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## Minutes City Council Issue Review Session January 24, 2013

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Minutes of the Tempe City Council Issue Review Session held on Thursday, January 24, 2013, 6:00 p.m., in the City Council Chambers, Tempe City Hall, 31 E. Fifth Street, Tempe, Arizona.

### **COUNCIL PRESENT:**

Mayor Mark W. Mitchell  
Councilmember Robin Arredondo-Savage  
Councilmember Kolby Granville  
Councilmember Corey D. Woods

Vice Mayor Onnie Shekerjian  
Councilmember Shana Ellis  
Councilmember Joel Navarro

### **STAFF PRESENT:**

Charlie Meyer, City Manager  
Andrew Ching, City Attorney  
Bill Amato, Police Legal Advisor  
Wendy Springborn, Engineering Services Manager  
Various Department Heads or their representatives

Jeff Kulaga, Assistant City Manager  
Brigitta M. Kuiper, City Clerk  
Andy Goh – Deputy Public Works Director, Engineering Division  
Dave Park, Assistant City Attorney

*Mayor Mitchell called the meeting to order at 6:11 p.m.*

## **Call to the Audience**

Haryaksha Gregor Knauer, Tempe, spoke about various topics including the proposed panhandling ordinance, homelessness and affordable housing.

## **Governor's Transaction Privilege Tax Simplification Task Force**

Jeff Kulaga, Assistant City Manager, and Tom Belshe, Deputy Director, Arizona League of Cities and Towns (League), provided an update on the Governor's Transaction Privilege Tax Simplification Task Force. Mr. Belshe stated that the Task Force made 10 recommendations; the League supports seven of the 10. The three recommendations opposed by the League have significant impacts on budgets and the ability of cities and towns to manage their sales tax. The first recommendation would remove the construction sales tax by having the tax paid at the site where the materials are purchased, not where the construction takes place; this also impacts State shared sales tax revenues. The second and third recommendations would require that the Arizona Department of Revenue (DOR) administer the collection of all City sales tax and that DOR perform sales tax audits.

The City Council, staff and Mr. Belshe discussed opposing justifications for the three recommendations opposed by the League to gain an understanding of the issues involved. Concerns include the sales tax formula and estimate of taxes on construction materials, assumption of a higher non-compliance rate among construction contractors, that a higher portion of tax revenue will go to the State, and fees for DOR audits. The projected timeline for these recommendations to be heard by the State Legislature is unknown as is support for the recommendations. Legislators have expressed interest in simplifying the tax code; however, the League believes that an online portal for all municipalities to allow businesses to pay their taxes would provide simplification and may be an alternate solution. Additionally, the League is looking to simplify online sales tax reporting.

Mr. Kulaga recommended that the City oppose these three recommendations, which is consistent with the City's legislative principles and with the League.

## **Panhandling Ordinance**

Andrew Ching, City Attorney, and Bill Amato, Police Legal Advisor, discussed a draft panhandling ordinance developed based on a request to review potential changes to the “aggressive solicitation” provisions in the City Code. Staff researched ordinances from Dallas, Jacksonville, and Atlanta. Mr. Ching stated that panhandling is viewed by the Courts as a First Amendment protected right; as such, the draft ordinance addresses conduct and not free speech-related activity. Staff met with Nancy Hormann, Executive Director of Downtown Tempe Community, to discuss their concerns and provide input for the ordinance. Mr. Ching stated that distance requirements fall within permissible constitutional limits; the ordinance proposes two such distance limits.

The City Council and staff discussed the following: encouraging a safe downtown area while still respecting the right to freedom of speech; the distances provided in the ordinance are not the maximum that could be provided for, but a larger maximum distance conflicts with the constitutional test of allowing meaningful outlet of expression; District Courts and how they differ throughout the United States. The City Council and staff also discussed the process by which a citizen would report a violation; the definition of solicitation could include both signs and speech; concerns with subsection 4 that addresses false and misleading representation – it is directed more towards falsely claiming allegiance to a legitimate organization; whether or not the City should be investigating truth of panhandling claims; the ordinance targets people who panhandle, regardless of whether or not they own a home or are homeless. The Police Department’s response to a panhandling claim depends on the circumstances, and may be left up to the City Prosecutor whether or not file charges.

Based on City Council discussion, staff will place the proposed panhandling ordinance on the next Formal Council Meeting agenda for Council’s consideration.

## **Discussion with City Manager regarding the appointment of the Government Relations Officer**

Jeff Kulaga, Assistant City Manager, stated that at Mayor Mitchell’s request, and per the City Charter, staff is present to discuss the Government Relations Officer position and recruitment process that is currently underway.

The City Council discussed the Government Relations Officer position and recruitment process. Recommendations for the position include: existing relationships and the ability to establish relationships with the Governor’s Office, the State Legislature and Committee chairs, and with other cities; legislative bill tracking and understanding of the legislative process; ideas of how to expand the City’s Intergovernmental Relations Office; tracking federal legislation and federal funding for the region; working with other City Departments to assess needs related to federal and state grants. Additional recommendations include: involvement with regional bodies; advocacy and collaboration skills; partnering with various stakeholders; problem-solving skills; ability to communicate on diverse interests; follow-through on direction; diplomacy, integrity and being politically astute.

City Council also discussed the interview panel for the position. Recommendations for the panel include: a panel member from the Arizona League of Cities and Towns or another partner agency, such as Metro; possibly including another city’s Intergovernmental Relations Officer on the panel, though a drawback is the competitive nature of the position between cities; including a representative from the City Attorney’s Office, the Mayor and City Council Chief of Staff, and the Assistant City Manager on the panel. The City Council also discussed having a meet and greet with the applicants.

Additional recommendations related to the position and recruitment process include: the individual being proactive about contacting Councilmembers for assistance with legislation; the position being involved with regional issues; the individual being proactive about red-flag issues that arise; the ability to use resources such as the community and businesses; not hindering candidates based on past experiences in political campaigns. During the process, candidates will be notified either if they are scheduled or not scheduled for an interview.

Based on the City Council’s discussion, staff will review the recommendations. Mr. Ching noted that the comments made by Councilmembers are recommendations; City Council is neither dictating nor directing how the recruitment/selection process will proceed.

## Engineering Procurement

Andy Goh, Deputy Public Works Director – Engineering, and Wendy Springborn, Engineering Services Manager, provided an informational update on the Engineering procurement process; this presentation is a companion piece to a previous update from Michael Greene, Central Services Administrator, on City procurement practices for items other than engineering commodities and services. The Engineering Division is responsible for the administration of Capital Improvement Program (CIP) projects throughout the City. The Engineering Division follows Arizona Revised Statutes Title 34 and the Tempe City Code Chapter 26A for all procurements. Ms. Springborn provided an overview of the process, for both professional services contracts, which include on-call consultants and Request for Qualifications (RFQ), and construction contracts, which include design/bid/build, construction manager at risk, and job order contracting. Staff uses the 21-point discovery checklist that was included in the City Council packet to identify the best-served and best value for the City.

## Amusement Gambling

Andrew Ching, City Attorney, and Dave Park, Assistant City Attorney, provided information regarding amusement gambling, in response to inquiries received by City Councilmembers. Mr. Ching stressed that the City Attorney's Office is not providing a legal opinion to the individual who had approached the City Council. Mr. Ching reviewed the City's zoning ordinance, which includes card rooms and poker rooms in certain zoning classifications. State law has some exceptions to the general prohibition against gambling, including social gambling.

Councilmember Granville and staff discussed the planning and zoning process. If an applicant's operations are shut down by the State due to gambling, that is an issue between an applicant and the State. Councilmember Granville expressed his hope that City staff checks to see if an applicant knows whether or not the proposed operation qualifies under State law, and whether the applicant has inquired with the State separately from the City's process. Mr. Ching noted that it is the applicant's responsibility to ensure State legal requirements are met.

## Formal Council Agenda Items

None

## Future Agenda Items

- Student housing – supply and demand
- Multi-family projects – impact on City services and quality of life

## Mayor's Announcements/Manager's Announcements

None

*The meeting adjourned at 7:36 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 Issue Review Session meeting of January 24, 2013, by the Tempe City Council, Tempe, Arizona.

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Mark W. Mitchell, Mayor

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Brigitta M. Kuiper, City Clerk