



Minutes City Council Work Study Session February 18, 2016

Minutes of the Tempe City Council Work Study Session held on Thursday, February 18, 2016, 4:00 p.m., in the City Council Chambers, Tempe City Hall, 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 (*attended telephonically*)

STAFF PRESENT:

Andrew B. Ching, City Manager
Chuck Cahoy, Deputy City Attorney
Brigitta M. Kuiper, City Clerk
Don Bessler, Public Works Director
Marie Raymond, Education Coordinator

Ken Jones, Deputy City Manager – Chief Financial Officer
Steven Methvin, Deputy City Manager – Chief Operating Officer
Dave Nakagawara, Community Development Director
Naomi Farrell, Human Services Director
Various Department Heads or their representatives

Mayor Mitchell called the meeting to order at 4:09 p.m.

Call to the Audience

Peter Crocoll and Moonshadow, Phoenix, on-site commercial property managers for Mill Avenue Shops, expressed concern about the number of people camping on the street corners in the downtown area. This behavior is impeding foot traffic on sidewalks and access to the businesses, creating litter, and forcing visitors to walk out into the street to avoid the sidewalk campers. The Downtown Tempe Authority's Safety Patrol and Tempe Police officers have been called to respond to these incidents. If this situation continues, it may deter new businesses from locating to the downtown area. The City should adopt an ordinance prohibiting people from sleeping on the public sidewalk, and assist homeless individuals in finding a local shelter.

Issue Review Session Items

Downtown Commercial District – Sidewalks

Andrew Ching, City Manager, stated that he and Kate Borders, President/Executive Director of the Downtown Tempe Authority (DTA), have conducted additional outreach with stakeholders regarding their concerns about individuals sitting and lying down on public sidewalks in the downtown area. Staff have met with representatives of the Tempe Community Action Agency (TCAA), Tempe Community Council, Salvation Army Downtown Tempe Branch, and Tumbleweed Center for Youth, to develop amendments to the ordinance, to include reinstating the language that was stricken from City Code Sections 29-70 and 29-71 in November 2014, relating to prohibited conduct, exceptions, and penalty to address the behavior of individuals sitting and lying down directly on public sidewalks. DTA and the City recognize that consideration of the revised ordinance would not be the final part of discussions on homelessness, lack of affordable and available housing, and social service needs.

Two major changes are being proposed: (1) There must be notification and education by a law enforcement officer before any citation is issued; and (2) subsection (e) was added to Section 29-70 stating, "Nothing in this article shall be construed to criminalize homelessness, targeting the homeless community, or otherwise criminalizing an individual's status rather than conduct."

With consensus among Councilmembers to move forward, the first public hearing on the proposed ordinance would be held at the March 17, 2016 Regular Council Meeting (RCM), with the second public hearing scheduled for the April 14, 2016 RCM.

Ms. Borders stated that she recognizes that the ordinance does not solve the larger problem of homelessness in the community. DTA receives complaints from stakeholders within the Downtown Commercial District almost daily regarding individuals sitting or lying on the sidewalk. The purpose of the ordinance is to prohibit this type of behavior, not to target homeless individuals. Ms. Borders outlined efforts by DTA member businesses to collect supplies and raise funds to assist homeless individuals in the area, to include marketing the Change for Change non-profit collection meters on Mill Avenue; participating in the National Homeless and Hunger Awareness Week collections; and, working with TCAA to raise \$10,000 for the Interfaith Homeless Emergency Lodging Program (I-HELP).

In response to questions from a Councilmember, Ms. Borders stated that there are currently 53 seating locations on Mill Avenue where people can legally sit throughout the day; they can also sit in public parks and public gathering spaces. Recently, she observed people sitting on the sidewalk who were less than 50 feet from locations that are available for sitting. Individuals sitting on sidewalks are not asked to leave the downtown area; they are only asked to move to an appropriate seating location nearby.

Councilmembers expressed appreciation to DTA for involving downtown social service agencies in the discussions and partnering with them to assist the homeless population.

Councilmembers conveyed support for the proposed ordinance because it specifies that a person could not be cited because of their status as homeless, and clearly defines a method that ensures that this process will be used as an educational measure rather than a heavy-handed enforcement tool. Councilmembers recommended that staff evaluate the performance of the ordinance and assess community feedback after one year from the ordinance effective date, and present an update to the City Council. It was also suggested that a card listing available social services and local shelters should be distributed to homeless individuals. Ms. Borders stated that DTA already distributes such material.

In response to a question from a Councilmember, Mr. Ching explained that notification would be a verbal warning to an individual engaging in conduct that may constitute a violation. The timeframe for compliance is not addressed specifically in the ordinance and would rely on the training, education, and discretion of the law enforcement officer. Under the previous ordinance, citations were rare because multiple warnings were given or just one warning was sufficient. Each warning is specific to the particular site or incident.

Councilmembers and Mr. Ching discussed the need to ensure that warnings are given fairly and equitably to all violators. The objective of the proposed ordinance is to focus on education and warning, rather than enforcement, to encourage sidewalk campers to sit elsewhere while making sure they are educated about services available to them.

Councilmember Kuby quoted from the National Law Center on Homelessness and Poverty: "Penalizing people for engaging in innocent behavior, such as sleeping in public, sitting on the sidewalk, or begging, will not reduce the occurrence of these activities or keep homeless people out of public spaces when they have no alternative place to sleep or sit, or no other means of subsistence. With insufficient resources for shelter and services for homeless people, imposing punishment for unavoidable activities is not only futile, it is inhumane." Councilmember Kuby stated that the City's funding for homeless services has remained level since 2011, despite the Consumer Price Index increasing by 40%. The City's budget priorities need to be aligned with Tempe's values, including the Homeless Strategic Plan. The Tempe Homeless Coalition should have been included in the discussions on the proposed ordinance. A Town Hall on Homelessness will be scheduled soon.

Councilmembers discussed soliciting feedback on the ordinance from Sylvia Moir, the new Tempe Police Chief, after she starts employment on March 21, 2016. Mr. Ching stated that Police staff will write an operations order that details the enforcement of the ordinance. He will work with Police Chief Moir and her staff to provide the enforcement order information at the first or second read of the ordinance to inform the public.

Concern was expressed that in a year no one will have been cited, which will not allow for an accurate evaluation on the effectiveness of the ordinance. Ms. Borders stated that every single interaction by DTA's Safety Patrol is documented. Based on the discussion, City Council agreed to move forward with the proposed ordinance changes, place the ordinance on

the March 17, 2016 RCM and April 14, 2016 RCM agendas for public hearings and a vote, and solicit input on the ordinance from Tempe Police Chief Moir prior to the first hearing. Staff will provide a one-year evaluation to the City Council, including feedback from DTA, Tempe Police Department, Tempe Homeless Coalition, community members, and other stakeholders.

Stadium District Update

Dave Nakagawara, Community Development Director, provided background information on the current process to review proposed private commercial development projects on public university land within the Mixed Use Educational Zoning District (MU-Ed), as part of the original intergovernmental agreement (IGA) between Arizona State University (ASU) and the City. The Joint Review Committee (JRC), a seven-member body consisting of City Council appointed members, ASU appointed members, and one jointly appointed position, would then make decisions on the site plan and design of such projects. Mr. Nakagawara reviewed the proposed process to review future development projects within the designated ASU Athletic Facilities District boundaries: 1) rezone the remaining areas within the District to MU-Ed zoning, and 2) file an application for an Athletic Facilities District Overlay that would define the design guidelines and development standards for this District.

Brian Kearney, Senior Development Manager at Catellus Development Corporation and Master Developer of the ASU Athletic Facilities District (District), delivered a slide presentation outlining the proposed comprehensive plan of "guiding principles" for District planning and development; activities within the District; next steps; first phase development at the northwest corner of University Drive and Rural Road; master plan examples; and, development processes for District-wide zoning, phases, and individual projects.

In response to questions from Councilmembers, Andrew Ching, City Manager, stated that the Athletic Facilities District Overlay rezoning process would require two public hearings with a final decision by the City Council, which is consistent with the existing public hearing process for Planned Area Development Overlay District rezoning.

Councilmembers expressed concern regarding traffic issues in the areas of Rural Road and University Drive.

Mr. Kearney and Manjula Vaz, Attorney at Gammage & Burnham, explained that the City Council would be involved upfront on a non-project specific basis in setting the framework, design guidelines, and development standards for the District as a whole. The individual projects would move through the professionally staffed design review process with City participation on the JRC. The City Council would not be voting on the individual projects. This process is used for other master planned projects. Any projects that depart from the publicly adopted design guidelines for the District would be presented to the City Council for consideration. Mixed-use, non-education related projects located on ASU property would be subject to the standard JRC process, and not require City Council approval, per the IGA.

Councilmembers noted their preference for the design guidelines to read more like standards, for future individual projects. Ms. Vaz noted that world-class professionals in design and architecture would administer the City Council-adopted standards throughout the development process. Mr. Kearney stated that more detailed information on the development standards and design guidelines will be presented to the City Council.

In response to a question from a Councilmember, Mr. Nakagawara stated that ASU property must be rezoned to be included within the MU-Ed, to allow for redevelopment of educational or non-educational uses.

Based on the discussion, Councilmembers expressed support for engaging in a joint meeting with developer representatives to review the ASU Athletic Facilities District master plan and development process; ensuring an adequate public input process for proposed individual projects, and development applications requiring JRC review and approval; facilitating pedestrian mobility over Rural Road and University Drive; providing updates on a phase-by-phase basis to the City Council; and, providing clarification on the IGA between ASU and the City, regarding the MU-Ed rezoning process.

Fiscal Year 2016-17 Capital Improvement Project (CIP) Requests

Ken Jones, Deputy City Manager – Chief Financial Officer, provided an update on capital project requests submitted by City departments for the five-year Capital Improvement Program (CIP) for fiscal year (FY) 2016-17 through FY 2020-21. Staff will solicit input from residents through online and public budget forums, and will provide feedback to the City Council. Based on City Council and public input received, staff will present initial recommendations for the five-year CIP prioritized projects to the

City Council on March 17, 2016.

Mr. Jones explained that at the Budget Public Forum scheduled for February 24, 2016, at the Tempe History Museum, staff will provide a demonstration of Open Book\$, a new OpenGov-powered online platform for viewing and searching City of Tempe revenue and expenditure data. All of the Open Book\$ resources can be accessed on the City's website. Tempe has uploaded data from FY 2014-15; data from FY 2015-16 will be added soon. Users can view data by fund, department, or expense/revenue type. Information can then be shared by users via email or social media.

Mr. Jones delivered a slide presentation describing how to navigate the CIP document; how staff prioritizes project requests based on the established primary criteria of public health and safety, and asset preservation, as well as secondary criteria; and, how capital funds will be reinvested into park improvements to bring the City's parks up to the "recreational value" standard as measured by the number and type of amenities that exist in the park. The "Parks Deferred Capital Reinvestment Funding Scenario" chart demonstrates the allocation of capital funds to reduce and eliminate the backlog of deferred capital replacement, and the CIP request to begin funding Level 3 (Customer Enhancements) and Level 4 (System Expansion) projects in FY 2020-21, after all outstanding park deficiencies have been eliminated.

Don Bessler, Public Works Director, explained asset management versus recreational value funding for the City's parks. After the estimated \$30 million of all deferred repairs and maintenance have been performed to bring park elements into compliance with acceptable standards, additional funds can be invested toward enhancing and revitalizing parks. After the backlog of deferred maintenance has been extinguished in FY 2020-21, asset management funding will decrease to \$2 million and recreational value funding will increase to \$3 million, for an annual funding level of \$5 million. Until then staff has requested recreational value improvements of \$1.2 million per year. To extinguish the backlog sooner than FY 2020-21, more funds would need to be allocated. There are several parks that have had no substantial improvements in almost 40 years.

In response to questions from Councilmembers, Mr. Bessler stated that the intent of the new strategy for parks improvements is to exceed the Americans with Disabilities Act (ADA) requirements and improve the overall accessibility in parks, with perimeter accessibility being the first priority. Mr. Jones requested feedback from Councilmembers regarding whether or not the ADA accessibility elements are sufficiently addressed in the proposed parks projects.

Mr. Jones discussed running fiber for traffic signals and incorporating fiber/communication capacity for future needs.

Councilmembers discussed and expressed support for ensuring that City parks are accessible to everyone by incorporating adaptable equipment in parks; incorporating the "recreational value" criterion for parks based upon the community identified needs for each park; and, installing a conduit corridor for future fiber/communication capacity when opportunities arise.

Long Range Financial Forecast

Ken Jones, Deputy City Manager – Chief Financial Officer, stated that the City Council was provided with a detailed long-range financial forecast on October 15, 2015. He delivered a slide presentation reviewing the purpose of the forecast; important budget dates; issues that have recently impacted the forecast; assumptions that are built into staff's projections; issues excluded from the forecast; and, the General Fund outlook in October 2015 and updated forecast. Mr. Jones also presented highlights of the Water/Wastewater, Solid Waste, and Golf Enterprise Funds, and the Transit, Highway User Revenue Fund (HURF), and Performing Arts Special Revenue Funds.

Mr. Jones outlined recent revenue restrictions implemented by the City Council as follows:

- Revenue from the second display panel at Diablo Stadium – supplements direct funding for social service organizations via Agency Review (between \$75,000 and \$100,000 annually).
- Affordable Housing Trust Fund – non-recurring contributions negotiated in development agreements (\$50,000 current balance).
- Downtown traffic calming restricted funds – non-recurring contributions negotiated in development agreements (\$100,000 current balance).
- Government Property Lease Excise Tax (GPLET) lease and parking revenue from Liberty, Zaremba, and Grigio/Picerno – expected annual revenues between \$700,000 and \$1.2 million, through the year 2043, with varying amounts pledged to supplement neighborhood park funding.

- Liberty land sale proceeds – variable depending on the market.

Mr. Jones stated that staff is seeking feedback from Councilmembers regarding budget priorities for resource allocations and service outcomes to assist the City Manager in developing the fiscal year (FY) 2016-17 Operating Budget.

Councilmembers and Mr. Jones discussed the employee compensation strategy for providing fair pay based on market conditions and to avoid cutting salaries when revenues projections are down. The forecast assumes that pay ranges will be adjusted based on market study results for implementation in July, 2016. Councilmembers recognized the sacrifices that many City employees made during the last economic downturn, including enduring pay cuts and undertaking additional responsibilities.

Councilmembers discussed and expressed support for the following:

- Use HURF funding for maintenance of City streets.
- Tie supplemental department funding requests to strategic management and measurable performance outcomes.
- Reinstate the 1% transfer of annual budgeted capital expenditures from the General Fund and Transit Fund to the Municipal Arts Fund.
- Implement the proposed employee compensation strategy, with input from staff.
- Utilize 50% of GPLET lease and parking revenues to fund the maintenance of City parks to achieve an acceptable standard sooner than FY 2020-21.
- Allocate funds from the Affordable Housing Trust Fund, to support down payment assistance for first-time homebuyers, promote homeownership opportunities, and encourage the development of affordable housing.
- Accelerate the timeline to implement the planned projects to install solar panels on Tempe municipal facilities in order to meet federal tax credit deadlines.
- Initiate LED lighting upgrade projects, including the replacement of street lights with LED lights.

In response to a question from a Councilmember, Naomi Farrell, Human Services Director, provided a status update on the Down Payment Assistance Program. Staff has expended program funds to administer this program and process applications.

Future Agenda Items

None.

Call to the Audience

Mary Ann Miller, President/Chief Executive Officer, Tempe Chamber of Commerce, spoke in opposition to mandating paid sick leave for businesses in Tempe because of concerns that such a mandate would be detrimental to the small business community in Tempe. Discussion on this topic should be conducted on a Statewide basis.

Michelle Ahlmer, Executive Director, Arizona Retailers Association, is opposed to the proposed earned sick leave requirement. Historically, employees have chosen a reduction or suspension of benefits rather than layoffs. Small businesses need the flexibility to adjust to changes in the market and economy.

Chianne Hower, Public Affairs and Communications Manager, Arizona Restaurant Association, stated that several Tempe restaurant owners will submit their comments to the City Council, including an owner who decided not to renew his lease in Tempe and to relocate elsewhere due to concerns related to the draft mandatory paid sick leave ordinance. Ms. Hower voiced opposition to mandated earned sick time because the restaurant business model does not support this type of benefit. This issue should be discussed at the State level.

Austin Marshall, Tempe, President, Arizona State University (ASU) Young Democrats, expressed support for continuing the discussion on paid sick leave and involving students in the discussion.

James Barton noted that he resides in Mesa and works in Tempe. He requested more data regarding the use and accrual of earned sick time and related increase to payroll costs. The working group should study how this issue can be addressed at the State level. Mr. Barton also expressed concern about measures taken by the State Legislature to preempt local control.

Marcy Karin, Clinical Professor of Law at ASU and Director of Work-Life Law and Policy Clinic, spoke in support of paid sick leave and continuation of the working group to achieve a common sense solution that addresses the concerns of businesses and the community. Some local businesses already provide paid sick leave. If adopted, Tempe would be the first city in Arizona to have an earned sick leave law and would join the other 22 cities and 5 states with a similar mandate. Ms. Karin outlined various personal needs addressed by paid sick time, including economic security.

Alona Del Rosario, Public Policy Advocate, Arizona Coalition to End Sexual and Domestic Violence, explained how policies such as paid sick days are critical tools for survivors of domestic and sexual violence in rebuilding their lives. Personal and physical safety and economic security are linked issues for these survivors. The James E. Rogers College of Law, University of Arizona, produced a report on paid sick time in Tucson; the report will be provided to the City Council.

Stephen Jennings, Associate State Director, American Association of Retired Persons (AARP) Arizona, supports requiring employers to provide some paid leave to employees. AARP is a growing organization in Arizona with 850,000 members. Paid leave is a way for families to provide care for aging family members, instead of utilizing area agencies at a cost to the taxpayers.

Julie Buchkowski, Phoenix resident and owner of two Paul's Ace Hardware stores in Tempe, noted that she already offers paid time off to her employees as a benefit. Less than half of the people working in Tempe live in Tempe, including herself, and therefore have no voice on this initiative. Ms. Buchkowski requested information on the number of Tempe businesses already offering a paid time off benefit. Employers should have the flexibility necessary to make decisions that take care of their employees and respond to their needs. Accruing paid time off would incur an additional expense to her business.

Councilmember Kuby noted that any business that already offers earned sick time or paid time off would be in compliance with the ordinance, and would not be required to provide additional earned sick time.

Samuel Richard, Executive Director, Protecting Arizona's Family Coalition, read a portion of a statement from Bob Sommer, Chief Financial Officer, Changing Hands Bookstore, stating that his concerns were alleviated during the stakeholder process, and outlining the benefits of earned sick leave to employers and employees. Mr. Richard provided 600 signed cards and 14 letters from organizations in support of paid sick leave, including AARP and the American Association of University Women.

Ron Tapscott, Tempe, expressed support for continuing the working group discussions. He noted concerns from several Tempe small business owners which can be addressed in further dialogue with the working group. Mr. Tapscott discussed the importance of local control; the City should be allowed to make choices that represent the values and ideals of its residents.

Committee of the Whole Items

Items ready for City Council Direction or Status Update

City Webpage Listing Jobs for Teens and Résumé Assistance (Youth Workforce and Enforcement Committee) – City Council Direction

Councilmember Arredondo-Savage recognized the individuals involved in the Youth Workforce and Enforcement Committee (Committee) and noted the challenges for students in gaining employment. Many are working out of necessity or to help support their families; others are working for job experience and career guidance. The Committee is working on a resource website and employer guidelines and is asking for support from the City Council to move forward. The Committee would like to develop a program that would proactively enlist employers in the community that support Tempe youth.

Councilmember Navarro noted that the development of the Tempe youth workforce program was modeled after Youth Boston, a comprehensive, "one stop shop" youth work program that provides job and career training and support, and a listing of local job and volunteer opportunities. He believes this initiative will help Tempe youth adjust to the workforce environment and to both work and play in Tempe.

The City Council expressed support for approving the employer guidelines for student employees, creating a supporting program to recruit employer partners, and developing a resource website for youth.

Kid Zone Program Expansion – City Council Direction

Councilmember Schapira stated that the working group has met with funders for potential nonprofit or private support to expand early childhood education program offerings in the City. Large local education funders, including Childsplay, may be able to partner with the City on preschool program offerings. The Institute for Child Success (ICS) assists U.S. entities and organizations in pursuing the Pay for Success (PFS) model, which provides access to flexible, reliable, and upfront resources to tackle critical social problems by using private funding to cover the up-front costs of the programs, particularly in the area of early childhood education. ICS is currently accepting applications for technical assistance to help jurisdictions use PFS funding to improve outcomes for children and families. If Tempe is selected to receive technical assistance, ICS will conduct a feasibility study and provide feedback and recommendations on a potential preschool pilot program and initial funding sources. Additionally, Tempe would be the first entity in Arizona to partner with the ICS, and as a result may attract local and national funders. The working group is asking for the City Council's consent to move forward with the application for technical assistance from ICS, due February 19, 2016, and to sign a letter of support for the application.

Marie Raymond, Education Coordinator, stated that the working group has received letters of support from First Things First, Tempe Elementary School District, the Virginia G. Piper Foundation, and Childsplay to apply for technical assistance from ICS.

Councilmembers discussed and expressed support for requesting ICS's assistance in exploring the feasibility and implementation of the PFS model in Tempe. If selected, the City would be required to commit staff to the project; staff is confident that this requirement would be met. Councilmembers commended Ms. Raymond on her work on this proposal, and emphasized the importance of providing high-quality early childhood education and working with the City's partners to develop a pilot program.

Based on the discussion, the City Council agreed to move forward with the application for technical assistance from the ICS and sign a letter of support for the application.

Earned Sick Leave Requirement for Tempe Employers – City Council Direction

Mayor Mitchell stated that he participated in the working group with Councilmembers Navarro and Kuby. He and Councilmember Navarro recommend that the working group come to a close and that an earned sick leave initiative be pursued statewide. Councilmember Kuby recommends that the working group continue to study the topic of earned sick days, engaging with interested stakeholders and the Healthy Families, Healthy Workplaces Coalition to craft a compromise solution.

Mayor Mitchell stated that Tempe should pursue this idea as a regional or statewide effort with other cities as Tempe is not properly equipped to enforce such a mandate, and, the Governor and the State Legislature have threatened to withhold State-shared revenues from any city or town that adopts its own minimum wage or employment ordinances. According to an Institute for Women's Policy Research Questionnaire, 40,740 Tempe residents do not receive earned sick leave or paid time off. Approximately 26% of Tempe residents work in Tempe. The mandatory paid sick leave ordinance would only benefit Tempe residents who work in Tempe.

Councilmember Kuby stated that only 19% of Tempe government employees live in Tempe, and the City tries to make Tempe a good place to work, live, and play. She believes that earned sick leave will lead to better public health. The City focuses efforts on encouraging luxury development and upper class housing. The City should take the opportunity to assist the 45% of private sector workers in Tempe, including a large number of women, low wage workers, minorities, and single mothers, who currently have no access to paid sick time for personal or family health needs. Approximately 22% of Tempe residents live below the poverty level. Employees should not have to choose between a day's pay and their health, or their family's health. Chipotle has mandated earned sick days at all locations nationwide.

Councilmember Kuby stated that she supports continuing the working group so they can gather more input from businesses and public health agencies, and craft an ordinance that ensures a baseline minimum of earned sick days and represents a compromise solution among stakeholders. Many states are interfering with local control and local democracy. The Arizona Constitution has a home rule provision which prohibits the Legislature from dictating matters of local concern to charter cities; local decision-making is a long-held value in Arizona. The State Legislature has threatened to withhold State-shared revenues from cities that violate state law or the Arizona Constitution. In 2006, Arizona voters passed Proposition 202, also

known as the Arizona Minimum Wage Act, authorizing cities and towns the right to regulate worker benefits and minimum wage. Councilmember Kuby stated that cities and towns have the right to legislate earned sick days, per the Arizona Minimum Wage Act.

Councilmember Navarro said he understands the impact of paid sick time for single parents and college students. He stated that the City is encouraging more development, more businesses, and a better tax base, and he believes that such a mandate would deter new businesses from locating in Tempe. During stakeholder discussions, the working group determined that many local small businesses already offered a better paid leave option to their employees than what was outlined in the ordinance. Instead of implementing a sick pay policy and risking State-shared revenue cuts from the Legislature, the City should focus efforts on restoring programs, public safety, and the pay scale for City employees, and, addressing the residents' needs concerning their parks, rights-of-way, and neighborhoods. Tempe should build a coalition with other cities and towns to address paid sick leave regulation at the regional or state level so that it would benefit all Tempe residents, not just those who work in Tempe. Councilmember Navarro also expressed concern that if a mandatory paid sick leave ordinance was adopted at the City level, it could be challenged by the State in court. Therefore, he supports discontinuing the working group and tackling this issue at the State level.

Councilmember Granville requested more time to read the working group materials, consider all the stakeholder concerns, and make an educated decision. In general, he supports paid sick leave. The City Council approved ordinances prohibiting smoking in cars with children, prohibiting smoking in restaurants and bars, and banning discrimination against LGBT (lesbian, gay, bi-sexual, transgender) City employees. Consequently, Tempe became a beacon for other cities to follow suit. The City should take a stand on this issue, even if it means a court battle with the State; the courts should be able to decide what is and is not within the purview of cities. Countries, including Germany, Denmark, Japan, France, Canada, Australia, United Kingdom, and China, offer paid sick leave.

Councilmember Schapira also requested more time to review the materials and draft ordinance language. He spoke in support of continuing the working group so they can address concerns expressed by local businesses; clarify any misperceptions concerning the earned sick leave provisions outlined in the draft ordinance; and, present a viable proposal to the public for feedback and refinement. The ordinance provides minimum requirements pertaining to earned sick time that would not preempt, limit, or otherwise affect the applicability of existing earned sick time or paid time off policies implemented by local businesses. The State Legislature threatening to withhold State-shared revenues from any Arizona city or town that adopted its own paid sick leave ordinance violates the home rule provision of the Arizona Constitution.

Vice Mayor Woods expressed support for discontinuing the working group and pursuing the idea of earned sick leave as a regional or statewide effort with other cities. He explained that the threat in funding cuts from the State Legislature should be taken seriously, due to Tempe's State-shared revenue funding is 22% of the City's General Fund, that voters elect the Legislators and can select representatives who share their beliefs and values, and the City should focus on restoring compensation for its own employees who had to endure pay cuts due to the 2008 economic downturn. Although it is likely that the City would win a court battle with the State, the expenses the City would incur during the litigation would reduce City funding for employee compensation and public services. Vice Mayor Woods stated that when the majority of Tempe residents and employees tell him that this battle is worth fighting, even at the risk of losing 22% of the General Fund's income, then he will stand up to the State Legislature. Until then, he will continue to protect the interests of Tempe residents and employees.

In response to a question, Ken Jones, Deputy City Manager – Chief Financial Officer, explained that the City's cost to implement the earned sick leave requirement would relate to enforcement, and the working group would need to present recommendations for additional staff to manage enforcement of the new mandate.

Councilmember Kuby stated that the working group has not discussed what the actual ordinance would look like. The Healthy Families, Healthy Workplaces Coalition presented a draft ordinance to the working group, which defined an employee as someone who works more than 80 hours in a year. Councilmember Kuby disagrees with this definition. In addition, she proposes a much broader scale that would be revenue neutral to the City's budget.

Mayor Mitchell pointed out that one company's response to the online survey estimated that if each of their employees used an average of four accrued sick days per year, it would cost them over \$200,000. The majority of the working group members recommended not moving forward with the draft ordinance.

Councilmember Arredondo-Savage clarified that the draft ordinance included in the materials has not changed. She believes the idea of paid sick time is important to many residents and should be considered for everyone in Arizona and therefore handled at the State level. Councilmember Arredondo-Savage voiced the following concerns regarding the draft sick leave proposal: any additional expense to a small business has an impact and would eliminate an employer's flexibility to make decisions that benefit their employees; many local businesses already offer paid time off to their employees; such a mandate would place Tempe businesses in an inequitable and unfair position, especially those operating in multiple jurisdictions; and, the costs associated with implementing and enforcing this requirement, and the risk of the loss of State-shared revenue would jeopardize the City's ability to provide services and quality of life amenities to its residents and compensation to its employees. She expressed appreciation to everyone who provided input and participated in the stakeholders and public meetings.

Councilmember Kuby noted that on September 25, 2013, the Jersey City Council adopted an earned sick time ordinance, which went into effect on January 24, 2014 and impacted nearly 40,000 workers who previously did not earn sick time. A report issued by the Rutgers Center for Women and Work found that one year after the law took effect, 80% of the employers surveyed were providing earned sick days to their workers in compliance with the law, and 62% indicated that they had not needed to change their policies to adhere to the law because they already provided earned sick days. Those employers who had changed their policies reported significant benefits including a reduction in the number of sick employees coming to work, an increase in productivity, an improvement in the quality of new hires, and a reduction in employee turnover.

Councilmember Kuby reiterated her desire for the working group to craft an ordinance that addresses the legality, feasibility, and the economic and social impacts of requiring Tempe employers to provide earned sick leave to their employees, for consideration by stakeholders and the entire City Council.

Mayor Mitchell stated that the adoption of an earned sick time ordinance in Jersey City was part of a regional effort; the City of Newark also passed a paid sick leave ordinance that took effect on May 29, 2014.

Based on the discussion, it was the consensus of the City Council to discontinue the working group and pursue an earned sick leave initiative statewide.

Disclosures on Public Comment Cards – City Council Direction

Councilmember Granville stated that the working group recommends the following changes to the public comment cards used in City Council meetings: addition of fields asking speakers to indicate whether they are a registered lobbyist, if they are representing a client, and whether they have contributed over \$100 to a Councilmember in the last five years. Members of the public desiring to address the City Council must state their name and city of residence for the record, but are not required to fill out the public comment card. Speakers would not have to verbally disclose the additional information requested on the public comment card at the City Council meeting; the information provided will be part of the public record.

Councilmembers discussed the need to wait for the outcome of the proposed City Charter amendment, establishing a limitation on contributions accepted by candidates for City elected office, on the March 8, 2016 Special Election ballot, before pursuing other initiatives to improve transparency. If passed by the voters, the new campaign limitations will represent the strictest campaign finance reform standards in Arizona. The Campaign Finance Reform Working Group is considering adding the possibility of the creation of a lobbyist registry in Tempe to its purview.

Councilmembers expressed concern that requiring speakers to disclose campaign contributions on a comment card may have a negative consequence and deter people from giving public comment. Councilmembers also questioned the need to request campaign contribution information on the public comment cards since this information is included in candidates' campaign finance report filings.

Councilmember Granville agreed to remove the "campaign contributions" field from the proposed public comment card. He also suggested that when the Campaign Finance Reform Working Group discusses additional reporting requirements that they consider a requirement that candidates report contributions immediately, rather than every six months.

Based on the discussion, the City Council agreed to approve the proposed modifications to the speaker card with the provision that the language regarding contributions be removed.

New Items for City Council Consideration

None.

Items in Progress – updates as needed

Anti-Discrimination Ordinance Update (EOAZ Municipality Equality Index)

Councilmember Granville and working group members Vice Mayor Woods and Councilmember Navarro, will present a recommendation to the City Council regarding changes to the Anti-Discrimination Ordinance at a future Work Study Session (WSS).

Commercial Pet Sales Ban

Councilmember Kuby stated that the ordinance to implement a commercial pet sales ban was adopted at the February 11, 2016 Regular Council Meeting; therefore, this item can be removed from the *Items in Progress* list.

Temporary Cables in the Right-of-Way

Councilmember Schapira reported that based on a stakeholder meeting with Cox Communications, CenturyLink, and Google representatives, a compromise regarding proposed changes to the Tempe City Code relating to temporary cables in the right-of-way may be reached in the near future. He expects to present a recommendation to the City Council at a future WSS.

Items Scheduled for Periodic Review

No discussion.

Mayor's Announcements/City Manager's Announcements

Andrew Ching, City Manager, announced the recent passing of Dr. Edward Valenzuela of Phoenix, founding President of National Image, Inc. He was a champion for civil rights and justice in the Tempe community.

Future Meeting Date:

March 17, 2016, at 4:00 p.m., City Council Chambers, Tempe City Hall, 31 E. Fifth Street, Tempe, Arizona.

The meeting adjourned at 8:26 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 City Council Work Study Session of February 18, 2016, by the Tempe City Council, Tempe, Arizona.

Mark W. Mitchell, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk