



## Minutes Regular City Council Meeting January 8, 2015

Minutes of the Regular Council Meeting of Thursday, January 8, 2015, held at 7:30 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	Vice Mayor Onnie Shekerjian
Councilmember Robin Arredondo-Savage	Councilmember Shana Ellis
Councilmember Kolby Granville	Councilmember Joel Navarro
Councilmember Corey D. Woods	

### **STAFF PRESENT:**

Andrew Ching, City Manager	Ken Jones, Deputy City Manager – Chief Financial Officer
Judi Baumann, City Attorney	Steven Methvin, Deputy City Manager – Chief Operating Officer
Brigitta M. Kuiper, City Clerk	Dave Nakagawara, Community Development Director
Don Bessler, Public Works Director	Renie Broderick, Internal Services Director
Ryan Levesque, Deputy Community Development Director – Planning	
Shelly Seyler, Deputy Public Works Director, Traffic Engineering	
Various Department Heads or their representatives	

**Mayor Mitchell called the meeting to order at 7:54 p.m.**

1. Councilmember Arredondo-Savage 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 Ellis to approve agenda items 3A1 – 3A5; second by Councilmember Arredondo-Savage. Motion passed unanimously on a voice vote 7-0.**

1. [Regular City Council Meeting - October 16, 2014 and November 13, 2014](#)
2. [Issue Review Session - September 4, 2014 and September 11, 2014](#)
3. Executive Session - December 4, 2014
4. [Committee of the Whole - August 18, 2014 and September 15, 2014](#)
5. [City Council Special Meeting - November 17, 2014](#)

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

**Motion by Councilmember Ellis to accept agenda items 3B1 – 3B12; second by Councilmember Arredondo-Savage. Motion passed unanimously on a voice vote 7-0.**

1. [Development Review Commission - November 18, 2014](#)
2. [Development Review Commission Study Session - November 18, 2014](#)
3. [Hearing Officer - November 18, 2014](#)
4. [Historical Museum Advisory Board - July 3, 2014](#)
5. [History Museum and Library Advisory Board - November 5, 2014](#)
6. [Human Relations Commission - November 18, 2014](#)
7. [Mayor's Youth Advisory Commission - November 18, 2014](#)
8. [Mayor's Youth Advisory Commission C.I.T.Y. Project Subcommittee - November 19, 2014, November 25, 2014, December 2, 2014 and December 16, 2014](#)
9. [Neighborhood Advisory Commission - May 7, 2014, September 3, 2014 and October 1, 2014](#)
10. [Tempe Fire Public Safety Personnel Retirement System Board - November 6, 2014](#)
11. [Tempe Police Public Safety Personnel Retirement System Board - November 6, 2014](#)
12. [Transportation Commission - November 18, 2014](#)

#### 4. REPORTS AND ANNOUNCEMENTS

A. Mayor's Announcements – None.

B. City Manager's Announcements

Andrew Ching, City Manager, expressed condolences on the passing of former Deputy City Manager, Patrick Flynn.

Mr. Ching thanked Councilmember Ellis and Vice Mayor Shekerjian for their leadership and the impact they have made upon the City of Tempe organization, as well as the community.

#### 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.

**Motion by Councilmember Ellis to approve the consent agenda with the exception of items 5C7 and 5C10, which were removed for separate consideration; second by Councilmember Arredondo-Savage. Motion passed unanimously on a roll call vote 7-0.**

##### A. Miscellaneous Items

5A1. [Approved the November 2014 Report of Claims Paid to be filed for audit.](#)

*Fiscal Impact:* Total payments in November: \$11,214,070.57

5A2. [Approved the Arizona State Forestry 2014 Community Challenge Grant Award for the City of Tempe Urban Tree and Shade Master plan.](#)

*Fiscal Impact:* The amount of the award is \$13,000. Sufficient budget appropriations for expenditure of this grant are authorized in the Governmental Grants and Donations Fund (Fund 46, cost center 2593) as part of the fiscal year 2014-15 adopted budget.

5A3. [Approved the creation of two grant funded, full-time, benefitted Nutrition Specialist positions for the Kid Zone program.](#)

**Fiscal Impact:** These positions will be funded from the Kid Zone Nutrition Grant with 100% of the costs of salary and benefits paid by the grant. Sufficient budget appropriation for expenditure of this grant is authorized in the Governmental Grants and Donations Fund (Fund 46) as part of the fiscal year 2014-15 adopted budget.

- \*5A4. [Held a public hearing and recommended the approval of a Series 12 restaurant liquor license for RC Mill Avenue, LLC, dba Fuzzy's Taco Shop, 414 South Mill Avenue, Suite #115.](#)

**Fiscal Impact:** N/A

- \*5A5. [Held a public hearing and recommended the approval of a Series 10 beer and wine store liquor license for Smart & Final Stores, LLC, dba Smart & Final #480, 1737 East Broadway Road, Suite #104.](#)

**Fiscal Impact:** N/A

- \*5A6. [Held a public hearing and recommended the approval of a Series 12 restaurant liquor license for Colvin Finegold, LLC, dba Earl of Sandwich, 505 South Mill Avenue.](#)

**Fiscal Impact:** N/A

- \*5A7. [Held a public hearing and recommended the approval of a Series 10 beer and wine store liquor license for SubRoc RE LLC, dba SubRoc, 977 East Apache Boulevard.](#)

**Fiscal Impact:** N/A

- \*5A8. [Held a public hearing and recommended the approval of a Series 12 restaurant liquor license for The Noodle Shop Co. Colorado Inc., dba Noodles & Company, 2000 East Rio Salado Parkway, Suite #1218.](#)

**Fiscal Impact:** N/A

- 5A9. [Approved appointments to the Tempe Veterans Commission.](#)

**Fiscal Impact:** N/A

**Tempe Veterans Commission**

Thomas R. Winkel (Partial Term)  
(Arizona Coalition of Military Families)  
Joanna M. Sweatt (Partial Term)  
(Pat Tillman Veterans Center at Arizona State University)

**Terms Expire 12/31/2015**

Appointment  
Appointment

Troy Friedman (Partial Term)  
(East Valley Veterans Education Center)  
Laura Skotnicki (Partial Term)  
(Health and Wellness Organization)  
Patricia Little-Upah (Partial Term)  
(Housing Advocacy and Assistance Specialist)  
Dale Groen (Partial Term)  
(Supportive Services Agency)

**Terms Expire 12/31/2016**

Appointment  
Appointment  
Appointment  
Appointment

	<b>Terms Expire 12/31/2017</b>
Keith Finkle – Chair (Full First Term) (Returning United States Military Veteran)	Appointment
Scott Essex – Secretary (Full First Term) <del>* (Prior Service United States Military Veteran At Large)</del>	Appointment
Michelle Bravo – Vice-Chair (Full First Term) (Active United States Military)	Appointment
David F. Lucier (Full First Term) <del>* (At Large Prior Service United States Military Veteran)</del>	Appointment

[City Clerk's Note: The membership qualifications for Scott Essex and David F. Lucier were corrected as indicated above.]

**B. Award of Bids/Contracts**

- 5B1. [Approved the utilization of one-year State of Arizona contracts with Teknion, Facilitec, Inc., Corporate Interior Systems, Inc., Goodmans Interior Structures, Arizona Furnishings, Sitmatic, and Target Commercial Interiors, Inc. for the purchase of furniture products and services for use by all City departments.](#)

**Fiscal Impact:** Total combined cost of these contracts will not exceed \$550,000 during the one-year contract period. Approximately \$300,000 of this approved amount has been appropriated in the Water/Wastewater Capital Improvement Project Fund cost center 3203499 (Environmental Lab Facility) and will be used to fund the replacement of environmental laboratory furniture. The remaining \$250,000 is estimated for miscellaneous furniture purchases throughout the contract period. Sufficient funds for these miscellaneous furniture purchases have been allocated in various City-wide cost centers within the General Fund and other department operating funds for the anticipated expenditures in the current fiscal year.

- 5B2. [Approved the utilization of a one-year Western States Contracting Alliance cooperative contract with Verizon Wireless for the purchase of a wide variety of wireless devices and airtime services to include cellular phones, smart phones, tablets, laptops, and hotspot devices for all City departments.](#)

**Fiscal Impact:** Total cost of this contract shall not exceed \$650,000 for the one-year contract term. Sufficient funds have been appropriated in various City-wide cost centers for the anticipated expenditures during the current fiscal year in the General, Court Enhancement, Governmental, Grants or Donations, Section 8 Housing, Highway User Revenue, Transit, Performing Arts, Solid Waste, and Water/Wastewater Funds. This contract is widely used throughout the City and is charged to approximately 60 different cost centers.

- 5B3. [Approved the renewal of a one-year contract with AP Fire Protection, LLC for the inspection, servicing, repairing, and upgrading of fire alarms and fire extinguishers throughout the City overseen by the Public Works Department.](#)

**Fiscal Impact:** Total cost of this contract will not exceed \$85,000 during the one-year renewal period. Sufficient funds have been appropriated in the General Fund – cost center 3241 (Facilities Services) – for the anticipated expenditures in the current fiscal year.

- 5B4. [Approved the renewal of a one-year contract with Fabiani Painting and Decorating, Inc. for pole and fixture painting utilized in the maintenance of traffic poles, light poles and bus shelters for the Public Works Department.](#)

**Fiscal Impact:** Total cost of this one-year contract will not exceed \$85,000. Sufficient funds have been appropriated in the Transit Fund (cost center 3917 – Bus Stop and Bikeway Maintenance) and the Highway User Fund (cost center 3824 – Street Lights and Signals) for the anticipated expenditures in the current fiscal year.

- 5B5. [Approved a one-year sole source contract renewal for annual software maintenance and support services with The Active Network, Inc. for the City's Class software system utilized by Community Services, Public Works, and other City departments.](#)

**Fiscal Impact:** Total cost of this one-year contract will not exceed \$70,000. Sufficient funds have been appropriated in cost centers (General Fund) 1991 - IT – Administration and 2521 – Recreation Administration, and (Golf Fund) - 2513 – Ken McDonald Business Operations and 2517 – Rolling Hills Business Operations for the anticipated expenditure in the current fiscal year.

- 5B6. [Awarded two-year contracts with three, one-year renewal options to H & E Equipment Services, Western States Fire Equipment, and W. W. Williams to provide maintenance and repair services on City-owned fire apparatus and heavy vehicles for the Fire Medical Rescue Department. \(Contract 2015-01A-C\)](#)

**Fiscal Impact:** Total combined cost of these contracts will not exceed \$180,000 during the initial two-year contract period. Sufficient funds have been appropriated in General Fund cost center 2363 (Fire – Apparatus Maintenance) for the anticipated expenditures in the current fiscal year.

- 5B7. [Approved the amendment and extension of a sole source contract with Environmental Systems Research Institute, Inc. for licensing and annual support renewal for computer-based mapping software that is used City-wide with the Enterprise Geographic Information System. \(Contract #2008-254C\)](#)

**Fiscal Impact:** Total cost of this contract shall not exceed \$106,000 during the one-year contract period. Sufficient funds are available in General Fund cost center 1991 (IT Administration) for the anticipated expenditures in the current fiscal year.

- 5B8. [Awarded one-year contracts with four, one-year renewal options to Trafficade Service, Inc. and Action Barricade Company, LLC for the rental of barricades and warning devices. \(Contract 2015-02A-B\)](#)

**Fiscal Impact:** The total combined annual cost of the two contracts will not exceed \$100,000. Sufficient funds have been appropriated in various Citywide funds/cost centers and Capital Improvement Projects, where applicable, for the anticipated expenditures in the current fiscal year.

- 5B9. [Awarded a one-year contract to Automated Batting Cages Corporation for the replacement of the 18 batting cage pitching machines at Kiwanis Park. \(Contract #2015-03\)](#)

**Fiscal Impact:** Total cost of this contract will not exceed \$110,000 during the one-year contract term. Sufficient funds have been appropriated in General Fund cost center 2535 (Community Services – Kiwanis Batting Cages) for the anticipated expenditures in the current fiscal year.

- 5B10. [Awarded a two-year contract with six, one-year renewal options to SL-serco, Inc. to provide consulting services in the selection and implementation of an automated water meter reading system for the Public Works and Internal Services Departments. \(Contract #2015-04\)](#)

**Fiscal Impact:** Total cost of this contract will not exceed \$460,500 during the initial two-year contract period. Sufficient funds are available in the Water/Wastewater Capital Improvement Project Fund cost center 3205869 (Automated Water Metering) for the anticipated expenditures in the current fiscal year.

- 5B11. [Awarded a one-year contract with four, one-year renewal options to Liberty Mutual Insurance Company who will provide employees with a voluntary, employee funded, group policy for auto, home and umbrella insurance coverage overseen by Human Resources. \(Contract #2015-05\)](#)

**Fiscal Impact:** There is no cost to the City; all premiums are paid by participating employees. There are 127 employees participating in the current contract based on payroll deduction information.

- 5B12. [Awarded a construction contract to Sunland Inc. - Asphalt and Sealcoating for minor concrete improvements, on-call maintenance, and emergency repairs. \(Contract #2015-06\)](#)

**Fiscal Impact:** The total contract amount is not to exceed \$917,830. This on-call contract is funded by various Capital Improvement Projects throughout the one-year contract term as minor concrete work is identified and emergency repairs are needed.

- 5B13. [Awarded a construction contract to AJP Electric, Inc. for railroad crossing safety improvements on University Drive at the Union Pacific Railroad crossing. \(Contract #2015-07\)](#)

**Fiscal Impact:** The total construction contract amount is \$87,795.20 and the project contingency amount is \$8,780. Funds to cover this contract and associated costs are approved and appropriated for fiscal year 2014/15 in Capital Improvement Project No. 5401901, Railroad Safety Improvements. This project is fully funded by a Highway Safety Improvement Program Section 130 grant through the Federal Highway Administration.

- 5B14. [Awarded a two-year contract with four, two-year renewal options to World Wide Technologies, Inc. for the purchase of Cisco voice over internet protocol and data networking equipment and consulting services that are used throughout the City. \(Contract #2015-08\)](#)

**Fiscal Impact:** Total cost of this contract will not exceed \$750,500 during the initial two-year contract period. Sufficient funds are available in the General Fund cost center 1993 (IT Network Engineering) and various City-wide cost centers for the anticipated expenditures in the current fiscal year.

- 5B15. [Awarded a two-year contract with three, one-year renewal options to ClearWater Engineering LLC for the maintenance of the reflecting pool water feature at the Tempe Center for the Arts. \(Contract #2015-09\)](#)

**Fiscal Impact:** Total cost of this contract will not exceed \$72,000 during the two-year contract term. Sufficient funds have been appropriated in Performing Arts Fund cost center 3610 (Performing Arts Administration) for the anticipated expenditures in the current fiscal year.

## C. Resolutions

- 5C1. [Adopted RESOLUTION NO. R2015.01 authorizing the Mayor to execute an intergovernmental agreement between the Tempe Union High School District and the City of Tempe for the provision of school-based prevention programming services. \(Contract #2015-10\)](#)

**Fiscal Impact:** The amount of the grant funding for these services is not to exceed \$45,757, which consists of \$40,000 in new monies and \$5,757 in carry forward funding. Sufficient budget appropriations for expenditure of this grant were authorized in the Governmental Grants and Donations Fund (Fund 46, Cost Center 2459) as part of the fiscal year 2014-2015 adopted budget.

- 5C2. [Adopted RESOLUTION NO. R2015.02 authorizing the Mayor to sign an agreement to modify an existing intergovernmental agreement with the Arizona Department of Revenue to enable the City of Tempe to continue performing transaction privilege tax audits of businesses that are only licensed in Tempe after January 1, 2015. \(Contract #2008-242A\)](#)

**Fiscal Impact:** There is no direct fiscal impact associated with the modification to the intergovernmental agreement but the City's revenues will be negatively impacted if the intergovernmental agreement is not modified and the Arizona Department of Revenue maintains sole responsibility to perform single-jurisdiction audits.

- 5C3. [Adopted RESOLUTION NO. R2015.03 authorizing the Mayor to execute an amendment to the Amended and Restated Service Agreement for Operation of Hackett House between the City of Tempe and Tempe Sister City Corporation, relating to the Hackett House located at 95 West 4th Street. \(Contract #2006-198B1\)](#)

**Fiscal Impact:** No fiscal impact.

- 5C4. [Adopted RESOLUTION NO. R2015.04 adopting the updated Tempe Involving the Public manual as a guideline for public involvement processes.](#)

**Fiscal Impact:** No impact on City funds.

- 5C5. [Adopted RESOLUTION NO. R2015.05 amending the schedule of fees and charges authorized by the City Code relating to chapter 29, streets and sidewalks, relating to engineering fees.](#)

**Fiscal Impact:** While this resolution does not directly impact revenue, any wireless service facility request in the rights-of-way will result in the collection of the wireless service facility fees as outlined in this resolution, along with any additional utility permit fees associated with the installation of the facilities.

- 5C6. [Adopted RESOLUTION NO. R2015.06 adopting the 2015 Transportation Master Plan.](#)

**Fiscal Impact:** There will be no fiscal impact to the City. Individual projects listed in the plan will be part of the Capital Improvement Project budget process or funded through federal grants and the Tempe Transit fund.

- 5C7. [THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION. Adopt a resolution to promote walkability in the City of Tempe. \(Resolution No. R2015.08\)](#)

- 5C8. [Adopted RESOLUTION NO. R2015.09 approving the CORONA/SOUTH TEMPE CHARACTER AREA PLAN, dated December 2014, consisting of a character area map, principles, character elements and area priorities for the area generally bounded by Western Canal, Loop 101 freeway, City of Tempe south boundary and Kyrene Road.](#)

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

- 5C9. [Adopted RESOLUTION NO. R2015.10 approving the KIWANIS/THE LAKES CHARACTER AREA PLAN, dated December 2014, consisting of a character area map, principles, character elements, project priorities and a youthful element for the area generally bounded by US 60, Loop 101, Western Canal and Mill Avenue.](#)

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

- 5C10. [THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION. Adopt a resolution approving and authorizing the January 8, 2015 Addendum to Memorandum of Understanding between the Tempe Firefighters' Unit and the City of Tempe, effective July 1, 2014 to June 30, 2016. \(Resolution No. R2015.11\)](#)

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

- 5C7. **Resolution to promote walkability in the City of Tempe.**

Councilmember Granville noted that Councilmembers are supportive of maintenance of tree stock, walkability, and accessibility of shade for residents. He expressed concern that items 5 and 6 in the proposed resolution are different from what was discussed at the Committee of the Whole meeting. He questioned the financial impact and staff time this will require and requested additional time to review items 5 and 6.

**Motion by Councilmember Granville to approve agenda item 5C7, items 1-4, and table items 5 and 6 until the next Council meeting.**

Councilmembers asked staff to provide additional information. Dave Nakagawara, Community Development Director, explained that during staff's internal review of the proposed resolution language, several changes were made to eliminate potential redundancies from provisions that currently exist in the City Code. Code Enforcement currently enforces landscaping, so staff proposed an alternative, which was to add trees to code enforcement processes and as a component of new developments. The intent was not to provide an annual comprehensive tree survey. Future staff reports will outline changes of this nature.

Don Bessler, Public Works Director, stated that the resolution was reviewed by the departments most affected. The language for item 6 is consistent with conversations about the Urban Forestry Program, living infrastructure, asset management, and recommitting to things that have already been done. It is difficult to enforce rules that the City does not adhere to, such as right-of-way landscaping; language was added acknowledging that the City strives to adhere to the rules.

**Motion died for lack of a second.**

**Motion by Vice Mayor Shekerjian to approve agenda item 5C7 as presented; second by Councilmember Woods. Motion passed unanimously on a roll call vote 7-0.**

- 5C7. Adopted **RESOLUTION NO. R2015.08** to promote walkability in the City of Tempe.

*Fiscal Impact:* N/A

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- 5C10. **Resolution approving an addendum to a Memorandum of Understanding between the Tempe Firefighters' Unit and the City of Tempe.**

Councilmembers asked staff to provide additional information. Renie Broderick, Internal Services Director, stated that the addendum to the Memorandum of Understanding (MOU) memorializes the firefighter unit members exiting the City of Tempe healthcare plan. The firefighter's unit is seeking healthcare coverage as their own group, which was negotiated in

their current MOU. The Human Resources Division has been involved in this process.

Councilmember Granville stated that the actuarial company that the City works with has indicated that the health insurance rates for the remaining employee population will go up by approximately \$320,000 because the healthiest group of employees, the firefighter unit members, will be leaving the system. It is not appropriate for the remaining employees to bear the rate increases.

**Motion by Councilmember Woods to approve agenda item 5C10; second by Councilmember Navarro. Motion passed on a roll call vote 6-1 with Councilmember Granville voting no.**

- 5C10.** Adopted **RESOLUTION NO. R2015.11** approving and authorizing the January 8, 2015 Addendum to Memorandum of Understanding between the Tempe Firefighters' Unit and the City of Tempe, effective July 1, 2014 to June 30, 2016. **(Contract #2014-125A)**

**Fiscal Impact:** Sufficient funds have been appropriated in the Fire Medical Rescue Department's General Fund fiscal year 2014-2015 budget and the Governmental Grants and Donations Fund (Fund 46) for the ongoing employer medical, dental and vision premium contributions. The contribution amounts will remain the same and thus there will be no fiscal impact. Additionally, the City will pay 12.5% of the City's Health Fund surplus balance as of December 31, 2014, estimated to be \$400,000, to the Firefighter's Trust Fund, less the payout of Unit members' run-out claims through April 30, 2015.

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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.

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

- 6A1. Contracts with Dell and Hewlett Packard Company for the purchase of personal computer equipment and related devices, software, and consulting services.**

There was no discussion on agenda item 6A1.

**Motion by Councilmember Granville to approve agenda item 6A1; second by Councilmember Woods. Motion passed unanimously on a roll call vote 7-0.**

- 6A1.** [Approved the utilization of one-year Western States Contracting Alliance contracts with Dell and Hewlett Packard Company for the purchase of personal computer equipment and related devices, software, and consulting services for the Internal Services Department.](#)

**Fiscal Impact:** Total combined cost of these contracts will not exceed \$1,500,000 during the one-year contract period. Sufficient funds have been appropriated in the General Governmental Capital Improvement Project Fund - cost center 6707229 (Desktop Tech Refresh/Green) and various City-wide funds and cost centers for the anticipated expenditures in the current fiscal year.

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**6A2. Contract renewals with G4S Secure Solutions and Truly Every Assignment Matters, LLC to provide armed and unarmed security officer services.**

There was no discussion on agenda item 6A2.

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

**6A2. [Approved one-year contract renewals with G4S Secure Solutions and Truly Every Assignment Matters, LLC to provide armed and unarmed security officer services for various City departments.](#)**

**Fiscal Impact:** Total combined cost of these one-year renewals shall not exceed \$1,000,000. Sufficient funds have been appropriated in various funds and cost centers for the anticipated expenditure in the current fiscal year.

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

**\*6B1. Ordinance authorizing a Third Amendment to a Communications Site Lease with American Tower Asset Sub, LLC, 735 West Carver 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 authorizing a Third Amendment to a Communications Site Lease with American Tower Asset Sub, LLC \(successor in interest to C-Call Corp.\). The cell tower site is located at 735 West Carver Road. The second and final public hearing was scheduled for January 29, 2015. \(Ordinance No. O2015.03\)](#)**

**Fiscal Impact:** Rent owed for the City property used for the cell tower site under the current amended lease is \$2,831.63 per month excluding taxes. American Tower will pay \$3,300 per month as base rent starting March 1, 2015 as consideration for the City's consent to current subleases with Sprint and Verizon. The base rent will continue to increase by 3.5% annually on each November 1 as required by the amended lease. American Tower is responsible for paying taxes in addition to the base rent.

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Mayor Mitchell announced that item 6B2 has been removed/deleted from the agenda.

**\*6B2. ~~REMOVED/DELETED AT THE REQUEST OF STAFF Introduce and hold the first public hearing to adopt an ordinance authorizing the granting of a power distribution easement to Salt River Project Agricultural Improvement and Power District over certain City-owned land located near 7195 South Shutterfly Way, and the execution of an easement agreement memorializing such easement. The second and final public hearing is scheduled for January 29, 2015. (Ordinance No. O2015.04)~~**

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**\*6B3. Ordinance granting an Irrigation Easement to Salt River Project Agricultural Improvement and Power District near 178 East Broadway Road.**

Mayor Mitchell introduced the ordinance and opened the public hearing. There was no discussion or public comment on agenda item 6B3.

- \*6B3.** [Introduced and held the first public hearing to adopt an ordinance authorizing the granting of an Irrigation Easement to Salt River Project Agricultural Improvement and Power District over certain City-owned land located near 178 East Broadway Road, and the execution of an easement agreement memorializing such easement. The second and final public hearing was scheduled for January 29, 2015. \(Ordinance No. O2015.05\)](#)

**Fiscal Impact:** No impact on City funds.

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- \*6B4. Resolution for a General Plan Density Map Amendment Ordinance, and a Zoning Map Amendment with a Planned Area Development for 4TH STREET WEST, 1301 West Fourth Street.**

Mayor Mitchell introduced the ordinance and opened the public hearing.

Councilmember Granville stated that the planned area development request is separate from the site plan for this project, which can no longer occur under the current regulations. He requested that the following stipulation be added to agenda item 6B4: “any substantial changes to the site plan, as proposed, subject to the new regulations for development plan review, shall require submittal of a development plan review with the request brought back for a decision by the City Council”.

Ryan Levesque, Deputy Community Development Director – Planning, explained that the proposed condition would require that if there are any significant changes to the proposed plan, the design and development plan reviews would return to the City Council for a decision, rather than the original decision making body.

**Motion by Councilmember Granville to amend the conditions of approval for agenda item 6B4 to add the following language to the conditions of approval: “any substantial changes to the site plan, as proposed, subject to the new regulations for development plan review, shall require submittal of a development plan review with the request brought back for a decision by the City Council”; second by Councilmember Navarro. Motion passed unanimously on a roll call vote 7-0.**

- \*6B4.** [Introduced and held the first public hearing, and amended the conditions of approval, to adopt a resolution for a General Plan Density Map Amendment from Medium Density \(up to 15 dwelling units per acre\) to Medium-High Density \(up to 25 dwelling units per acre\), and to adopt an ordinance for a Zoning Map Amendment from Multi-Family \(R-2\) to Single-Family \(R1-PAD\) with a Planned Area Development to establish development standards for fifteen new two-story townhomes on .875 gross acres, for 4TH STREET WEST, located at 1301 West Fourth Street. The applicant is Tom Gosciski, TPG Holdings. The second and final public hearing was scheduled for January 29, 2015. \(Resolution No. R2015.07\) \(Ordinance No. O2015.06\)](#)

**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.

*The following condition of approval will be added to the conditions of approval for agenda item 6B4:*

7. Any substantial changes to the site plan, as proposed, subject to the new regulations for development plan review, shall require submittal of a development plan review with the request brought back for a decision by the City Council.
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**\*6B5. Ordinance amending Chapter 7 of the Tempe City Code, relating to bicycles, by adding Article VII relating to pedicabs.**

Mayor Mitchell introduced the ordinance and opened the public hearing.

Colin McCarty, Phoenix, spoke about the following: he owns a pedicab company and supports regulating the pedicab industry. The proposed ordinance is similar to the Phoenix and Scottsdale ordinances; it is vague, inadequate, and will not do much to change the current industry status. He has assisted jurisdictions in drafting pedicab ordinance regulations. Pedicabs are commercial vehicles used to transport people; people should be protected. Safety requirements such as hydraulic braking systems should be considered. The pedicab industry in Tempe lacks professionalism. Currently, there are bikes with homemade trailers attached that are not designed properly to transport people; they also have problems stopping. He requested that there be additional industry outreach and an examination of ordinances from cities outside of the Phoenix area.

Vice Mayor Shekerjian stated that it would be helpful if Mr. McCarty assist staff with suggested changes to ordinance language.

Mayor Mitchell asked about the outreach process. Shelly Seyler, Deputy Public Works Director, Traffic Engineering, stated that staff reached out to Arizona State University, the Tempe Chamber of Commerce, the Downtown Tempe Authority, and Tempe Tourism to ensure those organizations were comfortable with the ordinance. Staff will incorporate the comments raised tonight into the ordinance language.

Stephen McCarty, Phoenix, spoke about the following: the proposed ordinance falls short of what is needed to protect passengers and meet industry standards. Few pedicab operators in Tempe have a commitment to professionalism and safety. He suggested the following: eliminate trailer style pedicabs; license and inspect pedicabs and drivers; conduct background and criminal history checks and drug testing; require hydraulic brakes; require the maintenance and use of industry standard safety equipment; and, require that equipment such as turn signals, bells, and horns be operable and work at all times. He urged Councilmembers to develop the most comprehensive and safest pedicab ordinance in the country.

Tony Rivera, Phoenix, Executive Director of the National Pedicab Association, spoke about the following: the National Pedicab Association is interested in working with a City to develop a model ordinance that could serve as a national standard. Areas of concern include: the ordinance language is vague and leaves too much to interpretation, such as with braking systems. The ordinance does not address the length of pedicabs; the national standard is 110"; the width of the pedicab is adequate. The ordinance lacks language requiring that the City of Tempe be listed as additionally insured, which is standard across the country. There is no oversight provision for proper insurance, safety equipment, and driver's licenses. This will create additional work load for law enforcement officials to ensure pedicabs are in compliance with the ordinance. An inspection process could include a permit fee, submittal of insurance documents, vehicle inspection, and a vehicle tag. He offered to assist staff on the ordinance requirements.

Javon Jennings, Phoenix, University Pedicab, spoke about the following: many cities are concerned about pedicabs not having adequate equipment; higher standards would eliminate many of these issues. An inspection process would help determine if drivers are qualified to operate a bike. Tempe could lead the country in setting the standards.

Mayor Mitchell thanked the speakers and asked that they provide their contact information to staff for further review of the ordinance.

**\*6B5.** [Introduced and held the first public hearing to adopt an ordinance amending Chapter 7, Tempe City Code, relating to bicycles by adding a new Article VII relating to pedicabs. The second and final public hearing was scheduled for January 29, 2015. \(Ordinance No. O2015.07\)](#)

**Fiscal Impact:** There is no direct cost to the City with this code amendment.

**C. Ordinances and Items for Second Hearing and Final Adoption**

Mayor Mitchell announced that agenda item 6C5 will be taken out of order.

**\*6C5. Ordinance for a Planned Area Development Overlay for 2100 RIO SALADO, 2100 East Rio Salado Parkway.**

Mayor Mitchell opened the public hearing. There was no discussion or public comment on agenda item 6C5. Mayor Mitchell closed the public hearing.

**Motion by Councilmember Woods to approve agenda item 6C5; second by Councilmember Navarro. Motion passed unanimously on a roll call vote 7-0.**

**\*6C5.** Held the second and final public hearing and adopted **ORDINANCE NO. O2015.02** for a Planned Area Development Overlay for hotels, restaurants, bars and retail uses in the HID Heavy Industrial District for 2100 RIO SALADO, located at 2100 East Rio Salado Parkway. The applicant is Mike Withey, Withey Morris PLC.

**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.

*The following conditions of approval apply:*

1. A building permit application shall be made on or before January 8, 2017, or the zoning of the property may revert to that in place at the time of application. Any reversion is subject to a public hearing process as a zoning map amendment.
2. The property owner shall sign a waiver of rights and remedies form. By signing the form, the Owner voluntarily waives any right to claim compensation for diminution of Property value under A.R.S. §12-1134 that may now or in the future exist, as a result of the City's approval of this Application, including any conditions, stipulations and/or modifications imposed as a condition of approval. The signed form shall be submitted to the Community Development Department no later than February 9, 2015, or the PAD approval shall be null and void.
3. An Encroachment Permit for any work proposed in the right of way must be obtained from the Engineering Department prior to submittal of construction documents for building permit. The limitations of this encroachment include;
  - a. a maximum projection of eight (8) feet for any upper level balconies or decorative architectural features of the building,
  - b. a minimum clear distance of twenty-four (24) feet between the sidewalk level and any overhead structure, and
  - c. any other requirements described by the encroachment permit or the building code.
4. The Planned Area Development Overlay for 2100 RIO SALADO shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Community Development Department prior to issuance of building permits.
5. The Planned Area Development Overlay shall be updated with each subsequent phase of development, to include site plans and updated parking data.
6. The Planned Area Development Overlay shall be updated with any changes to the combination of uses that would impact the parking allocation as determined by the PAD.
7. An amended Subdivision Plat is required for this development and shall be recorded prior to issuance of building permits.
8. The landscape area for any phase of development that exceeds the allowed 125% maximum surface parking shall be a minimum of 12% of the site area for that phase of the project.

9. The developer must submit and receive approval of a Traffic Impact Study from the Traffic Engineering prior to any modifications to Rio Salado Parkway.
10. Each phase shall provide contribution to the overall required Art in Private Development for 2100 Rio Salado development, subject to the building area submitted at the time of development when proposed for building permits.

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**\*6C1. Ordinance for a Zoning Map Amendment with a Planned Area Development Overlay for WILSON STREET TOWNHOMES, 6101 South Wilson Street.**

Mayor Mitchell opened the public hearing.

Steven Earl, applicant representative, stated that he is attending on behalf of the Hogan Associate Group who will be buying and developing this site, as well as the owner, the Vance Family Trust. Mr. Earl displayed an exhibit of the project and provided an update on the project changes that have occurred since the November 13, 2014, City Council public hearing: the number of units was decreased from 44 to 39 units; the distance from the closest home to the north increased from 100' to 150'; and, although the ordinance requires that 30% of the property be open space, 43% of the property will be landscaped and open space. While direct access to Kyrene Road would have been significantly important, the property does have two alternative points of access.

The originally proposed project was 54 units. Because of the proximity to neighboring homes along the north side of the property, the three story units were decreased to two story units and clear windows were replaced with opaque windows. The color scheme has been revised, along with adding a pitched roof, gables, and different elevations. During the process, project representatives worked with Ron Tapscott as well as Pepperwood Homeowners Association representatives. An acceptable compromise on density has been reached. The revised plan has been submitted to staff and is part of the project file; it includes different colors and a pitched roof.

Bob Boers, Tempe, outlined the following concerns and comments of residents regarding the 44 unit project: traffic volume, safety, and only allowing a maximum of 35 units. He closed by stating that 39 units was acceptable to him.

Jami Peterson, Tempe, Pepperwood Steering Committee representative, voiced support for the 39 unit townhome project. The Pepperwood Steering Committee met numerous times and is appreciative of the input by all involved.

Bruce Martin, Tempe, Co-chair of Pepperwood Neighborhood Association, voiced support for the 39 unit townhome project. The City Council process was good, as well as negotiations with the developer's representatives; a reasonable compromise has been reached. He suggested that the some of the space saved by eliminating 5 units serve as visitor parking to address overflow parking concerns on LaDonna Drive.

Councilmembers discussed the following: all parties involved in the process were thanked for their time, contributions, and willingness to compromise. The process was about achieving the best project while understanding the demands for the economics of the location; mediating versus litigating. These townhouses are a quality product for the right amount of people. This project will benefit schools, increase homeownership, increase value to residents, and meets the City Council's vision. It is important to have a good balance of housing opportunities in Tempe. The Character Area Planning process is an example of how Councilmembers care about neighborhoods and consider resident feedback.

**Motion by Vice Mayor Shekerjian to approve agenda item 6C1; second by Councilmember Woods. Motion passed unanimously on a roll call vote 7-0.**

**\*6C1.** [Held the second and final public hearing and adopted ORDINANCE NO. O2014.66 for a Zoning Map Amendment from AG Agricultural to R1-PAD Single Family with a Planned Area Development Overlay for 39 townhomes for WILSON STREET TOWNHOMES, located at 6101 South Wilson Street. The applicant is Shelby Duplessis, Bowman Consulting Group. \(This item was continued from the December 4, 2014 Regular Council Meeting\)](#)

**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.

*The following conditions of approval apply:*

1. A building permit application shall be made on or before November 13, 2016, or the zoning of the property may revert to that in place at the time of application. Any reversion is subject to a public hearing process as a zoning map amendment.
2. The property owner(s) shall sign a waiver of rights and remedies form. By signing the form, the Owner(s) voluntarily waive(s) any right to claim compensation for diminution of Property value under A.R.S. §12-1134 that may now or in the future exist, as a result of the City's approval of this Application, including any conditions, stipulations and/or modifications imposed as a condition of approval. The signed form shall be submitted to the Community Development Department no later than December 15, 2014, or the Zoning Map Amendment and PAD approval shall be null and void.
3. An Encroachment Permit must be obtained from the Engineering Department prior to submittal of construction documents for building permit.
4. A right of way maintenance agreement and access easement must be recorded with the Engineering Department prior to issuance of building permits.
5. The Planned Area Development Overlay for WILSON STREET TOWNHOMES shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Community Development Department prior to issuance of building permits.
6. An amended Subdivision Plat is required for this development and shall be recorded prior to issuance of building permits.
7. 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 November 13, 2015. Failure to record the plat within one year of City Council approval shall make the plat null and void.
8. 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.
9. The owner(s) shall provide a continuing care condition, covenant and restriction for all designated parking to be maintained for parking spaces; garages shall not be used for storage that impedes use as vehicle parking. CC&Rs shall be drafted prior to issuance of building permits.

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Mayor Mitchell announced that item 6C3 will be taken out of order.

**\*6C3. Appeal of the decision by the Development Review Commission for a Development Plan Review for JEFFERSON TOWN LAKE, 909 East Playa del Norte Drive.**

Mayor Mitchell invited Francis Slavin, appellant, to speak.

Francis Slavin, attorney representing the North Shore Condominium Association introduced Heather Dukes, attorney. Mr. Slavin requested that there be one hearing for both of the Jefferson Town Lake agenda items (6C2 and 6C3). Judi Baumann, City Attorney stated that the discussion and presentation could be held on both items together, but the vote for each item must be separate. Councilmembers chose to proceed with the appeal first.

Mr. Slavin provided a PowerPoint presentation and spoke in opposition to the proposed development as follows: he and his clients have met with Mr. Huellmantel to discuss concerns about density, views and setbacks; there has been no follow-up meeting. Mr. Slavin requested a minimum of an additional 60 days to meet with Jefferson Town Lake representatives, and noted that his clients are willing to compromise.

An exhibit was displayed of the layout of various parcels. An appeal letter was filed with the City on November 10, 2014. A letter was also sent to Judi Baumann, City Attorney, regarding the development and disposition agreement (DDA) which was approved by the City Council in August, 2003. Problems with the project include pedestrian and vehicular circulation and access to the property. There will be increased traffic in the area. Lot 3 has a solid median allowing only right in and right out access; it has no practical use of the reliever road, yet it is a very important part of the planned area development (PAD) process. The location of the construction staging area was questioned; there is one narrow lane each, for entering and exiting the property.

The lot coverage, setbacks, parking ratios, and landscaped area are incompatible with the PAD. The density and building massing scale impairs North Shore condominium view corridors and privacy, which is addressed by the development agreement. There will be an increase in traffic, which is also addressed in the development agreement. This project cannot move forward without amending the existing development agreement. The state statute allows for development agreements and provides for financing community facilities districts and public financing of projects. The development agreement allows for land uses, densities, intensities and the massing of buildings, to be set. The most significant provision in the development agreement is the conceptual master site plan, which sets forth the scope of development on this property; it states that the density range will lie between 600,000 square feet and 1 million square feet, as well as public financing of various infrastructure; it also sets forth land uses, intensity, density, range of height, and size of buildings. The project must also be in conformance with subordinate development agreements for individual parcels, which are recorded documents; elements of subordinate agreements were reviewed. The density, lot coverage, setbacks, parking ratios and landscaped areas are incompatible with the PAD plan for Playa del Norte. Lots 4 and 5 were developed based on the PAD requirements; Lot 4 is condominiums and Lot 5 is apartments. The applicant is intending to increase what is set forth in the development agreement. He discussed the hierarchy of approvals from Playa del Norte to individual lots.

Mr. Slavin requested that the comparative density rate be considered. The North Shore project has 134 units and the Grigio project has 523 units. Together they consume all of the allowable density in the development agreement. A fair and reasonable compromise would be to take the density level down to the Onyx project level and decrease the density from 256 units to 196 units. Had the Onyx project been built, views of the lake would have been preserved. In terms of lot coverage, a reduction in density will open up view corridors. Lot coverage for North Shore is 68.8%, Jefferson Town Lake is 83.5% and the Onyx project would have been 65%.

Setbacks between the North Shore and the Grigio projects were discussed and compared to the setbacks between the North Shore, Jefferson Town Lake, and Onyx projects. The setback between North Shore and Jefferson Town Lake is 30-40', which is too close. The proposed project lacks good planning and architecture. Additional concerns include resident parking ratios and provisions for visitor parking and loading zones; whether or not the Zoning and Development Code setback requirements are being satisfied; placement of balconies; and, blocking views.

A schematic design has been prepared so that views would be preserved. He requested that the schematic design be explored by Jefferson Town Lake representatives. The builder of the North Shore project has an interest in the Jefferson Town Lake project and is the party that originally promised views to buyers of North Shore properties; that promise should be respected.

Discussion continued regarding the Miller Road extension, its intended use, and who is responsible for paying for the improvement district assessment of this roadway. Ryan Levesque, Deputy Community Development Director – Planning, clarified that the improvement district assessment for the Miller Road extension is assessed to all parcels, based on the square footage of each lot.

Charles Huellmantel, applicant representative, stated that in his opinion, the development agreement is not relevant and that the City Council has the authority to make a decision this evening.

Judi Baumann, City Attorney, suggested that if Councilmembers wish to discuss the legalities of the development agreement, they convene into Executive Session. Mr. Huellmantel suggested that the setback provision and other documents, including how assessments work, as additional topics of discussion.

Councilmembers discussed staff's recommendation of approval of the project. With regard to the appeal, Ms. Baumann clarified that a motion to deny would uphold the decision of the Development Review Commission and a motion to approve would approve the appellant's position.

Mr. Huellmantel provided an overview of the proposed mixed-use project as follows: a meeting was held with Mr. Slavin and his clients to discuss the intensity of the project. Mr. Slavin has asked that the project be 196 units. The proposed project is 244 units, a decrease from the 258 units originally proposed. Mr. Slavin has indicated a preference for a project similar to the Onyx project, which was 252,316 square feet. The proposed Jefferson Town Lake project is 240,000 square feet, which is 12,000 square feet less than the Onyx project.

The number of bedrooms versus units is a more accurate predictor of the intensity of a project. 353 bedrooms have been decreased to 331 bedrooms, lower than the Onyx project. The vehicles per bedroom for the Onyx project was 1.15; the proposed vehicles per bedroom for this project is 1.31. There will be more parking, fewer bedrooms, and fewer people.

Mr. Huellmantel displayed a PowerPoint presentation, illustrating the site and surrounding properties. Staging for this project will be difficult, but possible. Based on feedback from neighborhood meetings and staff, the project design evolved and the following modifications have been made: tandem parking spaces were removed; all parking spaces are located either below or in the building, at the expense of the developer; the addition of patio deck space; the addition of a rooftop amenities deck along the Rural Road portion of the project; landscaping around the building, including two rights-of-way locations; the roof has been activated; view corridors have been increased; the addition of blue parapets and a halo design; eliminated two story lofts on one side of the property and removed 14 units to improve the view corridor for neighbors; and, the trash compacter has been moved to the inside of the building. This project has significant setbacks for an urban character area and is less intense than the Onyx project, which was the number one priority of the neighbors.

Mr. Huellmantel displayed an image showing how the building is in keeping with the character of surrounding buildings; the corridors are also similar in character. In terms of the distance between properties, it is important to consider the design of nearby properties. One of the neighboring buildings is located on the property line.

Additional time to meet with Mr. Slavin would not be helpful as the developer has made several project modifications to address the concerns of neighbors. Councilmembers have the authority to make a decision on this project.

**Motion by Councilmember Woods to deny agenda item 6C3; second by Vice Mayor Shekerjian.**

Councilmember Ellis declared a conflict of interest on agenda item 6C3.

**Motion passed 6-0-1 with Councilmember Ellis abstaining.**

- \*6C3. Held a public hearing and denied an appeal of the decision by the Development Review Commission for a Development Plan Review for JEFFERSON TOWN LAKE, located at 909 East Playa del Norte Drive. The appellant is Francis Slavin. *(This item was continued from the December 4, 2014 Regular Council Meeting)*

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

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- \*6C2. **Ordinance for an Amended Planned Area Development Overlay for JEFFERSON TOWN LAKE, 909 East Playa del Norte Drive.**

Mayor Mitchell opened the public hearing.

Trent Potter, Tempe, spoke in support of the project because of the close walking and biking distance to things in Tempe, including his work. The high end design and proximity to the lake provides an opportunity for him to rent property and be part of the community.

Mayor Mitchell stated that Todd Bowden, Heidi Mather, and Chuck Lee submitted speaker cards in support of agenda item 6C2.

Elaine Barber, Tempe, stated her support of the project.

Jeremy Glassman, Tempe, spoke about the following: this is the first time he has seen the new setbacks. He referenced the Onyx setbacks and reliance on the agreement in place when the neighboring properties were purchased. He requested that the developer go back to the original development agreement and preserve views.

Mr. Slavin stated that this is a legal issue; there are implications with the development agreement.

Councilmembers briefly discussed convening into executive session.

Mr. Huellmantel requested consideration of the following technical changes to the conditions of approval: 1) in Condition #1, revise the dates on exhibits dated October 27, 2014 and September 29, 2014 to January 8, 2015 and December 17, 2014; and, 2) because the hearing was continued, revise the date for Condition #3, to February 9, 2015.

The intent of this project is not to design or build a dormitory product, which is a concern of neighbors. Therefore, the developer requests two additional conditions be imposed: 1) the owner will not rent by the bed or bedroom; and, 2) the owner will not accept co-signers or lessees under the age of 21. This will avoid parents being co-signers for college students.

**Motion by Councilmember Granville to amend the proposal to include the [4] stipulations [stated above], and the new design that was submitted; second by Vice Mayor Shekerjian.**

Mayor Mitchell clarified the motion to include the modifications stated by Mr. Huellmantel and the new design.

Councilmember Ellis declared a conflict of interest on agenda item 6C2.

**Motion by Councilmember Granville to approve agenda item 6C2, as amended; second by Vice Mayor Shekerjian. Motion passed on a roll call vote 6-0-1 with Councilmember Ellis abstaining.**

**\*6C2.** [Held the second and final public hearing and adopted ORDINANCE NO. O2014.68, and approved amended conditions of approval, for an Amended Planned Area Development Overlay to modify the standards for density, lot coverage, landscape area, building height, and vehicle parking for JEFFERSON TOWN LAKE, located at 909 East Playa del Norte Drive. The applicant is Huellmantel & Affiliates. \(This item was continued from the December 4, 2014 Regular Council Meeting\)](#)

**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.

*The following amended conditions of approval apply:*

1. Except as modified by conditions, development shall be in substantial conformance with the Jefferson Town Lake site plan, floor plans, and building elevations (renderings) dated January 8, 2015, and landscape plan dated December 17, 2014.
2. A building permit application shall be made on or before two years from the date of City Council approval or the zoning of the property may revert to that in place at the time of application. Any reversion is subject to a public hearing process as a zoning map amendment.
3. The property owner shall sign a waiver of rights and remedies form. By signing the form, the Owner voluntarily waives any right to claim compensation for diminution of Property value under A.R.S. §12-1134 that may now or in

the future exist, as a result of the City's approval of this Application, including any conditions, stipulations and/or modifications imposed as a condition of approval. The signed form shall be submitted to the Community Development Department no later than February 9, 2015, or the PAD approval shall be null and void.

4. The Planned Area Development Overlay for Jefferson Town Lake shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Community Development Department prior to issuance of building permits.
5. An amended Subdivision Plat is required for this development and shall be recorded prior to issuance of building permits.
6. Prior to submittal of the first building permit, the developer must receive approval of the Final Traffic Impact Study from the Public Works Department.
7. Prior to submittal of the first building permit application, the applicant shall provide evidence that the "no residential use" restriction on Lot 3A of the Final Plat of Playa del Norte has been removed. The restriction is identified as No. 9 in Bureau of Land Management (BLM) Patent AZ-02-97-0005 between the BLM and City of Tempe.
8. New construction shall be sound mitigated resulting with indoor noise levels not exceeding a decibel day night-level (DNL) of 45 decibels.
9. Building plans submitted for compliance review to the City of Tempe's the Community Development Department shall be sealed and signed by an engineer licensed in Arizona with a proficiency in sound mitigation or noise control. The engineer shall note on the building plans that the building design is capable of achieving the required noise level reduction.
10. The property owner shall record a Notice to Prospective Purchasers of Proximity to Airport in order to disclose the existence and operational characteristics of Phoenix Sky Harbor International Airport to future owners or tenants of the property.
11. The developer shall provide vehicle parking equal to or greater than 432 spaces.
12. The owner will not rent by the bed or bedroom.
13. The owner will not accept co-signers or lessees under the age of 21.

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**\*6C4. Ordinance granting an avigation and noise easement to remove a no residential use restriction on the north bank of Tempe Town Lake, and an easement agreement for Lot 3A, Playa del Norte.**

Mayor Mitchell opened the public hearing. There was no discussion or public comment on agenda item 6C4. Mayor Mitchell closed the public hearing.

Councilmember Ellis declared a conflict of interest on agenda item 6C4.

**Motion by Councilmember Navarro to approve agenda item 6C4; second by Vice Mayor Shekerjian. Motion passed on a roll call vote 6-0-1 with Councilmember Ellis abstaining.**

**\*6C4.** [Held the second and final public hearing and adopted ORDINANCE NO. O2015.01 authorizing the granting of an avigation and noise easement to the benefit of the City of Phoenix to secure the removal of a no residential use restriction on City-owned land located on the north bank of Tempe Town Lake, and authorizing the execution of an easement agreement memorializing such easement. The land is known as Lot 3A of Playa del Norte.](#)

**Fiscal Impact:** The removal of the residential use restriction does not affect the terms of existing agreements.

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

### Councilmember Woods

Saturday, January, 10, 2015 – Polar Bear Plunge event at the Lakes in Tempe.

Expressed appreciation to Councilmember Ellis and Vice Mayor Shekerjian for their service to the City of Tempe.

### Councilmember Arredondo-Savage

Expressed appreciation to Councilmember Ellis and Vice Mayor Shekerjian for their service to the City of Tempe.

### Councilmember Navarro

Expressed appreciation to Councilmember Ellis and Vice Mayor Shekerjian for their service to the City of Tempe.

### Councilmember Granville

Expressed appreciation to Councilmember Ellis and Vice Mayor Shekerjian for their service to the City of Tempe.

PF Changs Rock 'N Roll Marathon event is coming up.

Condolences to the Wells family.

Read a statement from a resident regarding the signage at Kiwanis Park about not feeding the ducks.

### Mayor Mitchell

Expressed appreciation to City staff and Downtown Tempe Authority for their coordination of the New Year's Eve Block Party.

PF Changs Rock 'N Roll Marathon event is coming up.

Polar Bear Plunge event is coming up.

Condolences to the Flynn and Wells families.

Expressed appreciation to Councilmember Ellis and Vice Mayor Shekerjian for their service to the City of Tempe.

### Councilmember Ellis

Thanked Councilmembers for their comments.

Thanked members of the community for the flowers.

Thanked everyone for their support during her tenure on Council.

Expressed appreciation to Vice Mayor Shekerjian for her service to the City of Tempe and read a poem in tribute.

### Vice Mayor Shekerjian

Expressed appreciation to Councilmember Ellis for her service to the City of Tempe.

Thanked members of the community for the flowers.

The positions of City Council need to stay non-partisan.

Reviewed programs implemented and accomplishments over the past eight years.

Thanked staff for their work.

There is diversity on the City Council.

**8. PUBLIC APPEARANCES**

**A. Scheduled**

Darlene Justus, North Tempe Neighborhood Association President (NTNA), spoke about NTNA's involvement on Phoenix Sky Harbor Airport noise pollution issues since the 1970's; airport economic and transportation benefits; and, impacts of the new flight procedure on Phoenix and Tempe residents. Phoenix has defended its citizens; Tempe residents deserve the same concern. Councilmembers were thanked for requesting a meeting with City of Phoenix representatives to discuss noise pollution and safety concerns of Tempe residents; NTNA offers its assistance.

She expressed appreciation to Councilmember Ellis and Vice Mayor Shekerjian for their service to the City of Tempe and their work on aviation issues.

Emory Caudill - the right to sell artwork without a license. No one spoke.

**B. Unscheduled**

**The meeting adjourned at 10:50 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 January 8, 2015, by the Tempe City Council, Tempe, Arizona.

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

ATTEST:

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