

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, February 25, 2016
6:00 PM**

[MEETING VIDEO](#)

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

1. **INVOCATION – Councilmember Schapira**
2. **PLEDGE OF ALLEGIANCE**
3. **MINUTES – Councilmember Kuby**

- A. Approval of City Council Meeting Minutes
 1. Executive Session - January 28, 2016

APPROVED

- B. Acceptance of Board, Commission and Committee Meeting Minutes
 1. [Aviation Commission - December 8, 2015](#)
 2. [Development Review Commission - January 12, 2016](#)
 3. [Development Review Commission Study Session - January 12, 2016](#)
 4. [Historic Preservation Commission - November 12, 2015 and January 21, 2016](#)
 5. [Human Relations Commission - December 8, 2015](#)
 6. [Judicial Advisory Board - October 23, 2014](#)
 7. [Mayor's Youth Advisory Commission - February 2, 2016](#)
 8. [Merit System Board - September 9, 2015](#)
 9. [Tempe Fire Public Safety Personnel Retirement System Board - December 3, 2015](#)
 10. [Tempe Fire and Police Public Safety Personnel Retirement System Boards Joint Meeting - December 3, 2015](#)
 11. [Tempe Municipal Arts Commission - January 13, 2016](#)
 12. [Tempe Police Public Safety Personnel Retirement System Board - January 7, 2016](#)
 13. [Tempe Sustainability Commission - December 14, 2015](#)
 14. [Transportation Commission - January 12, 2016](#)

ACCEPTED

4. **REPORTS AND ANNOUNCEMENTS**

- A. Mayor's Announcements
 - 1. **Marcos de Niza Performing Arts Day Proclamation** *Item added*
- 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 January 2016 Report of Claims Paid to be filed for audit.](#)

Fiscal Impact: Total payments in January: \$17,033,540.83

APPROVED

- 5A2. [Approve a Subdivision Plat for fifteen new two-story townhomes for 4TH STREET WEST, located at 1301 West Fourth Street. The applicant is Tom Goscicki, TPG Holdings.](#)

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

APPROVED

- *5A3. ~~REMOVED/DELETED AT THE REQUEST OF THE APPLICANT~~ ~~Hold a public hearing to recommend the approval of a series 12 restaurant liquor license for Mill Wings LLC, dba The Wing Counter, 3118 South Mill Avenue.~~

THIS ITEM WAS REMOVED/DELETED, AT THE REQUEST OF THE APPLICANT

- *5A4. [Hold a public hearing to recommend the approval of a series 01 in-state producer's liquor license for Red Mountain Distilling and Spirits LLC, dba Red Mountain Distilling and Spirits, 625 South Smith Road, Suite 25.](#)

Fiscal Impact: N/A

THIS ITEM WAS WITHDRAWN, AT THE REQUEST OF THE APPLICANT

- *5A5. [Hold a public hearing to recommend the approval of an acquisition of control of a Series 06 bar liquor license for El Hefe 3 LLC dba El Hefe, 640 South Mill Avenue, Suite 110.](#)

Fiscal Impact: N/A

APPROVED

- *5A6. [Hold a public hearing to recommend the approval of an acquisition of control of a Series 06 bar liquor license for Whiskey Row 3 LLC, dba Whiskey Row, 640 South Mill Avenue, Suite 120.](#)

Fiscal Impact: N/A

APPROVED

- *5A7. [Hold a public hearing to recommend the approval of a series 07 beer and wine bar liquor license for World Travel Inns Limited Partnership VII, dba Springhill Suites by Marriott, 1601 West Rio Salado Parkway.](#)

Fiscal Impact: N/A

APPROVED

- 5A8. [Approve appointments to the City of Tempe Fire and Police Public Safety Personnel Retirement System Boards.](#)

Fiscal Impact: N/A

APPROVED

B. Award of Bids/Contracts

- 5B1. [Approve the renewal of a one-year contract with Phoenix Fence Company to repair existing fencing systems, install new fencing, and provide rental of temporary fencing.](#)

Fiscal Impact: Total cost of this contract will not exceed \$125,000 during the one-year renewal period. Sufficient funds have been appropriated in the General Fund – cost center 3241 (Facility Services) – for the anticipated expenditures.

APPROVED

- 5B2. [Approve the one-year renewal of a contract with Graffiti Protective Coatings, Inc. for graffiti abatement services for commercial properties to be overseen by the Community Development Department.](#)

Fiscal Impact: There is no fiscal impact to the City for this contract. Costs for graffiti abatement will be the responsibility of the commercial property owners who agree to utilize the service.

APPROVED

- 5B3. [Approve the renewal of a contract with PCL Construction, Inc. to remove existing sludge collection equipment and install new sludge collection equipment.](#)

Fiscal Impact: Total cost of this contract will not exceed \$150,000. Sufficient funds have been appropriated in the Water/Wastewater Fund – cost center 3013 (Johnny G. Martinez Water Plant) – for the anticipated expenditures in fiscal year 2015/2016.

APPROVED

- 5B4. [Approve the one-year renewal of a contract with EyeMed Vision Care to provide a vision care program for eligible City employees and their dependents.](#)

Fiscal Impact: Total cost of this contract will not exceed \$200,000 during the one-year renewal period which will begin on July 1, 2016. Sufficient funds have been budgeted in the Health Fund – cost centers 4167 (Employees) and 4169 (Cobra Participants) – for the anticipated expenditures in the upcoming fiscal year. The City pays 100% of the employee cost for vision insurance and 50% of dependent coverage cost. The City cost is approximately \$150,000 per year with the employee paying \$50,000 for dependent coverage.

APPROVED

- 5B5. [Approve a one-year sole source contract renewal for software maintenance and support services with Accela, Inc. for the City's enterprise-wide permitting software solution.](#)

Fiscal Impact: Total cost of this contract will not exceed \$111,521.31 during the one-year contract renewal period. Sufficient funds have been appropriated in General Fund cost center – 1991 (IT Administration) for the anticipated expenditures.

APPROVED

- 5B6. [Approve an amended and restated contract for the provision of emergency ambulance transportation services for a six-year term with American Medical Response.](#)

Fiscal Impact: This contract will not have any cost impact to the City as American Medical Response (AMR) collects payment for services directly from the customer. However this action will eliminate the requirement that AMR provide \$63,600 to the City annually to support the Tempe Fire Medical Rescue Department's medical contract coordination efforts.

APPROVED

- 5B7. [Award a two-year contract with two, two-year renewal options to Xylem Water Solutions U.S.A. Inc. for the maintenance and repair of ultra violet disinfection systems.](#)

Fiscal Impact: Total combined cost of this contract shall not exceed \$600,000 during the two-year contract period. Sufficient funds have been appropriated in the Water and Wastewater Fund – cost centers 3013 (Johnny G. Martinez Plant) and 3014 (South Tempe Water Plant) – for the anticipated expenditures.

APPROVED

- 5B8. [Award a two-year contract with two, two-year renewal options to Integrated Process Technologies for the maintenance, repair, and purchase of Limitorque actuators.](#)

Fiscal Impact: Total cost of this contract shall not exceed \$450,000 during the two-year contract period. Sufficient funds have been appropriated in the Water and Wastewater Fund – cost centers 3013 (Johnny G. Martinez Plant) and 3014 (South Tempe Water Plant) – for the anticipated expenditures.

APPROVED

- 5B9. [Award job order no. 5 to Caliente Construction, Inc. for the replacement of the back-up generator at the Police/Courts Building at 120 East Fifth Street.](#)

Fiscal Impact: The total job order amount is \$324,793 and the project contingency amount is \$32,000. Funds to cover this job order contract and related costs are appropriated for fiscal year 2015/16 in Capital Improvement Project No. 5507679, Electrical Improvements – Main Police Department Generator Replacement.

APPROVED

- 5B10. [Award job order no. 1 to Valley Rain Construction Corporation for the assembly and installation of the floating dock which is to replace the existing concession dock located on the south shore of Tempe Town Lake.](#)

Fiscal Impact: The total job order amount is \$208,759.94 and the project contingency amount is \$21,000. Funds to cover this job order contract and related costs are appropriated for fiscal year 2015/16 in Capital Improvement Project No. 6206009, Community Facilities District Infrastructure Replacement.

APPROVED

C. Resolutions

- 5C1. [Adopt a resolution authorizing the City Manager, or designee, to negotiate exclusively with DMB Associates, Inc., an agreement for the purchase and development of approximately 1.40 acres of City-owned land located on East Apache Boulevard. \(Resolution No. R2016.15\)](#)

Fiscal Impact: Financial details will be determined through negotiation of the terms of the Development and Disposition Agreement and subject to City Council approval.

ADOPTED

- 5C2. [Adopt a resolution authorizing the City Council to approve and the Mayor to execute Amendment No. One to an Intergovernmental Agreement with the Arizona Department of Transportation to turn over maintenance responsibilities to the City of Mesa for a segment of the Rio Salado Path. \(Resolution No. R2016.16\)](#)

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 - None

B. Ordinances and Items for Introduction and First Hearing

- *6B1. [Introduce and hold the first public hearing to adopt an ordinance for a Reversion of the Zoning Map Amendment from current zoning district of MU-3 \(PAD\) Mixed Use Planned Area Development Overlay District to GID General Industrial District \(original zoning\) for 501 WEST 1ST, located at 501 West 1st Street. The applicant is City of Tempe. The second and final public hearing is scheduled for March 17, 2016. \(Ordinance No. O2016.13\)](#)

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

THE PUBLIC HEARING WAS SCHEDULED FOR MARCH 17, 2016

- *6B2. [Introduce and hold the first public hearing to adopt an ordinance for a Reversion of the Zoning Map Amendment of prior entitlements for 2150 SOUTHERN CAMPUS MASTERPLAN, from current zoning district of MU-2 \(PAD\) Mixed Use Medium Density with a Planned Area Development Overlay District to R/O Residential Office, CSS, Commercial Shopping and Service and R1-6, Single Family Residential Districts \(original zoning\), located at 2150 East Southern Avenue. The applicant is City of Tempe. The second and final public hearing is scheduled for March 17, 2016. \(Ordinance No. O2016.14\)](#)

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

THE PUBLIC HEARING WAS SCHEDULED FOR MARCH 17, 2016

- *6B3. [Introduce and hold the first public hearing to adopt an ordinance for a Reversion of the Zoning Map Amendment of prior entitlements for 800 WEST from current zoning district of R-4 \(PAD\) Planned Area Development Overlay to R-4 Multi-Family Residential District \(original zoning\), located at 800 West University Drive. The applicant is City of Tempe. The second and final public hearing is scheduled for March 17, 2016. \(Ordinance No. O2016.15\)](#)

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

THE PUBLIC HEARING WAS SCHEDULED FOR MARCH 17, 2016

- *6B4. [Introduce and hold the first public hearing to adopt an ordinance for an Amended Planned Area Development Overlay consisting of a 5-story mixed-use development for THE MOTLEY \(formerly THE HAYDEN AT DORSEY STATION\), located at 1221 East Apache Boulevard to increase the number of units from 395 units to 399. The applicant is Charles Huellmantel, Huellmantel & Affiliates. The second and final public hearing is scheduled for March 17, 2016. \(Ordinance No. O2016.16\)](#)

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

THE PUBLIC HEARING WAS SCHEDULED FOR MARCH 17, 2016

C. Ordinances and Items for Second Hearing and Final Adoption

- *6C1.** 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-Urban Core (more than 65 du/ac); hold the second and final public hearing to adopt an ordinance for a Zoning Map Amendment from GID to MU-4 and a Planned Area Development Overlay; and, approve a development plan review for CRESCENT RIO consisting of a new mixed-use development containing ~~356~~ 315 units and 5 live-work units, located at 700 West 1st Street. The applicant is Charles Huellmantel, Huellmantel & Affiliates. (Note, the General Plan Amendment requires an affirmative vote of at least two-thirds (2/3) of the City Council; therefore a Council vote of 5 of 7 is required for approval.) This item was continued from the January 14, 2016 and January 28, 2016 Regular Council Meeting at the request of the applicant. (Ordinance No. O2016.03) (Resolution No. R2016.01) **Material revised/added**

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.

THIS ITEM WAS WITHDRAWN, AT THE REQUEST OF THE APPLICANT

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).

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