



## Minutes Regular City Council Meeting June 11, 2015

Minutes of the Regular Council Meeting of Thursday, June 11, 2015, held at 6:00 p.m. in the Harry E. Mitchell Government Center, Tempe City Hall, City Council Chambers, 31 E. Fifth Street, Tempe, Arizona.

### COUNCILMEMBERS PRESENT:

Mayor Mark W. Mitchell	Vice Mayor Corey D. Woods
Councilmember Robin Arredondo-Savage	Councilmember Kolby Granville
Councilmember Lauren Kuby ( <i>participated telephonically</i> )	Councilmember Joel Navarro ( <i>joined telephonically at 7:05 p.m.</i> )
Councilmember David Schapira	

### STAFF PRESENT:

Andrew Ching, City Manager	Ken Jones, Deputy City Manager – Chief Financial Officer
Judi Baumann, City Attorney	Steven Methvin, Deputy City Manager – Chief Operating Officer
Brigitta M. Kuiper, City Clerk	Michael Greene, Central Services Manager
Kim Hale, Police Commander	Don Bessler, Public Works Director
Dave Nakagawara, Community Development Director	Ryan Levesque, Dep. Community Development Dir. – Planning
Various Department Heads or their representatives	

Mayor Mitchell called the meeting to order at 6:21 p.m.

1. Councilmember Arredondo-Savage gave the invocation.
2. Mayor Mitchell led the audience in the **Pledge of Allegiance**.

### 3. MINUTES

#### A. Approval of City Council Meeting Minutes

**Motion by Vice Mayor Woods to approve agenda items 3A1 – 3A3; second by Councilmember Arredondo-Savage. Motion passed unanimously on a voice vote 6-0, with Councilmember Navarro absent.**

1. Regular City Council Meeting - April 16, 2015 and May 7, 2015
2. City Council Special Meeting - May 21, 2015
3. Executive Session - May 18, 2015 and May 21, 2015

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

**Motion by Vice Mayor Woods to accept agenda items 3B1 – 3B10; second by Councilmember Arredondo-Savage. Motion passed unanimously on a voice vote 6-0 with Councilmember Navarro absent.**

1. Development Review Commission - May 12, 2015
2. Development Review Commission Study Session - May 12, 2015
3. Hearing Officer - April 21, 2015 and May 5, 2015
4. History Museum and Library Advisory Board - May 6, 2015
5. Historic Preservation Commission - March 12, 2015 and April 9, 2015

6. Historic Preservation Commission Archaeologically Sensitive Classification Subcommittee - March 12, 2015
7. Mayor's Youth Advisory Commission C.I.T.Y. Project Subcommittee - March 10, 2015
8. Parks, Recreation, Golf, and Double Butte Cemetery Advisory Board - April 15, 2015
9. Risk Management Trust Board - October 27, 2014
10. Transportation Commission - May 12, 2015

#### 4. REPORTS AND ANNOUNCEMENTS

##### A. Mayor's Announcements

1. *Cardiocerebral Resuscitation Program and Recognition of Audrey Miller*

Mayor Mitchell invited Audrey Miller and representatives from the Tempe Fire Medical Rescue Department, Tempe St. Luke's Hospital and the Tempe Union High School District, to the podium. Mayor Mitchell presented Ms. Miller with a plaque honoring her for her heroic actions in performing Cardio-Cerebral Resuscitation on her grandmother.

2. *Gary Ells, Fire Medical Rescue Department Deputy Chief, Proclamation*

Mayor Mitchell invited Gary Ells, Fire Medical Rescue Department Deputy Chief, to the podium and read a proclamation declaring June 11, 2015, as Deputy Chief Gary Ells Day, Lifetime of Recognition, in Tempe, Arizona.

3. *Animal Defense League of Arizona, Outdoor Cat Awareness Day*

Mayor Mitchell invited Stephanie Nichols Young to the podium and read a proclamation declaring June 12, 2015, as Outdoor Cat Awareness Day in Tempe, Arizona.

##### B. City Manager's Announcements

Andrew Ching, City Manager, acknowledged and thanked retired City employees Gary Ells and Sherry Warren for their years of service to the City of Tempe.

#### 5. CONSENT AGENDA

All items listed on the Consent Agenda will be considered as a group and will be enacted with one motion by the City Council unless an item is removed for separate consideration. Members of the public may remove public hearing items for separate consideration. Public hearing items are designated by an asterisk (\*). Councilmembers may remove any item for separate consideration.

**Motion by Vice Mayor Woods to approve the consent agenda with the exception of items 5A2, 5A3, 5A5, 5B12, 5B16, and 5C2, which were removed for separate consideration; second by Councilmember Schapira. Motion passed unanimously on a roll call vote 6-0 with Councilmember Navarro absent.**

##### A. Miscellaneous Items

5A1. Approved the April 2015 Report of Claims Paid to be filed for audit.

*Fiscal Impact:* Total payments in April: \$17,133,312.32

5A2. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Approve a Right-of-Way Encroachment Agreement between the City of Tempe and Cox Communications Arizona, LLC for the placement of Wi-Fi Access Points (antennas) within the right-of-way.

5A3. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Authorize the Mayor to execute a Memorandum of Understanding between the City of Tempe and Tempe Community Council to establish a partnership to meet the human services needs of Tempe.

5A4. Authorized the Mayor to create eight positions in the Human Services Department to transition Tempe Community Council employees into the City of Tempe.

*Fiscal Impact:* The total personnel costs for the eight full-time positions are projected to be \$720,000 for fiscal year 2015/16. Sufficient funds have been appropriated within the Human Services Department cost center 3527 (Tempe Community Council) for the 2015/16 fiscal year budget.

5A5. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Authorize the Mayor to execute a Memorandum of Understanding to formalize cooperation with the Animal Defense League of Arizona to address the issue of feral or outdoor cats.

**B. Award of Bids/Contracts**

5B1. Approved the utilization of one-year State of Arizona contracts with Brown's Partsmaster, Inc. and Ferguson Enterprises, Inc. for the purchase of plumbing parts and supplies for the Public Works Department.

*Fiscal Impact:* Total combined cost of these two contracts will not exceed \$350,000 during the one-year contract period. Sufficient funds have been appropriated in the Water/Wastewater Fund – cost centers 3003 (Water Utilities Warehouse), 3013 (Johnny G. Martinez Water Treatment Plant), 3014 (South Tempe Water Treatment Plant), and various funds and cost centers citywide for the anticipated expenditures in the current fiscal year.

5B2. Approved the utilization of a one-year State of Arizona contract with Morphotrak, Inc. for annual hardware and software support for the City's fingerprint system for the Police Department.

*Fiscal Impact:* Total cost of this contract will not exceed \$55,000 during the one-year contract period. Sufficient funds have been appropriated in General Fund – cost center 2256 (Technical Services Admin) for the anticipated expenditures in the current fiscal year.

5B3. Approved the renewal of a one-year contract with CHC Wellness for a wellness program offered to eligible City employees overseen by the Internal Services Department.

*Fiscal Impact:* Total cost of this contract will not exceed \$250,000 during the one-year renewal period. Sufficient funds have been budgeted in the Health Fund – cost center 4167 (Employees) – for the anticipated expenditures in fiscal year 2015/2016.

5B4. Approved the one-year renewal of a contract with LandCorp Arizona, LLC for cleaning services at the Diablo Stadium Complex for use by the Community Services Department.

*Fiscal Impact:* Total cost of this contract will not exceed \$95,000 during the one-year renewal 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.

- 5B5. Approved the renewal of a one-year contract with The Environmental Quality Company which provides hazardous materials trained personnel who assist with material collection, segregation and labeling at the City's Household Products Collection Center, and any special hazardous waste collection events sponsored by the City and overseen by the Public Works Department.

**Fiscal Impact:** Total cost of this contract will not exceed \$90,000 during the one-year renewal period. Sufficient funds have been appropriated in the Solid Waste Fund – cost center 3721 (Hazardous Material Safety) – for the anticipated expenditure in the current fiscal year.

- 5B6. Approved the one-year renewal of contracts with FlexGround, LLC and Robertson Industries for the supply and installation of rubberized playground safety surfacing utilized by the Public Works Department.

**Fiscal Impact:** Total combined cost of these contracts will not exceed \$270,000 during the one-year renewal period. Sufficient funds have been appropriated in the Capital Improvement Project (CIP) Park Improvement/Recreation Fund cost center 6305499 (Park Playground Replacement) for the anticipated expenditures in the current fiscal year.

- 5B7. Approved the renewal of one-year contracts with Asimou & Associates; Bustamante & Associates; Rebecca Covell; Curtis, Goodwin, Sullivan, Udall & Schwab; Gabriel & Ashworth; Green & Baker; Gust Rosenfeld; Helm, Livesay & Worthington; Iafrate & Associates; Kelhoffer Manolio & Firestone; Kutak Rock; Littler Mendelson; Dickinson Wright; Diane M. Miller; Sanders & Parks; Sims Murray; Roger Spencer; and Struck Wieneke & Love to provide legal representation in the event that the use of outside legal counsel becomes necessary.

**Fiscal Impact:** Total cost of these 18 contracts will not exceed \$250,000 during the one-year renewal period. Sufficient funds have been appropriated in the Risk Management Fund – cost center 2611 (Liability Claims/Risk) – for the anticipated expenditures in the current fiscal year. For representation other than litigation, fees shall be charged back to the department for which services are rendered.

- 5B8. Approved the renewal of a one-year contract with York Risk Services Group, Inc. for workers' compensation claims third party administrator services managed by the Internal Services Department.

**Fiscal Impact:** Total cost of this contract will not exceed \$65,000 during the one-year renewal period. Sufficient funds are available in the Worker's Comp Fund - cost center 2701 (Worker's Comp) for the anticipated expenditures in the upcoming fiscal year.

- 5B9. Approved 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 \$110,482.78 during the one-year contract renewal period. Sufficient funds have been appropriated in General Fund cost center - 1991 (IT Administration) for the anticipated expenditures in the current fiscal year.

- 5B10. Approved a one-year sole source contract renewal for software maintenance and support services with TSC America, dba TATA American International, for the City's business/privilege tax software system for the Internal Services Department.

**Fiscal Impact:** Total cost of this contract will not exceed \$136,817 during the one-year renewal period. Sufficient funds have been appropriated in General Fund cost center 1991 (IT - Administration) for the anticipated expenditures in the current fiscal year.

- 5B11. Awarded a one-year contract with three, six-month renewal options to Salt River Project Agricultural Improvement and Power District for the maintenance and operation of the Tempe Town Lake dams, control systems, seepage wells, and make-up water delivery system for the Public Works Department. **(Contract #2015-111)**

*Fiscal Impact:* Total cost of this contract will not exceed \$370,000 during the one-year contract renewal period. (WUD10-129-01) Sufficient funds have been appropriated in the Community Facilities District Fund - cost center 5011 (Community Facilities District Lake Operations) for the anticipated expenditures in the current fiscal year.

- 5B12. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Award a sole source contract to Harris Corporation for the purchase of specialized hardware to be used primarily by the Police Department Criminal Investigations and Special Investigations Bureaus.

- 5B13. Awarded a two-year contract with three, one-year renewal options to Somerset Contracting for the installation of landscaping and irrigation for right-of-way landscaping projects for the Public Works Department. **(Contract #2015-113)**

*Fiscal Impact:* Total cost of this contract will not exceed \$800,000 (\$400,000 per year) during the initial two-year contract period. Sufficient funds have been appropriated in the Street Improvement Capital Improvement Fund (CIP) cost center 5406149 (Right-of-Way Landscape Replacement) for the anticipated expenditures in the current fiscal year.

- 5B14. Awarded a one-year contract to Flexground, LLC to resurface the reflecting pool at the Tempe Center for the Arts. **(Contract #2015-114)**

*Fiscal Impact:* Total cost of this contract will not exceed \$160,000 during the one-year contract period. Sufficient funds have been appropriated in the Performing Arts Fund cost center 3612 (TCA Facility Management) for the anticipated expenditures in the current fiscal year.

- 5B15. Awarded a three-year contract with two, one-year renewal options to Arizona Republic and Arizona Capitol Times for legal and classified advertising services to be used throughout the City. **(Contract #2015-115)**

*Fiscal Impact:* Total three-year combined cost for these contracts shall not exceed \$200,000. Sufficient funds have been appropriated in cost centers 1310, 1911, and 1851 (General Fund) for the anticipated expenditures in the current fiscal year.

- 5B16. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Approve the First Amendment to the Solar Services Agreement and Amendment to the Performance Guarantee & Limited Warranty Agreement for the Tempe Museum solar photovoltaic electric generating system and cancel the Solar Services Agreement and Amendment to the Performance Guarantee & Limited Warranty Agreement for the Pyle Adult Center solar photovoltaic electric generating system.

## C. Resolutions

- 5C1. Adopted **RESOLUTION NO. R2015.53** amending and establishing application fees and compensation for use or occupation of City rights-of-way.

*Fiscal Impact:* An increase from the current \$2,000 fee to a \$4,000 fee for applications for new or renewed telecommunication licenses and the equivalent \$4,000 fee for applications for

right-of-way use agreements with the City of Tempe. The linear foot fee for occupation of the right-of-way not subject to the restrictions of A.R.S. §§ 9-581, 9-582 and 9-583 will be at the same linear foot rate as the interstate telecommunications linear foot fee (\$2.08 per linear foot) unless a different calculation for fair and reasonable compensation is agreed to by the City.

5C2. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Adopt a resolution waiving the requirement to underground the installation of additional fiber by Cox Communications Arizona, LLC in areas of existing overhead lines in order to provide higher speed internet access. (Resolution No. R2015.54)

5C3. Adopted **RESOLUTION NO. R2015.55** authorizing the Mayor to execute a First Amendment to the Amended and Restated Conduit Use Agreement between the City of Tempe and CoxCom Inc. (**Contract #97-92E1B**)

*Fiscal Impact:* The First Amendment to the Amended and Restated Conduit Use Agreement will have no fiscal impact to the City.

5C4. Adopted **RESOLUTION NO. R2015.57** authorizing the Mayor to execute the First Amendment to the Development and Disposition Agreement between the CITY OF TEMPE and HABITAT FOR HUMANITY CENTRAL ARIZONA. (**Contract #2014-172B**)

*Fiscal Impact:* The City recently received a reallocation of federal HOME funds and will be making those funds available to Habitat. The amendment will not alter the financial terms of the Agreement, nor call for the expenditure of any City Funds.

5C5. Adopted **RESOLUTION NO. R2015.61** committing to a voluntary recycling and waste reduction program goal for multifamily housing complexes.

*Fiscal Impact:* Expenditures associated with the goal will not exceed \$95,000 in fiscal year 2015-16; those costs were planned as part of staff's ongoing efforts to improve recycling and the solid waste diversion rate and will be offset to some extent by the revenue the City receives from the recyclable material it collects. Sufficient funding is available in the Solid Waste Enterprise Fund, cost centers 3714 and 3717.

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

5A2. **Right-of-Way Encroachment Agreement with Cox Communications Arizona, LLC for the placement of Wi-Fi Access Points within the right-of-way.**

Councilmember Granville stated that Cox Communications is setting up a system whereby people who have Cox cable will be able to use Cox Wi-Fi for free, as part of their service, when they are near a Wi-Fi hot spot. He stated that he is not ready to vote on this item because he is waiting on additional information from Cox Communications regarding how many cable lines Cox has that are located near City parks and the downtown area, where people congregate.

**Motion by Councilmember Granville to continue agenda item 5A2 to the June 25, 2015, Regular Council Meeting; second by Vice Mayor Woods. Motion passed unanimously on a roll call vote 6-0 with Councilmember Navarro absent.**

5A2. *Continued to the June 25, 2015, Regular Council Meeting, a Right-of-Way Encroachment Agreement between the City of Tempe and Cox Communications Arizona, LLC for the placement of Wi-Fi Access Points (antennas) within the right-of-way.*

*Fiscal Impact:* Cox Communications Arizona, LLC will be assessed \$2,000 on an annual basis for the

Wi-Fi Access Point Encroachment Permit. Because internet access service is not a cable service, this fee will not be offset against the cable license fees that Cox pays to the City under its cable license.

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**5A3. Memorandum of Understanding with the Tempe Community Council to establish a partnership to meet the human services needs of Tempe.**

Councilmember Kuby stated that she served on the Tempe Community Council Board of Directors (Board) for many years. She discussed and voiced support for the reconfiguration process and noted that the Board also supports the reconfiguration of the Tempe Community Council. Tempe is one of the few cities in Arizona that has a citizen-based agency review process.

**Motion by Vice Mayor Woods to approve agenda item 5A3; second by Councilmember Arredondo-Savage. Motion passed unanimously on a roll call vote 6-0 with Councilmember Navarro absent.**

**5A3. Authorized the Mayor to execute a Memorandum of Understanding between the City of Tempe and Tempe Community Council to establish a partnership to meet the human services needs of Tempe. (Contract #2015-109)**

*Fiscal Impact:* Sufficient funds of \$1,296,928 have been appropriated within the Human Services Department cost center 3527 (Tempe Community Council) for the 2015/16 fiscal year budget.

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**5A5. Memorandum of Understanding with the Animal Defense League of Arizona to address feral or outdoor cats.**

Vice Mayor Woods thanked Animal Defense League of Arizona (ADLA) representatives for collaborating with him and Councilmember Granville to address feral and outdoor cat issues. ADLA is well respected and has experience with these issues. He encouraged residents to donate money to ADLA, which is a tax deduction that will benefit the City of Tempe.

Councilmember Granville noted that several meetings occurred and that the final outcome is a humane product.

**Motion by Vice Mayor Woods to approve agenda item 5A5; second by Councilmember Granville. Motion passed unanimously on a roll call vote 6-0 with Councilmember Navarro absent.**

**5A5. Authorized the Mayor to execute a Memorandum of Understanding to formalize cooperation with the Animal Defense League of Arizona to address the issue of feral or outdoor cats. (Contract #2015-110)**

*Fiscal Impact:* There is no direct cost to the City.

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**5B12. Contract with Harris Corporation for the purchase of specialized hardware.**

Councilmember Kuby asked staff for clarification regarding this sole source contract.

Michael Greene, Central Services Manager, stated that he worked on the contract; he referred the explanation for the contract specifications to Kim Hale, Police Commander. Commander Hale explained that this equipment is used on

average once or twice a week to locate individuals that have been involved in crimes and identify individuals that have committed crimes. The equipment is used in felony crime investigations and when there is imminent risk of death or physical injury. He then explained court order requirements, the search warrant process, and how the equipment operates. The equipment does not capture phone numbers, e-mails, or voice messages; it catches the electronic signal of the target. At the end of the operation the data is erased. Equipment is audited to ensure no data is retained. There is a Police Department personnel chain of command in place that oversees the process.

There are special circumstances, such as child abductions, when equipment is used prior to obtaining a court order. In these circumstances, the cell phone company provider (provider) supplies the information to the Police Department, with the understanding that the Police Department will follow up and submit a court order to the cell provider in order to meet judicial requirements.

**Motion by Councilmember Arredondo-Savage to approve agenda item 5B12; second by Councilmember Granville. Motion passed unanimously on a roll call vote 6-0 with Councilmember Navarro absent.**

- 5B12.** Awarded a sole source contract to Harris Corporation for the purchase of specialized hardware to be used primarily by the Police Department Criminal Investigations and Special Investigations Bureaus. (Contract #2015-112)

*Fiscal Impact:* The cost of this contract shall not exceed \$55,131. Sufficient funds have been appropriated in cost center 2222 (RICO – State Pass Through County) in the Police RICO and Grants Fund as part of the fiscal year 2014-15 adopted budget.

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- 5B16.** First Amendment to the Solar Services Agreement and Amendment to the Performance Guarantee & Limited Warranty Agreement for the Tempe Museum solar photovoltaic electric generating system and cancellation of the Solar Services Agreement and Performance Guarantee & Limited Warranty Agreement for the Pyle Adult Center solar photovoltaic electric generating system.

Councilmember Granville discussed the difference between prior savings and current savings under the net metering rates (rates). Rates apply to systems with an inverter for 300 kilowatts or less. He questioned why the City does not focus on projects that are larger than 300 kilowatts, so the rates do not apply and projects become profitable. He discussed the goal of reaching 20% renewable energy and combining the Tempe History Museum and Pyle Adult Center solar panels into one inverter system over 300 kilowatts so that the project would be profitable.

Don Bessler, Public Works Director, stated that it is his understanding that two services cannot be combined into one inverter to build capacity, in order to get a better rate. Staff is committed to this project, which has been in process for the past two years. Over that period of time, several things have changed. The project brings value and will help the City reach its solar energy goal. In this case, the vendor assessed the project and determined that 247 kilowatts is the appropriate system size. If a system over generates solar power, it costs more to operate. The goal is to generate as much solar power as possible, while making the project cost neutral. Staff will research and provide additional information regarding how system size is estimated.

Councilmember Kuby stated that APS and Salt River Project impose penalties for over generation of solar power.

**Motion by Councilmember Kuby to approve agenda item 5B16; second by Councilmember Granville. Motion passed unanimously on a roll call vote 6-0 with Councilmember Navarro absent.**

- 5B16.** Approved the First Amendment to the Solar Services Agreement (**Contract #2015-32A**) and Amendment to the Performance Guarantee & Limited Warranty Agreement (**Contract #2015-32.1A**) for the Tempe Museum solar photovoltaic electric generating system and cancelled the Solar Services Agreement (**Contract #2015-33**) and Performance Guarantee & Limited Warranty Agreement for the Pyle Adult Center solar photovoltaic electric generating system. (**2015-33.1**)

**Fiscal Impact:** The upfront (out of pocket) capital cost of the revised Library Complex solar project is \$118,920. The total combined payments of the 20-year Solar Services Agreements are estimated at \$2,184,618. This payment total is based on using SolarCity's guaranteed 20-year cost per kWh for the Tempe Public Library (\$0.077) and History Museum (\$0.0731) and multiplying it by the estimated kWh production of the proposed solar systems over the 20-year period. The capital cost of \$118,920 shall come from the proposed Fiscal Year 2015/2016 Capital Improvement Program budget.

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- 5C2. Resolution waiving the requirement to underground the installation of fiber by Cox Communications Arizona, LLC in areas of overhead lines.**

Councilmember Navarro joined the meeting telephonically.

Councilmember Schapira stated that the City of Tempe prefers that new cables be placed underground. This item would allow for Cox Communications (Cox), in places where they already have overhead equipment, to lash lines on top of that equipment rather than having to place the lines underground. He emphasized the importance that all internet service providers in Tempe minimize visibility of lines and minimize the amount of time temporary lines are in place. Temporary lines create safety and blight issues. Councilmember Granville concurred.

**Motion by Vice Mayor Woods to approve agenda item 5C2.**

Mayor Mitchell invited Michael Stull, Cox Communications representative, to address the City Council.

Mr. Stull noted that there are numerous internet service providers. He agreed to look into the concerns raised regarding temporary lines. If temporary lines are eliminated it will delay service to customers; however, temporary lines should not be in place for long periods of time.

Councilmember Schapira reiterated that his concern is about length of time and manner in which temporary lines are placed. This is a Citywide concern that should be addressed; internet service providers should also be considering ways to fix this problem. A vendor has indicated that the City process takes too long. Internet service providers should notify the City Council if they have concerns about City processes so that problems can be addressed.

Mr. Stull indicated that he would participate in discussions to modify ordinances to require service providers to bury lines faster, and to require faster City permitting processes.

**Motion to approve agenda item 5C2 was seconded by Councilmember Schapira. Motion passed unanimously on a roll call vote 7-0.**

- 5C2.** Adopted **RESOLUTION NO. R2015.54** waiving the requirement to underground the installation of additional fiber by Cox Communications Arizona, LLC in areas of existing overhead lines in order to provide higher speed internet access.

**Fiscal Impact:** No fiscal impact for the City of Tempe.

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## 6. NON-CONSENT AGENDA

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

Quasi-judicial items are indicated by "q-j". The City Council sits as a quasi-judicial body when hearing certain items as determined by the City of Tempe Zoning and Development Code or State law. 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.

Agenda item 6A5 is designated as a quasi-judicial (q-j) item.

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

- 6A1. Contracts with Bill Luke Chrysler Jeep & Dodge, Courtesy Chevrolet, Don Sanderson Ford, Larry Miller Toyota, Midway Chevrolet, Chapman Ford, and San Tan Auto Partners for the purchase of vehicles.**

There was no discussion on agenda item 6A1.

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

- 6A1.** Approved the utilization of one-year State of Arizona contracts with Bill Luke Chrysler Jeep & Dodge, Courtesy Chevrolet, Don Sanderson Ford, Larry Miller Toyota, Midway Chevrolet, Chapman Ford, and San Tan Auto Partners for the purchase of 74 vehicles.

*Fiscal Impact:* Total combined cost of these contracts will not exceed \$2,800,000. Sufficient funds have been budgeted in various cost centers in the General, Water/Wastewater, Solid Waste, Transit, and Highway User Funds for the anticipated expenditures in fiscal year 2015/2016.

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- 6A2. Contracts with Baker & Taylor, Inc. and Midwest Tape, LLC for the purchase of library materials and associated processing and cataloging services.**

There was no discussion on agenda item 6A2.

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

- 6A2.** Awarded three-year contracts with two, one-year renewal options to Baker & Taylor, Inc. and Midwest Tape, LLC for the purchase of library materials and associated processing and cataloging services for the Tempe Public Library. **(Contract #2015-116A-B)**

*Fiscal Impact:* Total cost of these contracts will not exceed \$1,250,000 during the three-year contract period. Sufficient funds have been appropriated in the General Fund cost center 2440 (Library) for the anticipated expenditures in the current fiscal year.

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**6A3. Contract with Applied LNG Technologies, LLC for the supply of liquefied natural gas.**

There was no discussion on agenda item 6A3.

**Motion by Vice Mayor Woods to approve agenda item 6A3; second by Councilmember Schapira. Motion passed unanimously on a roll call vote 7-0.**

- 6A3.** Awarded a three-year contract with two, one-year renewal options to Applied LNG Technologies, LLC for the supply of liquefied natural gas to support the City's transit fleet operation at the East Valley Bus Operations and Maintenance Facility. (Contract #2015-117)

*Fiscal Impact:* Total cost of this contract will not exceed \$8,000,000 during the initial three-year contract period. Sufficient funds have been appropriated in the Transit Fund cost center 3914 (Transit Operations) for the anticipated expenditures in the current fiscal year.

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- 6A4. Excess insurance renewal program for fiscal year 2015/2016 purchased through the City's insurance broker, Marsh USA.**

There was no discussion on agenda item 6A4.

**Motion by Councilmember Granville to approve agenda item 6A4; second by Vice Mayor Woods. Motion passed unanimously on a roll call vote 7-0.**

- 6A4.** Approved the annual excess insurance renewal program for fiscal year 2015/2016 to include excess property, primary and excess liability, crime, excess workers' compensation, environmental pollution, and network security and privacy insurance purchased through the City's insurance broker, Marsh USA.

*Fiscal Impact:* The total premium for the fiscal year shall not exceed \$1,220,000. Sufficient funds have been appropriated in the Risk Management Fund - cost center 2621 (Risk Management) and Workers' Compensation Fund - cost center 2701 (Workers' Comp) for the anticipated expenditures in fiscal year 2015/2016.

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- q-j **\*6A5. Public hearing for an Appeal of the decision by the Development Review Commission to approve a Development Plan Review, a Use Permit to allow tandem parking, and a Use Permit Standard to increase the maximum building height, for two new apartment buildings containing 19 units for 5TH & HARDY APARTMENTS, 1000 West 5th Street.**

Mayor Mitchell announced that agenda item 6A5 has been withdrawn by the appellant.

- q-j **\*6A5. *Appellant withdrew the Appeal* of the decision by the Development Review Commission to approve a Development Plan Review, a Use Permit to allow tandem parking, and a Use Permit Standard to increase the maximum building height, for a project consisting of two new apartment buildings containing 19 units for 5TH & HARDY APARTMENTS, located at 1000 West 5th Street. The appellant is William Connelly. *At the request of the Appellant, this item was continued from the May 21, 2015 Regular Council Meeting.***

*Fiscal Impact:* None

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**\*6A6. Public hearing on the proposed Land Use Assumptions and Infrastructure Improvement Plan related to Police Facilities, Fire Facilities, Street Facilities, and Park and Recreational Facilities Development Fees.**

Mayor Mitchell opened the public hearing.

Don Bessler, Public Works Director, introduced co-presenter, Dave Nakagawara, Community Development Director. Mr. Bessler briefed the City Council on the proposed Land Use Assumptions and Infrastructure Improvement Plan (IIP) process, which has been underway for two years. Program development has included presentations to the City Council, stakeholder meetings, and public hearings, to improve transparency and increase awareness of the program. Community feedback and suggestions have been helpful. At the direction of City Council, staff removed the Streetcar Project from the IIP, so that the project would not be paid for using impact fees. Removal of the impact fees from the Streetcar Project does not impact the project status. IIP funding is used to pay for Capital Improvement Program projects that generate growth and add capacity to various City infrastructure systems. Tischler Bise is the program consultant. Mr. Bessler outlined the timeline and next steps involved in the process to include: July 30, 2015, City Council adoption of the Land Use Assumptions and the IIP; public outreach regarding cost assignments as it relates to fees; a public hearing for the proposed impact fees; City Council adoption of the fees; and, a 75-day waiting period before fees go into effect.

Cheryl Lombard, Phoenix, President/CEO Valley Partnership, stated that Valley Partnership submitted a letter for the record and voiced appreciation for the working relationship Valley Partnership has with the City. She thanked the City Council and staff for their work on growth, infrastructure, and impact fees. Valley Partnership is supportive of the IIP process and of the decision to remove the Streetcar Project from the IIP. Valley Partnership would like to continue working with staff to better understand the parks and recreation facility component.

**\*6A6. Held a public hearing on the proposed Land Use Assumptions and Infrastructure Improvement Plan related to Police Facilities, Fire Facilities, Street Facilities, and Park and Recreational Facilities Development Fees.**

*Fiscal Impact:* No impact on City funds.

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**\*6A7. Public hearing for a review of the Zoning Map Amendment and Planned Area Development Overlay for direction to permit a time extension or initiate a reversion of prior entitlements for MILLER-CURRY TOWNHOMES, 1245 North Miller Road.**

Mayor Mitchell opened the public hearing.

Ryan Levesque, Deputy Community Development Director – Planning, stated that the action being requested is for a time extension or to initiate the reversion process of prior entitlements for Miller-Curry Townhomes. The project was approved in 2006 for 12 townhome units and commercial space. The original site was zoned industrial; the land is currently vacant. The Development Plan Review has expired and no entitlements on the property have moved forward for this project. Staff has been in communication with the property owner and developer.

Mark Richmond, managing member of the LLC, stated that the property was purchased in 2006 and went through the development process. When the development process ended, market problems occurred. The market resurgence will assist with financing the project. A time extension will help him to proceed with the project, however building codes and obtaining financing within one year will be challenging. Mayor Mitchell stated that Community Development staff will assist Mr. Richmond with this project.

**Motion by Councilmember Arredondo-Savage to approve agenda item 6A7, with a one-year time extension; second by Vice Mayor Woods. Motion passed on a roll call vote 5-1 with Councilmember Granville voting no and Councilmember Kuby absent.**

- \*6A7.** Held a public hearing for a review of the Zoning Map Amendment and Planned Area Development Overlay and approved a *one-year* time extension of prior entitlements for MILLER-CURRY TOWNHOMES, located at 1245 North Miller Road.

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

The following *amended* condition of approval shall apply, in addition to the existing conditions of approval:

**Condition 1:** A building permit shall be obtained and substantial construction commence within one year, *June 11, 2016*, of the date of the City Council approval or the zoning shall revert to that in place at the time of application, subject to a public hearing.

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- \*6A8.** Resolution and public hearing approving the fiscal year 2015-2016 annual assessment for the Downtown Tempe Enhanced Services Improvement District.

Mayor Mitchell opened the public hearing. There was no discussion or public comment on agenda item 6A8.

**Motion by Councilmember Granville to approve agenda item 6A8; second by Vice Mayor Woods. Motion passed unanimously on a roll call vote 7-0.**

- \*6A8.** Held a public hearing and adopted **RESOLUTION NO. R2015.56** approving the fiscal year 2015-2016 annual assessment for the City of Tempe Downtown Tempe Enhanced Services Improvement District, ruling on objections, making corrections, approving a new district map, and approving modified assessments.

***Fiscal Impact:*** The annual assessment for City owned property within the District for fiscal year 2015/2016 is \$123,299.49. Sufficient budget appropriation for the City's annual assessment was included as part of Community Development's recommended fiscal year 2015/16 General Fund budget, cost center 2712.

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

- \*6B1.** Ordinance amending Tempe City Code, Chapter 2, Article V, by adding a new Division 21, establishing the Tempe Sustainability Commission.

Mayor Mitchell introduced the ordinance and opened the public hearing. There was no public comment on agenda item 6B1.

Concerning agenda items 6B1 and 6B2, Councilmember Granville asked if there was precedence for setting criteria for individuals serving on commissions such as the Sustainability and Family Justice Commissions. Councilmember Arredondo-Savage stated that the Veterans Commission is comprised of experts from various fields, including veterans within the community. Councilmember Kuby added that these commissions' requirements are for individuals that live or work in Tempe, so that their interest and expertise can be captured.

- \*6B1.** Introduced and held the first public hearing to adopt an ordinance amending Tempe City Code, Chapter 2, Article V, by adding a new Division 21, relating to the establishment of the Tempe Sustainability Commission. The second and final public hearing was scheduled for June 25, 2015. (Ordinance No. O2015.24)

***Fiscal Impact:*** There is no direct cost to the City.

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**\*6B2. Ordinance amending Tempe City Code, Chapter 2, Article V, by adding a new Division 22, establishing the Tempe Family Justice Commission.**

Mayor Mitchell introduced the ordinance and opened the public hearing. There was no discussion or public comment on agenda item 6B2.

**\*6B2.** Introduced and held the first public hearing to adopt an ordinance amending Tempe City Code, Chapter 2, Article V, by adding a new Division 22, relating to the establishment of the Tempe Family Justice Commission. The second and final public hearing was scheduled for June 25, 2015. (Ordinance No. O2015.25)

*Fiscal Impact:* There is no direct cost to the City.

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**\*6B3. Ordinance for a Zoning Map Amendment, Planned Area Development, and a Development Plan Review for 423 multi-family units and commercial uses for MCCLINTOCK STATION, 1831 East Apache Boulevard.**

Mayor Mitchell introduced the ordinance and opened the public hearing.

Roger Comeau, Tempe, asked if a resolution has been proposed to assist residents that will be displaced as a result of this project. He also asked if the Fair Housing Act is being taken into consideration regarding this project.

Mr. Levesque stated that the applicant has been working with the neighbors, held neighborhood meetings, and discussed options to relocate mobile homes. Last year the applicant went through the zoning map amendment process for the Pony Acres site. This is the expanded version of the project proposal. The applicant can detail outreach efforts.

Carlene Klebe, Tempe, noted that she previously submitted a letter for the record. Displacement of individuals will stress emergency services. Many of the residents live in recreational vehicles (RV's) and are senior citizens that are disabled. It has been difficult finding affordable options for the low income, disabled residents. She questioned the options the City is offering as these types of development are limited to attracting young, urban professionals, rather than providing affordable housing options.

Manjula Vaz, applicant representative, Gammage & Burnham, stated that Michael Pollack owns the park. This site is an RV park that has a three month maximum stay rule, which is not enforced. Tenants are on month-to-month leases. The plan is similar to the Pony Acres project. Once the zoning has been obtained, Gabby Aguayo will be meeting with tenants and conduct assessments to determine relocation assistance needs. A condition of the zoning is that the developer gives tenants three months to relocate. The owner has decided to sell the park and is committed to helping everyone move by paying for assistance to help tenants with the process.

**\*6B3.** Introduced and held the first public hearing to adopt an ordinance authorizing a Zoning Map Amendment, Planned Area Development, and a Development Plan Review for 423 multi-family units and commercial uses for MCCLINTOCK STATION, located at 1831 East Apache Boulevard. The applicant is Manjula Vaz of Gammage & Burnham, PLC. The second and final public hearing was scheduled for June 25, 2015. (Ordinance No. O2015.26)

*Fiscal Impact:* While this ordinance change does not directly impact revenue, the development will result in collection of the standard development fees, calculated according to the approved fee structure at the time of permit issuance.

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**\*6B4. Ordinance for an amended Planned Area Development Overlay and a Development Plan Review for a new mixed-use development for commercial, hotel and 453 multi-family units for 7TH STREET MIXED USE, 110 East University Drive.**

Mayor Mitchell introduced the ordinance and opened the public hearing.

Darin Sender, Opus Development Company representative, Sender and Associates, introduced various project representatives and provided an overview of this mixed-use project. The request is for a Planned Area Development (PAD) amendment for property that was originally approved for a PAD in 2006 and 2008. Project details include: reduce building height from 300' to 240', add a residential component, reduce lot coverage, and increase landscaping. The applicant is also requesting approval of the Development Plan Review application. She outlined existing entitlements, a timeline of previous project element approvals, General Plan impacts, and outreach activities. In 2006, the Building Height Study was approved by the City Council and the Downtown Mill Avenue District Community Design Principals were acknowledged by the City Council. In 2010, Sundt Construction purchased property.

Kevin Burnett, CFO, Sundt Construction/property owner, stated that Sundt Construction (Sundt) headquarters are located in the City of Tempe and thanked the City Council and staff for their assistance with this project. Sundt evaluated several offers for this location and felt that the Opus project was the most appropriate project.

Larry Pobuda, Opus representative, provided an overview of this mixed-use project and noted that The Opus Group is involved in several urban projects across the country. He discussed trends and demographics that provide the basis for the project. In working with City staff, community leaders, and neighbors, the following key items were identified: 1) activate University Drive through architecture and use; 2) connect Mill Avenue to College Avenue with a pedestrian orientation, versus an automobile orientation; 3) the project needs to respond to each of its four sides in a unique fashion; 4) manage the heavy pedestrian traffic intersection at Forest Avenue and University Drive to include appropriate building setback and site lines; 5) provide gathering spaces that offer shade, especially along University Drive; ensure the project provides various opportunities for community members; promote bicycle ridership; 6) build high quality housing that is not student oriented; and, 7) respond to Tempe's growing business sector and be respectful of neighbors.

Dean Newins, Senior Vice President, Opus, stated that the developer has learned a lot about the site and its importance to the community and the neighborhood. Project representatives held a design charrette to discuss ways to minimize the project's environmental impact and also met with ASU students to discuss project elements. Solar orientation, mass transit impacts, and sustainability were identified as being important influences on this site. Opus used the LEED program to identify project elements that involve sustainability to ensure the project is a responsible neighbor. This project will include a focus on innovation and sustainability.

Mr. Newins displayed renderings of the site plan, landscaping plan, and outlined various project elements such as: building height, building materials, pedestrian access, indoor/outdoor gathering spaces, shade structures, public art, parking amenities, and various public/private entrances into the project. The project will include flats and lofts.

Councilmembers voiced support for the project and made the following suggestions: install a right hand turn lane east of the Neumann Center, include a grocery store element into the project, and consider including a homeownership component. A balance of housing options for residents is important. Opus project representatives were praised for being receptive to feedback, flexible, and accommodating.

In response to how this project is not intended to be geared toward student housing, Mr. Burnett explained that student housing typically consists of three to four bedrooms per unit while this project consists of studios, and one and two bedroom units. Fair Housing laws do not prohibit parents from co-signing leases for their children; however, rules and regulations will be enforced and renters will need to provide proof of income. The project will not open to coincide with the academic calendar, which is a critical element of student housing projects. This approach combines physical as well as operational elements that provide a market-based solution as opposed to a student solution.

Ms. Sender indicated that the applicant is prepared to create a condo plat for the residential portion of project and that she has provided a stipulation to staff regarding this aspect of the project. Discussion continued regarding the size of the hotel, square feet of meeting facilities, and ongoing hotel negotiations.

Councilmembers voiced support for the sustainability features of the project, attracting more people to support existing businesses, new business opportunities, streetscape features, homeownership opportunities, and the potential to implement water conservation methods. This development will complement the town lake development and will have a positive economic impact on the community.

- \*6B4. Introduced and held the first public hearing to adopt an ordinance for an Amended Planned Area Development Overlay and a Development Plan Review for a new mixed-use development for commercial, hotel and 453 multi-family units with a maximum height of 240 feet for 7TH STREET MIXED USE, located at 110 East University Drive. The applicant is Darin Sender, Sender Associates, Chtd. The second and final public hearing was scheduled for June 25, 2015 (Ordinance No. O2015.28)

*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.

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C. Ordinances and Items for Second Hearing and Final Adoption

- \*6C1. Ordinance authorizing the granting of an Irrigation Easement to Salt River Project Agricultural Improvement and Power District over City-owned land located near Priest Drive and Warner Road.

Mayor Mitchell opened the public hearing. There was no discussion or public comment on agenda item 6C1.

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

- \*6C1. Held the second and final public hearing and adopted **ORDINANCE NO. O2015.22** authorizing the granting of an Irrigation Easement to Salt River Project Agricultural Improvement and Power District over certain City-owned land located near the intersection of Priest Drive and Warner Road, and authorizing the Mayor to execute an easement agreement. **(Contract #2015-118)**

*Fiscal Impact:* No impact on City funds.

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- \*6C2. Ordinance authorizing the granting of a reciprocal easement to LMC Apache Terrace Holdings, LLC over City-owned land located near Dorsey Lane and Apache Boulevard.

Mayor Mitchell opened the public hearing. There was no discussion or public comment on agenda item 6C2.

Motion by Vice Mayor Woods to approve agenda item 6C2; second by Councilmember Arredondo-Savage. Motion passed unanimously on a roll call vote 7-0.

- \*6C2. Held the second and final public hearing and adopted **ORDINANCE NO. O2015.23** authorizing the granting of a reciprocal easement to LMC Apache Terrace Holdings, LLC over certain City-owned land located near the southeast corner of Dorsey Lane and Apache Boulevard, and authorizing the Mayor or his designee to execute a reciprocal easement agreement and related documents. **(Contract #2015-119)**

*Fiscal Impact:* No impact on City funds. Developer will construct and maintain the driveway.

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

Councilmember Granville

- Best Photo Ever Contest at Tempe Center for the Arts, through June 30, 2015.
- The City has an agreement with the Animal Defense League of Arizona (ADLA); tax deductible donations can be made to ADLA to benefit the City of Tempe. Call 311 for feral cat colony assistance.
- The City Council adopted a resolution with a goal of supplying 70% of multi-family housing units with recycling bins by 2020.

Mayor Mitchell

- June is Alzheimer's Awareness month. June 21, 2015, wear purple to promote Alzheimer's awareness.

**8. PUBLIC APPEARANCES**

A. Scheduled – None.

B. Unscheduled

Steve Raths, Tempe, voiced concern regarding the street project to add bike lanes on McClintock Drive. He requested that the project be delayed because he and his neighbors were not informed of the project. Traffic lanes for vehicles are needed; not everyone rides bikes. This project will create dangerous situations.

Councilmember Granville requested that staff meet with Mr. Raths to discuss the project.

Karla Martin, Tempe, thanked Councilmembers for approving the agreement with the Animal Defense League of Arizona.

**The meeting adjourned at 8:18 p.m.**

I, Brigitta M. Kuiper, the duly-appointed City Clerk of the City of Tempe, Maricopa County, Arizona, do hereby certify the above to be the minutes of the Regular City Council meeting of June 11, 2015, by the Tempe City Council, Tempe, Arizona.

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Mark W. Mitchell, Mayor

ATTEST:

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Brigitta M. Kuiper, City Clerk