

LEGAL ACTION SUMMARY

**Tempe City Council
Regular Council Meeting
Harry E. Mitchell Government Center
Tempe City Hall - City Council Chambers
31 East Fifth Street, Tempe, Arizona
Thursday, September 22, 2016
6:00 PM**

[MEETING VIDEO](#)

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

1. **INVOCATION – Vice Mayor Arredondo-Savage**
2. **PLEDGE OF ALLEGIANCE**
3. **MINUTES – Councilmember Navarro**

A. Approval of City Council Meeting Minutes

1. [Regular City Council Meeting - August 4, 2016 and August 18, 2016](#)
2. Executive Session - September 8, 2016

APPROVED

B. Acceptance of Board, Commission and Committee Meeting Minutes

1. [Aviation Commission - July 12, 2016 and August 9, 2016](#)
2. [Aviation Commission Noise Abatement Subcommittee - August 2, 2016](#)
3. [Development Review Commission - June 28, 2016](#)
4. [Development Review Commission Study Session - June 28, 2016](#)
5. [Hearing Officer - August 16, 2016](#)
6. [History Museum and Library Advisory Board - June 15, 2016](#)
7. [Tempe Veterans Commission - August 2, 2016](#)
8. [Transportation Commission - August 9, 2016](#)

ACCEPTED

4. **REPORTS AND ANNOUNCEMENTS**

A. Mayor's Announcements

1. **World Alzheimer's Day**
2. **Domestic Violence Awareness Month**
3. **Lights On Afterschool Proclamation**
4. **Arizona Forward Winners: Tempe Grease Cooperative and Eisendrath House Rehabilitation**

- 5. **Tempe Preparatory Academy Proclamation**
- 6. **Board and Commission Appointments**

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. [Approve the August 2016 Report of Claims Paid to be filed for audit.](#)

Fiscal Impact: Total payments in August: \$19,601,011.48.

APPROVED

- 5A2. [Approve the transfer of \\$30,000 from the General Fund Contingency budget to the Capital Improvement Project titled Hayden Flour Mill for unanticipated additional costs associated with the removal of the two wooden wash towers. \(Related to agenda item 5B10\)](#)

Fiscal Impact: \$30,000 of the \$1,500,000 fiscal year 2016/17 General Fund Contingency, appropriated in cost center 3580, will be transferred to Capital Improvement Project 6708259, Hayden Flour Mill.

APPROVED

- 5A3. [Approve a lease amendment to extend the term with the Boys & Girls Clubs of the East Valley - Ladmo Branch for the purpose of providing programs at the North Tempe Multi-Generational Center.](#)

Fiscal Impact: The agreement requires an annual payment of \$1 from the Boys & Girls Clubs to the City.

APPROVED

- 5A4. [Approve a lease amendment to extend the term with Chicanos Por La Causa to provide youth and family services at the North Tempe Multi-Generational Center.](#)

Fiscal Impact: The agreement requires an annual payment of \$1 from Chicanos Por La Causa to the City.

APPROVED

- 5A5. [Approve the four-year reappointment of Judge Mary Jo Barsetti and authorize the Mayor to sign the agreement.](#)

Fiscal Impact: Sufficient funds have been allocated in the General Fund budget for this reappointment.

APPROVED

- 5A6. [Approve 24 \(re\)appointments to the City of Tempe Mayor's Youth Advisory Commission, and 1 appointment to the Historic Preservation Commission.](#)

Fiscal Impact: N/A

APPROVED

- *5A7. [Hold a public hearing to recommend the approval of a series 06 bar liquor license for Main Event Entertainment LP, dba Main Event, 8545 South Emerald Drive.](#)

Fiscal Impact: N/A

APPROVED

- *5A8. [Hold a public hearing to recommend the approval of a series 06 bar liquor license for The Convivial Stick, LLC, dba The Woodshed, 19 West Baseline Road.](#)

Fiscal Impact: N/A

APPROVED

- *5A9. [Hold a public hearing to recommend the approval of a series 10 beer and wine store liquor license for Sapra Enterprises LLC, dba Grab N Go 505, 480 West Warner Road.](#)

Fiscal Impact: N/A

APPROVED

- *5A10. [Hold a public hearing to recommend the approval of a series 06 bar liquor license for Mill Avenue Tacos, LLC, dba CASA/Sunba, 603 South Mill Avenue.](#)

Fiscal Impact: N/A

APPROVED

- *5A11. [Hold a public hearing to recommend the approval of a series 12 restaurant liquor license for Scott Wesley Price, dba Taco Char, 15 East 6th Street.](#)

Fiscal Impact: N/A

APPROVED

- *5A12. [Hold a public hearing to recommend the approval of an acquisition of control of a series 12 restaurant liquor license for A&D Pizza Inc., dba Barro's Pizza, 950 East Baseline Road, Suite 101.](#)

Fiscal Impact: N/A

APPROVED

- *5A13. [Hold a public hearing to recommend the approval of an acquisition of control of a series 12 restaurant liquor license for A&D Pizza Inc., dba Barro's Pizza, 8830 South Kyrene Road, Suite 106.](#)

Fiscal Impact: N/A

APPROVED

- *5A14. [Hold a public hearing to recommend the approval of an acquisition of control of a series 12 restaurant liquor license for Smashburger Acquisition Phoenix LLC, dba Smashburger #1423, 2010 East Elliot Road, Suite 101.](#)

Fiscal Impact: N/A

APPROVED

- *5A15. [Hold a public hearing to recommend the approval of an acquisition of control of a series 12 restaurant liquor license for Smashburger Acquisition Phoenix LLC, dba Smashburger #1394, 815 East Baseline Road, Suite B113.](#)

Fiscal Impact: N/A

APPROVED

- *5A16. [Hold a public hearing to recommend the approval of an acquisition of control of a series 12 restaurant liquor license for Smashburger Acquisition Phoenix LLC, dba Smashburger #1396, 2000 East Rio Salado Parkway, Suite 1155.](#)

Fiscal Impact: N/A

APPROVED

- *5A17. [Hold a public hearing to recommend the approval of an acquisition of control of a series 10 beer and wine store liquor license for QuikTrip Corporation, dba QuikTrip #460, 2195 East Southern Avenue.](#)

Fiscal Impact: N/A

APPROVED

- *5A18. [Hold a public hearing to recommend the approval of an acquisition of control of a series 10 beer and wine store liquor license for QuikTrip Corporation, dba QuikTrip #1400, 2150 East University Drive.](#)

Fiscal Impact: N/A

APPROVED

- *5A19. [Hold a public hearing to recommend the approval of an acquisition of control of a series 10 beer and wine store liquor license for QuikTrip Corporation, dba QuikTrip #1420, 1190 West Elliot Road.](#)

Fiscal Impact: N/A

APPROVED

- *5A20. [Hold a public hearing to recommend the approval of an acquisition of control of a series 10 beer and wine store liquor license for QuikTrip Corporation, dba QuikTrip #429, 1545 North Scottsdale Road.](#)

Fiscal Impact: N/A

APPROVED

- *5A21. [Hold a public hearing to recommend the approval of an acquisition of control of a series 10 beer and wine store liquor license for QuikTrip Corporation, dba QuikTrip #467, 3875 South Priest Drive.](#)

Fiscal Impact: N/A

APPROVED

- *5A22. [Hold a public hearing to recommend the approval of an acquisition of control of a series 10 beer and wine store liquor license for QuikTrip Corporation, dba QuikTrip #462, 8810 South Hardy Drive.](#)

Fiscal Impact: N/A

APPROVED

- *5A23. [Hold a public hearing to recommend the approval of an acquisition of control of a series 10 beer and wine store liquor license for QuikTrip Corporation, dba QuikTrip #441, 918 East Baseline Road.](#)

Fiscal Impact: N/A

APPROVED

- *5A24. [Hold a public hearing to recommend the approval of an acquisition of control of a series 10 beer and wine store liquor license for QuikTrip Corporation, dba QuikTrip #408, 1106 East Broadway Road.](#)

Fiscal Impact: N/A

APPROVED

- *5A25. [Hold a public hearing to recommend the approval of an acquisition of control of a series 10 beer and wine store liquor license for QuikTrip Corporation, dba QuikTrip #400, 2111 West University Drive.](#)

Fiscal Impact: N/A

APPROVED

- *5A26. [Hold a public hearing to recommend the approval of a series 12 restaurant liquor license for Bear Tracks Holdings, LLC, dba Black Bear Diner #97, 7700 South Priest Drive, Suite 106.](#)

Fiscal Impact: N/A

APPROVED

- *5A27. [Hold a public hearing to recommend the approval of a series 12 restaurant liquor license for Delice Holdings LLC, dba Delice Bistro, 690 South Mill Avenue, Suite 110.](#)

Fiscal Impact: N/A

APPROVED

B. Award of Bids/Contracts

- 5B1. [Approve the utilization of a one-year State of Arizona contract with Fisher Scientific for the purchase of laboratory testing equipment and supplies for Tempe water plants.](#)

Fiscal Impact: Total cost of this contract will not exceed \$165,000. Sufficient funds have been appropriated in the Water/Wastewater Fund – cost center 3041 (Environmental - Laboratory) – for the anticipated expenditures.

APPROVED

- 5B2. [Approve a one-year contract renewal with West Coast Arborists, Inc. for tree trimming services for Downtown Tempe and City parks and facilities.](#)

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

APPROVED

- 5B3. [Approve a one-year contract renewal with TischlerBise, Inc., for consulting services to review and update the City's existing infrastructure system development fees.](#)

Fiscal Impact: Total cost of this contract renewal will not exceed \$74,000. Sufficient funds have been appropriated in the Transit Fund cost center 3911 (Transit Admin) and Water/Wastewater Fund cost center 3002 (Water-Admin) for the anticipated expenditures in the current fiscal year.

APPROVED

- 5B4. [Approve a one-year contract renewal with SL-serco, Inc. to provide consulting services in the implementation of an automated water meter reading system for the Internal Services Department.](#)

Fiscal Impact: Total combined cost of this one-year contract renewal shall not exceed \$307,755.57. Sufficient funds are available in the Water/Wastewater Capital Improvement Project Fund cost center 3205869 (Automated Water Metering) for the anticipated expenditure.

APPROVED

- 5B5. [Award a one-year contract with four, one-year renewal options to Wachs Water Services for water main valve condition assessment and related services.](#)

Fiscal Impact: Total cost of this contract will not exceed \$400,000 during the initial one-year contract period. Sufficient funds are available in the Water/Wastewater Capital Improvement Project Fund cost center 3204969 (Rehabilitation or Replacement of Aging Infrastructure) for the anticipated expenditures.

APPROVED

- 5B6. [Award two-year contracts with two, two-year renewal options to Builders Enviro Services, Inc., Comprehensive Risk Services, LLC, and Empire Services West, LLC, for asbestos abatement, mold remediation, and related services for the City's Risk Management Division.](#)

Fiscal Impact: Total cost of this contract will not exceed \$150,000 during the initial two-year contract period. Sufficient funds have been appropriated in the Risk Management Fund - cost center 2621 (Risk Management) and various other City wide cost centers for the anticipated expenditures.

APPROVED

- 5B7. [Award a two-year contract with three, one-year renewal options to Plan B Facility Services, LLC for cleaning services at the Diablo Stadium Complex.](#)

Fiscal Impact: Total cost of this contract will not exceed \$150,000 during the initial two-year contract period. Sufficient funds have been appropriated in the General Fund cost center 2529 (Recreation – Diablo Stadium) for the anticipated expenditures in the current fiscal year.

APPROVED

- 5B8. [Approve the Amended and Restated contract for the Downtown Tempe Enhanced Services District between the City of Tempe and the Downtown Tempe Authority.](#)

Fiscal Impact: N/A

APPROVED

- 5B9. [Award Job Order No. 4 to Foresite Design & Construction, Inc. for the replacement of a switchgear at the Johnny G. Martinez Water Treatment Plant at 255 East Marigold Lane.](#)

Fiscal Impact: The Job Order No. 4 amount is \$833,225 and the project contingency amount is \$83,000. Funds to cover this contract and related costs are appropriated for fiscal year 2016/17 in the Capital Improvement Project No. 3207499, Water Treatment

Plan Asset Maintenance & Upgrades.

APPROVED

- 5B10. [Award Job Order No. 5 to Foresite Design & Construction, Inc. for the demolition of the Hayden Flour Mill Wash Towers at 119 South Mill Avenue. \(Related to agenda item 5A2\)](#)

Fiscal Impact: The Job Order No. 5 amount is \$107,401, with a project contingency amount of \$11,000. Funds to cover this contract and related costs are appropriated for fiscal year 2016/17 in Capital Improvement Project No. 6708259, Hayden Flour Mill.

APPROVED

- 5B11. [Approve an amendment to the Emergency Ambulance Transportation Contract between Professional Medical Transport and the City of Tempe for a 12-month extension.](#)

Fiscal Impact: None.

APPROVED

- 5B12. [Approve an amendment to the Amended and Restated Emergency Ambulance Transportation Contract between Professional Medical Transport and the City of Tempe.](#)

Fiscal Impact: None.

APPROVED

C. Resolutions

- 5C1. [Adopt a resolution approving and authorizing the amended City of Tempe Personnel Rules governing employment policies for the City of Tempe. \(Resolution No. R2016.94\)](#)

Fiscal Impact: N/A

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 five-year contract with one, five-year renewal option to Waste Management of Arizona for the processing of recyclables from the curbside and commercial recycling programs.](#)

Fiscal Impact: The City will pay Waste Management approximately \$2.5 million over the five-year life of the contract to process the City's recyclable material, which will be offset by revenue sharing from the sale of the material as well as operational savings as explained below. At this time, based on current market values for recyclable materials, the recycling program (without transportation costs) is marginally revenue generating for the City. Should the recycle market change to the point that the City owes the awarded firm for the processing of recyclables, sufficient funds have been appropriated in the Solid Waste Fund – cost centers 3713 (Residential) and 3714 (Commercial) – for the anticipated expenditures.

APPROVED

- 6A2. [Award a construction manager at risk construction services contract to PCL Construction, Inc. and a professional services contract to Dibble Engineering for the City of Tempe Water Storage Tank Rehabilitation on Hayden Butte at 0 East Rio Salado Parkway.](#)

Fiscal Impact: The construction contract amount is \$3,587,841, the professional services contract is \$355,180, and the project contingency amount is \$360,000. Funds to cover these contracts and related costs are appropriated for fiscal year 2016/17 in the Capital Improvement Project No. 3204969, Water System Pumping Stations, Reservoirs & Tanks.

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 an Ingress-Egress Easement for Refuse Collection and Emergency City Vehicles, an Easement for Bike Path and Lighting, an Easement for Storm Sewer and an Easement for Refuse Collection and City Emergency Services, at the northwest corner of Tempe Town Lake and Scottsdale Road. The second and final public hearing is scheduled for October 27, 2016. \(Ordinance No. O2016.52\)](#)

Fiscal Impact: N/A

THE PUBLIC HEARING WAS SCHEDULED FOR OCTOBER 27, 2016

- *6B2. [Introduce and hold the first public hearing to adopt an ordinance authorizing the abandonment of a 40' easement for roads, streets, alleys and public utility purposes located at the northwest corner of Tempe Town Lake and Scottsdale Road. The second and final public hearing is scheduled for October 27, 2016. \(Ordinance No. O2016.53\)](#)

Fiscal Impact: N/A

THE PUBLIC HEARING WAS SCHEDULED FOR OCTOBER 27, 2016

- *6B3. [Introduce and hold the first public hearing to adopt an ordinance authorizing the partial abandonment of a Maintenance Easement for Recovery Well #1 on the northwest corner of Tempe Town Lake and Scottsdale Road. The second and final public hearing is scheduled for October 27, 2016. \(Ordinance No. O2016.54\)](#)

Fiscal Impact: N/A

THE PUBLIC HEARING WAS SCHEDULED FOR OCTOBER 27, 2016

- *6B4. [Introduce and hold the first public hearing to adopt an Amended Planned Area Development Overlay and Development Plan Review for two new 24-story buildings consisting of a mixed-use 586-unit multi-family with retail and restaurant uses for THE PIER, located at 1190 East Vista Del Lago Drive. The applicant is Sender Associates Chtd. The second and final public hearing is scheduled for October 27, 2016. \(Ordinance No. O2016.55\)](#)

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.

THE PUBLIC HEARING WAS SCHEDULED FOR OCTOBER 27, 2016

- *6B5. [Introduce and hold the first public hearing to adopt an ordinance authorizing the City of Tempe to purchase improvements from Childsplay, Inc., and transfer real property from Childsplay to the City, and to further amend the Development and Disposition Agreement. The second and final public hearing is scheduled for October 27, 2016. \(Ordinance No. O2016.55\)](#)

Fiscal Impact: The City of Tempe will pay Childsplay the depreciated value of capital improvements made to the property, less offsets due the City, which totals \$1,948,102.30 payable over five years. This was not part of the fiscal year (FY) 2016/17 budget process; the FY2016/17 payment of \$500,000 will come from the general fund contingency.

THE PUBLIC HEARING WAS CONTINUED TO THE OCTOBER 27, 2016 REGULAR COUNCIL MEETING

C. Ordinances and Items for Second Hearing and Final Adoption

- *6C1. [Hold the second and final 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 along the west side of Kyrene Road and south of Guadalupe Road, and authorizing the Mayor or his designee to execute an easement agreement and related documents. \(Ordinance No. O2016.47\)](#)

Fiscal Impact: N/A

ADOPTED

- *6C2. [Hold the second and final public hearing to adopt an ordinance authorizing the abandonment of a public Bus Stop Shelter Easement located at the southeast corner of Rural Road and Apache Boulevard. \(Ordinance No. O2016.48\)](#)

Fiscal Impact: N/A

ADOPTED

- *6C3. [Hold the second and final public hearing to adopt a resolution authorizing a General Plan Projected Density Map Amendment from Medium to High Density \(up to 25 du/ac\) to High Density \(up to 65 du/ac\), adopt an ordinance for a Zoning Map Amendment from General Industrial \(GID\) to Mixed-Use \(MU-4\), a Planned Area Development Overlay and approve a Development Plan Review consisting of a new mixed-use development containing 209 units and four \(4\) live-work units for CRESCENT RIO, located at 700 West 1st Street. The applicant is Earl, Curley & Lagarde, P.C. \(Resolution No. R2016.90; Ordinance No. O2016.49\) Note: An affirmative vote by at least two-thirds \(2/3\) of the City Council is required to approve the General Plan Density Map Amendment.](#)

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 RESOLUTION AUTHORIZING A GENERAL PLAN PROJECTED DENSITY MAP AMENDMENT
WAS ADOPTED;
THE ORDINANCE FOR A ZONING MAP AMENDMENT AND A PLANNED AREA DEVELOPMENT
OVERLAY WAS ADOPTED; AND,
THE DEVELOPMENT PLAN REVIEW WAS APPROVED**

- *6C4. [Hold the second and final public hearing to adopt an ordinance for a Zoning Map Amendment from CSS TOD, R-4, and R-4 TOD to MU-4 TOD, a Planned Area Development Overlay, and a Development Plan Review for Phase I of a new seven-story, mixed-use development for EASTLINE VILLAGE, located at 2025 East Apache Boulevard. The applicant is Gammage & Burnham, P.L.C. \(Ordinance No. O2016.50\)](#)

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 ORDINANCE FOR A ZONING MAP AMENDMENT AND A PLANNED AREA DEVELOPMENT
OVERLAY WAS ADOPTED; AND,
THE DEVELOPMENT PLAN REVIEW WAS APPROVED**

- *6C5. [Hold the second and final public hearing to adopt an ordinance for a Zoning Map Amendment from the General Industrial District \(GID\) and the Agricultural District \(AG\) to Planned Commercial Center General \(PCC-2\) with a Planned Area Development Overlay and a Development Plan Review for a new commercial center consisting of retail stores, restaurants, and a fuel center for RIO SALADO RETAIL, located at 1953 East Rio Salado Parkway. The applicant is Berry Riddell, LLC. \(Ordinance No. O2016.51\)](#)

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 ORDINANCE FOR A ZONING MAP AMENDMENT AND A PLANNED AREA DEVELOPMENT
OVERLAY WAS ADOPTED; AND,
THE DEVELOPMENT PLAN REVIEW WAS APPROVED**

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>.
Watch this meeting live on Cox cable channel 11 or www.tempe.gov/tempe11.
Video replay of this meeting is available the next day at www.tempe.gov/tempe11.**