

LEGAL ACTION SUMMARY

REVISED

**Tempe City Council
Regular Council Meeting
Harry E. Mitchell Government Center
Tempe City Hall - City Council Chambers
31 East Fifth Street, Tempe, Arizona
Thursday, December 03, 2015
6:00 PM**

[MEETING VIDEO](#)

Members of the City Council may attend either in person or by telephone conference call.

1. **INVOCATION – Vice Mayor Woods**
2. **PLEDGE OF ALLEGIANCE**
3. **MINUTES – Councilmember Schapira**

A. Approval of City Council Meeting Minutes

1. [Regular City Council Meeting - October 15, 2015 and October 22, 2015](#)
2. Executive Session - November 12, 2015
3. [City Council Work Study Session - June 4, 2015](#)
4. [City Council and Arizona State Legislators Joint Meeting - October 23, 2015](#)

APPROVED

B. Acceptance of Board, Commission and Committee Meeting Minutes

1. [Aviation Commission - October 13, 2015](#)
2. [Enhanced Services Commission - October 13, 2015](#)
3. [History Museum and Library Advisory Board - September 9, 2015 and October 7, 2015](#)
4. [Human Relations Commission - September 8, 2015](#)
5. [Mayor's Youth Advisory Commission - November 3, 2015](#)
6. [Parks, Recreation, Golf and Double Butte Cemetery Advisory Board - October 21, 2015](#)
7. [Tempe Fire Public Safety Retirement System Personnel Board - September 3, 2015](#)
8. [Tempe Police Public Safety Retirement System Personnel Board - October 1, 2015](#)
9. [Tempe Sustainability Commission - October 19, 2015](#)
10. [Transportation Commission - October 13, 2015](#)

ACCEPTED

4. **REPORTS AND ANNOUNCEMENTS**

- A. Mayor's Announcements
1. **Bike Friendly Community Announcement**

- B. City Manager's Announcements

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.

A. **Miscellaneous Items**

- *5A1. [Hold a public hearing to recommend the approval of a Bingo - Class A license for The Arc of Tempe, 1 East Continental Drive.](#)

Fiscal Impact: N/A

APPROVED

- 5A2. [Authorize the Mayor to execute Amendment No. 2 to Lease of Rubber Dam Bodies for Tempe Town Lake with Bridgestone Industrial Products America, Inc. \("BIP"\). **Material added**](#)

Fiscal Impact: Under the existing lease, the City could be responsible for an additional \$1,500,000 in rent if the bladders remain in place until June 1, 2016. The proposed amendment lowers the rent for that period to \$740,000; however, if the bladders are removed by June 1, 2016, the rental amount will be reduced further to \$240,000.

APPROVED

B. **Award of Bids/Contracts**

- 5B1. [Approve the utilization of one-year City of Tucson contracts with Pioneer Distributing Company and Synergy Petroleum for the purchase of vehicle lubricants utilized for the maintenance of City vehicles.](#)

Fiscal Impact: Total cost of this contract will not exceed \$75,000. Sufficient funds have been appropriated in the General Fund – cost centers 2363 (Fire; Apparatus Maintenance) and 3262 (Public Works; Fleet Maintenance) – for the anticipated expenditures in the current fiscal year.

APPROVED

- 5B2. [Approve the utilization of a one-year State of Arizona contract with Wist Office Products Company for the purchase of Hewlett-Packard original equipment manufacturer and remanufactured ink and toner printer cartridges.](#)

Fiscal Impact: Total cost of this contract will not exceed \$250,000 during the one-year contract period. Sufficient funds have been appropriated in various City-wide cost centers

for the anticipated expenditures in the current fiscal year.

APPROVED

- 5B3. [Approve the utilization of a ten-month City of Glendale contract with Badger Meter, Inc. for the purchase of 5/8" through 1" lead-free water meters, and replacement parts.](#)

Fiscal Impact: Total cost of this contract will not exceed \$729,942 during the ten-month contract period. Sufficient funds have been appropriated in the Water/Wastewater Fund - cost centers 3085 (Water/Wastewater Inventory), Water/Wastewater Capital Improvement Project Fund - 3209319 (Small Meter Replacement 2" and Under), and 3299999 (Distribution System Fittings) for the anticipated expenditure.

APPROVED

- 5B4. [Approve the renewal of one-year contracts with Trafficade Services, Inc. and Action Barricade Company for the rental of barricades and warning devices.](#)

Fiscal Impact: The total combined cost of these two contracts shall not exceed \$100,000 during the one-year contract renewal period. Sufficient funds have been appropriated in various City-wide funds/cost centers and Capital Improvement Projects, where applicable, for the anticipated expenditures in the current fiscal year.

APPROVED

- 5B5. [Approve 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.](#)

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

APPROVED

- 5B6. [Approve the renewal of one-year contracts with Hambicki Trucks, Waste & Recycling Plastic Containers, Impact Plastics, and Rotational Molding for the purchase of refuse containers.](#)

Fiscal Impact: Total cost of these four contracts shall not exceed \$200,000 during the one-year contract renewal period. Sufficient funds have been appropriated in the Solid Waste Fund – cost centers 3713 (Residential); 3714 (Commercial); and 3716 (Support Services) – for the anticipated expenditures in the current fiscal year.

APPROVED

- 5B7. [Approve the one-year renewal of a contract with Precision Graphics for custom graphic designed t-shirts and sports program clothing for the Community Services Department.](#)

Fiscal Impact: Total cost of this contract will not exceed \$113,000 during the one-year contract renewal period. Sufficient funds have been appropriated in General Fund cost centers 2525 (Adult Sports), 2526 (Youth Sports), and 2547 (Youth Athletic Programs) for the anticipated expenditures in the current fiscal year.

APPROVED

- 5B8. [Approve a three-year sole source contract renewal for software maintenance and support services with Environmental Systems Research Institute for computer-based mapping software that is used City-wide through the Enterprise Geographic Information System.](#)

Fiscal Impact: Total cost of this contract will not exceed \$551,310 during the three-year contract period. Sufficient funds have been appropriated in General Fund cost center 1991 (IT Administration) for the anticipated expenditures. The City will pay for software maintenance and support services on an annual basis.

APPROVED

- 5B9. [Approve the renewal of one-year contracts with Kary Environmental Services, Stericycle Environmental Solutions \(formerly PSC Environmental Services\), and Heritage Environmental Services who provide for the classification, transportation, and disposal of hazardous substances.](#)

Fiscal Impact: Total combined cost of these three contracts shall not exceed \$250,000 during the one-year contract renewal period. Sufficient funds have been appropriated in the Solid Waste Fund – cost center 3721 (Hazardous Material Safety) – for the anticipated expenditures in the current fiscal year.

APPROVED

- 5B10. [Award two-year contracts with three, one-year renewal options to Paris Equipment Manufacturing Limited and Lacor Streetscape LLC for the supply of transit seating and trash receptacles for the Public Works Department.](#)

Fiscal Impact: Total cost of this contract will not exceed \$700,000 during the initial two-year contract term. Sufficient funds have been appropriated in the Transit Capital Improvement Project Fund cost center 6005239 (Bus Stop Capital Maintenance) for the anticipated expenditures in the current fiscal year.

APPROVED

- 5B11. [Ratify the award of a one-year contract with four, one-year renewal options to Pro-Tech Sales for the purchase of less lethal launchers for the Police Department.](#)

Fiscal Impact: The total one-year cost of the contract will not exceed \$75,000. Sufficient funds have been appropriated in the Police Department RICO and Grants Fund – cost center 2286 (SB 1398 PD Safety Equipment) – for the anticipated expenditures in the current fiscal year.

APPROVED

C. Resolutions

- 5C1. [Adopt a resolution authorizing the City Council to approve and the Mayor to accept a grant from American Forests for the City of Tempe's Urban Forest and the designation of the City of Tempe as a Community ReLeaf City. \(Resolution No. R2015.126\)](#)

Fiscal Impact: The amount of the grant is approximately \$100,000 with no city matching funds required. Sufficient budget appropriation for expenditure of this grant is authorized in the Governmental Grants Fund (Fund 46) as part of the fiscal year 2015/16 adopted budget.

ADOPTED

6. NON-CONSENT AGENDA

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

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

A. Miscellaneous Items/Bids/Contracts/Resolutions

- 6A1. [Award a two-year contract with four, two-year renewal options to National Meter and Automation, Inc. for the purchase of 1.5" through 10" lead-free water meters, meter registers, and replacement parts.](#)

Fiscal Impact: Total cost of this contract will not exceed \$2,096,514.19 during the two-year contract period. Sufficient funds have been appropriated in the Water/Wastewater Fund - cost centers 3085 (Water/Wastewater Inventory), Water/Wastewater Capital Improvement Project Fund - 3209319 (Small Meter Replacement 2" and Under), and 3299999 (Distribution System Fittings) for the anticipated expenditures.

APPROVED

B. Ordinances and Items for Introduction and First Hearing

- *6B1. [Introduce and hold the first public hearing to adopt an ordinance authorizing the abandonment of certain public utility easements in the vicinity of 2nd Street and Mill Avenue to facilitate development of the project at Mill Avenue and Rio Salado Parkway. The second and final public hearing is scheduled for December 17, 2015. \(Ordinance No. O2015.57\)](#)

Fiscal Impact: N/A

THE PUBLIC HEARING WAS SCHEDULED FOR DECEMBER 17, 2015

- *6B2. [Introduce and hold the first public hearing to adopt an ordinance granting a Utility Easement to Arizona Public Service Company over certain City-owned land to serve the VELA at Town Lake residential project located at 555 North College Avenue. The second and final public hearing is scheduled for December 17, 2015. \(Ordinance No. O2015.58\)](#)

Fiscal Impact: N/A

THE PUBLIC HEARING WAS SCHEDULED FOR DECEMBER 17, 2015

- *6B3. [Introduce and hold the first public hearing to adopt an ordinance authorizing the abandonment of a non-exclusive easement for a traffic control device located on Rio Salado Parkway west of Scottsdale Road. The second and final public hearing is scheduled for December 17, 2015. \(Ordinance No. O2015.59\)](#)

Fiscal Impact: N/A

THE PUBLIC HEARING WAS SCHEDULED FOR DECEMBER 17, 2015

- *6B4. [Introduce and hold the first public hearing to adopt an ordinance for a Zoning and Development Code Text Amendment for DOWNTOWN PARKING STANDARDS, consisting of changes to general parking ratios specific to properties with the zoning of City Center District, and establishing an alternate standard for parking requirements in the downtown. The applicant is the City of Tempe. The second and final public hearing is scheduled for December 17, 2015. \(Ordinance No. O2015.60\)](#)

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

THE PUBLIC HEARING WAS SCHEDULED FOR DECEMBER 17, 2015

- *6B5. [Hold the first public hearing to adopt a resolution to authorize the Mayor to execute the settlement agreement and all related documents between the City of Tempe and Tempe Investors, LLC, regarding the matter of *Tempe Investors, LLC, v. City of Tempe*. The second and final public hearing is scheduled for December 17, 2015. \(Resolution No. R2015.127\) **Material added**](#)

Fiscal Impact: No fiscal impact to the City.

THE PUBLIC HEARING WAS SCHEDULED FOR DECEMBER 17, 2015

C. Ordinances and Items for Second Hearing and Final Adoption

- *6C1. [Hold the third and final public hearing to adopt an ordinance for a Code Text Amendment for MEDICAL MARIJUANA DISPENSARIES, consisting of changes within the Zoning and Development Code, Section 3-426 that regulate operation requirements and total number of dispensaries in Tempe. The applicant is Steve White, White Berberian PLC. \(Ordinance No. O2015.49\)](#)

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

ADOPTED

- *6C2. [Hold the second and final public hearing to amend the Tempe City Code, Chapter 19, Motor Vehicles and Traffic, relating to curb lane management, which will provide new regulations for commercial loading/unloading and allow back-in angled parking where designated. \(Ordinance No. O2015.52\)](#)

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

ADOPTED

- *6C3. [Hold the second and final public hearing to adopt an ordinance approving an extension of the term of the Lease with W-Buttes, LLC pertaining to certain City-owned land located at 48th Street and Broadway Road, and authorizing the Mayor to execute an amendment to the Lease, an access easement and related documents. \(Ordinance No. O2015.53\)](#)

Fiscal Impact: The City will receive an upfront extension fee of \$3,000,000 on execution of the amendment. For Lease years beginning on or after January 1, 2016, and continuing through 2025, the percentage rent rate factor for Food and Beverage will increase from 1.0% to 1.5% and the percentage rent rate factor for Rooms will increase from 3.0% to 3.5%. Additional rate increases will occur in years 2025 and 2044. With certain exceptions, on each transfer of the Property, the City will receive a fee equal to the rent paid during the 12 months immediately preceding the date of the transfer.

ADOPTED

- *6C4. [Hold the second and final public hearing to adopt an ordinance authorizing the dedication of certain City-owned land located on the south side of Broadway Road near 55th Street for use as a public right-of-way and authorizing the City Manager or his designee to execute a declaration memorializing such dedication and related documents. \(Ordinance No. O2015.54\)](#)

Fiscal Impact: No impact on City funds.

ADOPTED

- *6C5. [Hold the second and final public hearing to adopt an ordinance for an Amended Planned Area Development and Development Plan Review consisting of a new parking structure for OPERATIONS CENTER, located at 1305 West 23rd Street. The applicant is Mesfin Samuel of The Samuel Group. \(Ordinance No. O2015.55\)](#)

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.

ADOPTED

- *6C6. [Hold the second and final public hearing to adopt an ordinance authorizing the abandonment of a portion of the right-of-way for Gilbert Drive near the entry ramp to the 202 Freeway, approving the exchange of the abandoned right-of-way for adjacent property owned by Vintage Partners, LLC, and authorizing the Mayor to execute a development and disposition agreement, escrow agreement and related documents necessary to consummate the transaction. \(Ordinance No. O2015.56\)](#)

Fiscal Impact: Prior to the exchange the developer will reconstruct Gilbert Drive and will then dedicate the newly-constructed street to the City in exchange for the current right-of-way. Developer will pay all costs associated with the relocation, construction, and dedication.

ADOPTED

7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

8. PUBLIC APPEARANCES

According to the Arizona Open Meeting Law, the City Council may only discuss matters listed on this agenda. Matters discussed by the public during public appearances cannot be discussed by the City Council unless they are specifically listed on this agenda. There is a three-minute time limit per speaker. Speaker's visual aids or recorded tapes are not allowed.

Members of the public shall refrain from making personal, impertinent or slanderous remarks and from becoming boisterous while addressing the City Council or while attending the meeting. Unauthorized remarks from the audience, clapping, stomping of feet, yelling or any similar demonstrations are also prohibited. Violations of these rules may result in removal from the City Council meeting.

A. Scheduled

B. Unscheduled

Legal Advice: If necessary, the City Council may vote to adjourn to executive session for the purpose of obtaining legal advice from the Council's attorney on any matter listed on the agenda pursuant to A.R.S §38-431.03(A)(3).

The City of Tempe endeavors to make all public meetings accessible to persons with disabilities. With 72 hours advance notice, special assistance can also be provided for sight and/or hearing impaired persons at public meetings. Please call (480) 350-2905 (voice) or (480) 350-2750 (TDD) to request an accommodation to participate in the City Council meeting.

Agendas are also available at <http://www.tempe.gov/clerk>.

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Video replay of this meeting is available the next day at www.tempe.gov/tempe11.