City Clerk of the City of Tempe, Maricopa County, Arizona, do hereby certify the above to be the minutes of the Regular City Council meeting of August 27, 2015, by the Tempe City Council, Tempe, Arizona.

\_\_\_\_\_  
Mark W. Mitchell, Mayor

ATTEST:

\_\_\_\_\_  
Brigitta M. Kuiper, City Clerk