Minutes
Regular City Council Meeting
March 17, 2016

Minutes of the Regular Council Meeting of Thursday, March 17, 2016, 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
Councilmember Joel Navarro
Councilmember David Schapira

STAFF PRESENT:

Andrew Ching, City Manager
Judi Baumann, City Attorney
Ken Jones, Deputy City Manager – Chief Financial Officer
Brigitta M. Kuiper, City Clerk
Steven Methvin, Deputy City Manager – Chief Operating Officer
John Rush, Interim Police Chief
MaryAnne Majestic, Presiding Judge
Dave Nakagawara, Community Development Director
Shelly Seyler, Deputy Public Works Director–Transportation
Various Department Heads or their representatives

Mayor Mitchell called the meeting to order at 7:38 p.m.

1. Councilmember Granville gave the invocation.

2. Mayor Mitchell led the audience in the Pledge of Allegiance.

3. MINUTES

Motion by Councilmember Schapira to approve agenda items 3A1 – 3A5 and to accept agenda items 3B1 – 3B9; second by Councilmember Arredondo-Savage. Motion passed unanimously on a voice vote 7-0.

A. Approval of City Council Meeting Minutes
   1. Regular City Council Meeting - January 14, 2016
   2. City Council Work Study Session - January 7, 2016, January 21, 2016, and February 4, 2016
   3. Executive Session - February 25, 2016
   4. City Council Retreat - October 2, 2015
   5. City Council and Arizona State University Joint Meeting - January 29, 2016

B. Acceptance of Board, Commission and Committee Meeting Minutes
   1. Aviation Commission - February 9, 2016
   2. Board of Adjustment - November 25, 2015
   3. Development Review Commission - February 9, 2016
   4. Development Review Commission Study Session - February 9, 2016
   5. Hearing Officer - February 16, 2016
   6. History Museum and Library Advisory Board - February 3, 2016
   7. Mayor's Youth Advisory Commission - February 16, 2016

8. Tempe Sustainability Commission - January 19, 2016
9. Tempe Transportation Commission - February 9, 2016

4. REPORTS AND ANNOUNCEMENTS

A. Mayor's Announcements

1. Board and Commission (re)appointments
Mayor Mitchell announced that board and commission appointments are listed under agenda item 5A9.

B. City Manager's Announcements – None.

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 Councilmember Kuby to approve the consent agenda; second by Councilmember Arredondo-Savage. Motion passed unanimously on a roll call vote 7-0.

A. Miscellaneous Items

5A1. Approved the transfer of budget appropriation from the Water/Wastewater Contingency to the Capital Improvement Project Water System Upgrades, Repairs and Replacement for unplanned expenditures associated with the repair of a 30" transmission waterline located at Rio Salado Parkway, east of Rural Road and adjacent to the south bank of Tempe Town Lake. (Related to Agenda Item 5B9).

Fiscal Impact: $702,000 of the $1,000,000 fiscal year 2015/16 Water/Wastewater Contingency, appropriated in cost center 3081, will be transferred to Capital Improvement Project 3299989, Water System Upgrades, Repairs and Replacement.

5A2. Approved an amendment to the agreement between the Downtown Tempe Foundation and the City of Tempe for the operation, management, and production of the Tempe Spring 2016 Festival of the Arts. (Contract #2009-201B)

Fiscal Impact: The cost of City services provided in support of this event shall be reimbursed by the Downtown Tempe Foundation. The proposed Festival Fee of $75 per registered artist/vendor paid to the City by the Downtown Tempe Foundation would generate the approximate amount that the City would have otherwise collected from individual privilege license fees and sales taxes, which is approximately $30,000. The City will avoid the costs associated with the issuance of individual licenses and the review and collection of individual tax filings.

5A3. Approved a Subdivision Plat for CULVER'S LOT SPLIT, located at 603 East Southern Avenue. The applicant is Danny Bockting, Pint Ventures.

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

5A4. Approved an Amended Subdivision Plat for 2100 EXTENSION, located at 2100 East Rio Salado Parkway. The applicant is Roger Buss, Hunter Engineering.

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

*5A5. Held a public hearing and recommended the approval of a series 12 restaurant liquor license for Rehab Burger Therapy 2, LLC, dba Rehab Burger Therapy, 21 East 6th Street, Suite 146.

Fiscal Impact: N/A

*5A6. Held a public hearing and recommended the approval of a series 12 restaurant liquor license for Bzaz1, LLC, dba Blaze Pizza, 105 West University Drive.

Fiscal Impact: N/A

*5A7. Held a public hearing and recommended the approval of a series 07 beer and wine bar liquor license for JXD Pool Hall LLC, dba Kolby's Corner Pocket Billiards, 1301 East University Drive, Suite 112.

Fiscal Impact: N/A

*5A8. Held a public hearing and recommended the approval of a series 12 restaurant liquor license for Maricopa Wings XII, LLC, dba Wingstop, 2700 West Baseline Road, Suites 103 & 104.

Fiscal Impact: N/A

5A9. Approved (re)appointments to various City of Tempe boards, commissions, and committees.

Fiscal Impact: N/A

Aviation Commission	Term Expires 12/31/2018
Robert J. Dixon (Partial Term)	Appointment
Historic Preservation Commission	Terms Expire 03/31/2017
Matthew Bilsbarrow (Partial Term) (Archeology)	Appointment
Sara Ferland (Partial Term) (At-Large)	Appointment
	Terms Expire 03/31/2019
Joe Nucci (First Full Term) (Architecture)	Appointment
Chuck Buss (First Full Term) (At-Large)	Reappointment
History Museum and Library Advisory Board	Term Expires 12/31/2017
Joaquin Rios (Partial Term)	Appointment
Merit System Board	Term Expires 05/31/2019
Bill Munch (Unlimited Term)	Reappointment

B. Award of Bids/Contracts

5B1. Approved the utilization of one-year State of Arizona contracts with Teknion, Facilitec, Inc., Corporate Interior Systems, Inc., Goodmans, Inc., Arizona Furnishings, Sitmatic, and Elontec, LLC for the purchase of furniture products and services for use by all City departments.

Fiscal Impact: Total combined cost of these contracts will not exceed $350,000 during the one-year contract period. Sufficient funds for these miscellaneous furniture purchases have been allocated in various City-wide cost centers within the General Fund and other department operating funds for the anticipated expenditures in the current fiscal year.

5B2. Approved the utilization of one-year Mohave Educational Services Cooperative, Inc. contracts with Dave Bang Associates, Inc., Desert Recreation, Inc., Miracle Recreation Equipment Company, Play It Safe Playgrounds and Park Equipment, and Recreation Design Concepts for the supply of playground, fitness, and related equipment for use by the Public Works Department.

Fiscal Impact: Total combined cost of these contracts will not exceed $600,000 during the one-year contract period. Sufficient funds have been appropriated in Park Improvement/Recreation Capital Improvement Project Fund cost center 6305499 (Park Playground Replacement) for the anticipated expenditures in the current fiscal year.

5B3. Approved the renewal of a one-year contract with Hartford Life and Accident Insurance Company (The Hartford) to underwrite coverage for City provided life insurance, accidental death and dismemberment insurance, commuter/travel insurance, and allow for employee paid supplemental options.

Fiscal Impact: Total cost to the City for this one-year renewal will not exceed $150,000 during the contract period beginning July 1, 2016. Sufficient funds will be appropriated in the Health Fund – cost centers 4167 (Employees) – for the anticipated expenditures in fiscal year 2016/2017. The total projected revenue for The Hartford is estimated at $375,000 which includes the combined costs for coverage provided by the City and employees who elect supplemental coverage.

5B4. Approved the one-year renewal of contracts with Pioneer Sand Company and MDI Rock for the supply of a variety of decomposed granite, sand, and base material products to be used by the Public Works Department.

Fiscal Impact: Total combined cost of these contracts will not exceed $190,000 during the one-year renewal period. Sufficient funds have been appropriated in several General Fund Field Operations cost centers and the Park Improvement/Recreation Capital Improvement Project fund cost center 6399829 (Infrastructure/Equipment Replacement) for the anticipated expenditures in the current fiscal year.

5B5. Approved the one-year renewal of contracts with A&P Nursery, Western Tree Company, Mountain States Nursery, and Treeland Nurseries for the supply and delivery of trees, shrubs, ground cover, and flowers to be used by the Public Works Department.

Fiscal Impact: Total combined cost of these contracts will not exceed $55,000 during the one-year renewal period. Sufficient funds have been appropriated in several General Fund Field Operations cost centers, the Golf Fund, Arts Fund, and various Capital Improvement Funds for the anticipated expenditures in the current fiscal year.

5B6. Approved the one-year renewal of a contract with Van Scoyoc Associates to provide the City with federal lobbyist services in Washington, D.C.

Fiscal Impact: Total cost of this one-year renewal shall not exceed $100,000. Sufficient funds have been appropriated in the General Fund – cost center 1216 (Government Relations) – for the anticipated expenditures.

5B7. Approved the execution of a four-year grantor agreement with two, five-year renewal options with the Arizona Department of Economic Security to provide snack vending services for all City buildings. (Contract #2016-54)

Fiscal Impact: There is no cost to the City in the execution of this agreement. The anticipated revenue generated for the vendor during the initial four-year term of this contract (ending on December 31, 2020) is not expected to exceed $600,000.

5B8. Awarded one-year contracts with four, one-year renewal options to Henry Schein, Inc., Alpine Pinnacle, Inc., Midwest Medical Supply Company, Designer Care Company, and Global Infinity Enterprises LLC for the purchase of disposable latex and non-latex gloves for use throughout the City. (Contract #2016-55A-E)

Fiscal Impact: Total one-year combined cost of these contracts is estimated at $200,000. Sufficient funds have been appropriated in a variety of applicable department cost centers for the 2015/2016 fiscal year.

5B9. Awarded job order no. 2 to CSW Contractors, Inc. for emergency repair of a 30-inch transmission waterline located at Rio Salado Parkway, east of Rural Road and adjacent to the south bank of Tempe Town Lake. (Related to Agenda Item No. 5A1)

Fiscal Impact: The total job order amount is $650,797.60 and the project contingency amount is $65,000. Funds to cover this job order contract and related costs are appropriated for fiscal year 2015/16 in Capital Improvement Project No. 3299989, Water System Upgrades, Repairs and Replacement through the use of the Water/Wastewater Contingency.

5B10. Awarded a professional services design contract to Saemisch + Di Bella Architects Inc. for renovation and infrastructure improvements at McClintock swimming pool at 1830 East Del Rio Drive. (Contract #2016-56)

Fiscal Impact: The professional services design contract amount is $144,475. Funds to cover this contract were approved and are appropriated for fiscal year 2015/16 in Capital Improvement Project No. 6304999, Aquatics Infrastructure and Equipment Replacement.

5B11. Awarded a professional services consultant contract to AZTEC Engineering Group, Inc. for evaluation and design of various multi-use paths to provide maintenance and emergency vehicle access. (Contract #2016-57)

Fiscal Impact: The professional services consultant contract amount is $86,213.10. Funds to cover this contract were approved and are appropriated for fiscal year 2015/16 in Capital Improvement Project No. 6005249, Pathway Capital Maintenance.

5B12. Approved an amended and restated contract for the provision of emergency ambulance transportation services for a six-year term with American Medical Response, and authorize minor amendments to this contract to be approved, modified or rejected by the City Manager, up to the effective date of the contract. (Contract #2016-45A)

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.

C. Resolutions

5C1. Adopted RESOLUTION NO. R2016.20 authorizing the submission of an application from Mindful Youth Project to the Ak-Chin Indian Community for a grant of gaming funds.
Fiscal Impact: The City of Tempe will serve as a pass through for this grant request of $50,000. There is no fiscal impact to the City of Tempe.

5C2. Adopted RESOLUTION NO. R2016.21 authorizing the submission of the City of Tempe's applications for funds from the Ak-Chin Indian Community.

Fiscal Impact: If granted by the Ak-Chin Indian Community, the City of Tempe will receive $345,800 to fund programs.

5C3. Adopted RESOLUTION NO. R2016.22 authorizing the submission of an application from Mindful Youth Project to the Fort McDowell Yavapai Nation for a grant of gaming funds.

Fiscal Impact: The City of Tempe will serve as a pass through for this grant request of $50,000. There is no fiscal impact to the City of Tempe.

5C4. Adopted RESOLUTION NO. R2016.23 authorizing the submission of the City of Tempe's applications for funds from the Fort McDowell Yavapai Nation.

Fiscal Impact: If granted by the Fort McDowell Yavapai Nation, the City of Tempe will receive $977,000 to fund programs.

5C5. Adopted RESOLUTION NO. R2016.24 authorizing the submission of an application from Jobs for Arizona's Graduates to the Gila River Indian Community for a grant of gaming funds.

Fiscal Impact: The City of Tempe will serve as a pass through for this total grant request of $10,000. There is no fiscal impact to the City of Tempe.

5C6. Adopted RESOLUTION NO. R2016.25 authorizing the submission of an application from Mindful Youth Project to the Gila River Indian Community for a grant of gaming funds.

Fiscal Impact: The City of Tempe will serve as a pass through for this total grant request of $150,000, to be awarded in an equal portion thereof over a three-year term. There is no fiscal impact to the City of Tempe.

5C7. Adopted RESOLUTION NO. R2016.26 authorizing the submission of the City of Tempe's applications for funds from the Gila River Indian Community.

Fiscal Impact: If granted by the Gila River Indian Community, the City of Tempe will receive $656,272 to fund programs.

5C8. Adopted RESOLUTION NO. R2016.27 authorizing the submission of an application from Mindful Youth Project to the Pascua Yaqui Tribe for a grant of gaming funds.

Fiscal Impact: The City of Tempe will serve as a pass through for this grant request of $50,000. There is no fiscal impact to the City of Tempe.

5C9. Adopted RESOLUTION NO. R2016.28 authorizing the submission of an application from Jobs for Arizona's Graduates to the Pascua Yaqui Tribe for a grant of gaming funds.

Fiscal Impact: The City of Tempe will serve as a pass through for this grant request of $5,000. There is no fiscal impact to the City of Tempe.

5C10. Adopted RESOLUTION NO. R2016.29 authorizing the submission of the City of Tempe's applications for funds from the Pascua Yaqui Tribe.

Fiscal Impact: If granted by the Pascua Yaqui Tribe, the City of Tempe will receive $831,240 to fund programs.

5C11. Adopted RESOLUTION NO. R2016.30 authorizing the submission of the City of Tempe's applications for funds from the Salt River Pima-Maricopa Indian Community.

Fiscal Impact: If granted by the Salt River Pima-Maricopa Indian Community, the City of Tempe will receive $869,354 to fund programs.

5C12. Adopted RESOLUTION NO. R2016.31 authorizing the submission of an application from Mindful Youth Project to the Tohono O'odham Nation for a grant of gaming funds.

Fiscal Impact: The City of Tempe will serve as a pass through for this grant request of $50,000. There is no fiscal impact to the City of Tempe.

5C13. Adopted RESOLUTION NO. R2016.32 declaring the canvass of results for the March 8, 2016, City of Tempe General/Special Election.

Fiscal Impact: None.

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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.

A. Miscellaneous Items/Bids/Contracts/Resolutions

6A1. Contracts with United Concordia Insurance Company and CIGNA Dental Health, Inc. to provide a dental health maintenance organization plan.

There was no discussion on agenda item 6A1.

Motion by Councilmember Arredondo-Savage to approve agenda item 6A1; second by Councilmember Kuby. Motion passed unanimously on a roll call vote 7-0.

6A1. Approved the one-year renewal of contracts with United Concordia Insurance Company to provide a dental preferred provider organization plan, and CIGNA Dental Health, Inc. to provide a dental health maintenance organization plan, for eligible City employees and their dependents.

Fiscal Impact: Total combined cost of the two contracts will not exceed $1,200,000.00. Sufficient funds will be appropriated in the Health Fund – cost centers 4167 (Employees) and 4169 (Cobra Participants) – for the anticipated expenditures in the upcoming fiscal year. The City pays approximately 70% of the cost related to the dental plans with the balance paid by employees through premium deductions from their paychecks based on the type and level of coverage elected.

6A2. Contracts with D.L. Withers Construction, LC and bo Arch, LLC for heating, ventilation, and air conditioning improvements at the East Valley Bus Operations and Maintenance Facility, 2050 West Rio Salado Parkway.

There was no discussion on agenda item 6A2.

Motion by Councilmember Arredondo-Savage to approve agenda item 6A2; second by Councilmember Granville. Motion passed unanimously on a roll call vote 7-0.

6A2. Awarded a construction contract to D.L. Withers Construction, LC (Contract #2016-58) and a professional services consultant contract to bo Arch, LLC (Contract #2016-59) for heating, ventilation, and air conditioning improvements at the East Valley Bus Operations and Maintenance Facility at 2050 West Rio Salado Parkway.

Fiscal Impact: The construction contract amount is $1,749,600, the professional services contract amount is $92,000, and the project contingency amount is $175,000. Transit has appropriated $1,400,000 for fiscal year 2015/16 and $617,000 in fiscal year 2016/17 in Capital Improvement Project No. 6006089, Transit Facility Asset Maintenance to fund contract costs. A Federal Grant (AZ-90-X124) in the amount of $250,000 has been awarded to the project with the remaining funding source allocated from Transit Tax.

6A3. Contracts with Felix Construction Company and Wilson Engineers, LLC for a new production well no. 16, 8690 South McClintock Drive.

There was no discussion on agenda item 6A3.

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

6A3. Awarded a construction manager at risk construction services contract to Felix Construction Company (Contract #2016-60) and a professional services consultant contract to Wilson Engineers, LLC (Contract #2016-61) for new production well no. 16 located at 8690 South McClintock Drive.

Fiscal Impact: The construction services contract amount is $3,561,852.73, the professional services contract amount is $259,070, and the project contingency amount is $100,000. $3.5 million is appropriated for fiscal year 2015/16 and the balance is being requested in fiscal year 2016/17 in Capital Improvement Project No.3200019, New Production Wells.

B. <u>Ordinances and Items for Introduction and First Hearing</u>

*6B1. Resolution authorizing the Community Development Block Grant and HOME Program Action Plan for Fiscal Year 2016-2017.

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

*6B1. Introduced and held the first public hearing to receive public comment on and to adopt a resolution authorizing the Annual Community Development Block Grant and HOME Program Action Plan for Fiscal Year 2016-2017. The second and final public hearing was scheduled for April 21, 2016. (Resolution No. R2016.19)

Fiscal Impact: There is no fiscal impact on City funds as funding for the activities proposed in the Action Plan is federal.

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*6B2. Ordinance authorizing the abandonment and re-dedication of right-of-way for College Avenue for use as a public park and authorizing the notice of abandonment and re-dedication.

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 authorizing the abandonment of a portion of the right-of-way for College Avenue and the re-dedication of the abandoned right-of-way for use as a public park and authorizing the City Manager or his designee to execute a notice of abandonment and re-dedication to memorialize the change in use. The second and final public hearing was scheduled for April 14, 2016. (Ordinance No. O2016.19)

Fiscal Impact: No impact on City funds.

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*6B3. Ordinance authorizing the abandonment of a sewer line easement near Rural Road and Apache Boulevard to facilitate development of the project at 1000 East Apache Boulevard.

Mayor Mitchell introduced the ordinance and opened the public hearing. There was no discussion or public comment on agenda item 6B3.

*6B3. Introduced and held the first public hearing to adopt an ordinance authorizing the abandonment of a portion of a sewer line easement in the vicinity of South Rural Road and East Apache Boulevard to facilitate development of the project at 1000 East Apache Boulevard. The second and final public hearing was scheduled for April 14, 2016. (Ordinance No. O2016.20)

Fiscal Impact: N/A

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*6B4. Ordinance amending Chapter 29, Article V, of the Tempe City Code relating to sitting or lying down on public sidewalks in the downtown commercial district.

Mayor Mitchell introduced the ordinance and opened the public hearing.

Brent Parker, manager of a pizzeria restaurant located on Mill Avenue, spoke in support of the ordinance. He stated that his restaurant is negatively impacted by trash on the sidewalks, which also impacts City resources. His customers are intimidated about the lack of sidewalk space available to access the restaurant and the aggressive panhandling of restaurant customers.

In response to Councilmember Kuby, Mr. Parker stated that he is aware of a state law regarding aggressive panhandling and has called the police when the activity occurs; however, by the time the police arrive, the panhandlers have moved on. Councilmember Navarro discussed how the police prioritize aggressive panhandling activity, panhandling activity that occurs on sidewalks and restaurant patios, and panhandling activity that is mobile.

Maya Sanchez, representing Bank of America located on Mill Avenue, spoke in support of the ordinance. She discussed harassment and safety concerns for bank customers due to panhandling activity located near the Bank of America automatic teller machine (ATM). Customers feel that it is unsafe to use the ATM. By the time the police arrive, the panhandlers have moved away from the ATM. The police have indicated that if panhandlers are located on public property, the police cannot ask them to move.

Councilmember Kuby noted that state law prohibits panhandling within 15 feet of an ATM, prohibits someone from following an ATM customer to ask for money, and prohibits obstruction of safe or free passage. Ms. Sanchez stated that she calls the police several times a week. The police have talked with the panhandlers, but the police do not move the panhandlers; panhandling activity continues after the police leave the area. Customers have expressed dissatisfaction with this bank branch because of this activity.

Ryan Hibbert, owner of El Hefe and Whiskey Row, spoke in support of the ordinance. He is concerned about the quality of life in downtown Tempe. He attributes the "bad actors" that inhabit Mill Avenue to the lack of customers at his restaurants. The police department does not have the tools to deal with these individuals. The ordinance is the first step in addressing this situation.

Angie Nelson, director of Juut SalonSpa located on Mill Avenue, spoke in support of the ordinance. She read a statement from salon employees expressing concern for the safety of the business, the employees, and the clients. On multiple occasions, employees have arrived to work to find feces and people sleeping, blocking the entrances to the business establishment. Clients and employees have witnessed public urination and drug use outside the business entrance. There have also been theft incidents at their business establishment. The individuals causing the problems are gone by the time the police arrive. This ordinance may discourage the behaviors that are impacting their business. She expressed an interest in assisting these individuals.

Troy Scoma, owner of Cactus Sports, spoke in support of the ordinance. He stated that his employees and guests do not feel safe. People sitting and lying on Mill Avenue sidewalks discourages customers as well as businesses from coming into the area. He discussed aggressive panhandling, aggressive dogs, belongings left on sidewalks, drug deals, and people smoking marijuana. His employees have been threatened when they try to call the police; he has contacted the police. His hope is that the ordinance will prevent people from sitting or lying on sidewalks.

Charles Goffnett, Tempe, owner of Brand X T-Shirts located on Mill Avenue, spoke in support of the ordinance. He discussed his right to provide a safe, clean, and inviting shopping experience for his customers. Sidewalk sitting is a serious problem. Transients are using sidewalks as living rooms and profit centers. His neighbor gives food to transients in exchange for them to not camp in front of his restaurant. Sidewalks are for walking and parks are for sitting. The City provides a list of services to help the less fortunate. The Salvation Army provides services to individuals in need; there is no urban camping activity near the Salvation Army. He supports programs and services to help individuals in need, and would like his rights respected in return.

Councilmember Kuby asked Mr. Goffnett for details on providing resources to assist the homeless. Mr. Goffnett stated that this is an issue of education. The transient population has chosen this lifestyle and these individuals do not want the services that are available. He noted that he does not have data to support his position. He stated that services cannot be provided or maintained in front of his store.

Heather Hamel, civil rights attorney, spoke in opposition to the ordinance. She stated that this ordinance does not solve the problem; it criminalizes individuals who lack stable housing. Individuals cited will not be able to pay their fines, which will result in more fines. The ordinance will make it more difficult to help individuals find housing or jobs because they will have a criminal record and will be in debt. The ordinance also goes against nationwide trends. The Department of

Justice (DOJ) issued recommendations to city courts and municipalities stating that jailing individuals for failure to pay fines and fees is unconstitutional. The DOJ encourages jurisdictions to look at ways in which individuals are fined and how individuals are impacted. She urged Councilmembers to consider if this is an appropriate use of the criminal justice system and its resources. Homelessness is related to economics, job training, and lack of access to mental health care; these are not criminal issues. The criminal justice system is the wrong tool to address homelessness.

Mayor Mitchell stated that the City offers many social services and is a founding member of the Homeless Court Program in Maricopa County. The intent of the ordinance is not to criminalize individuals.

Councilmember Navarro asked Ms. Hamel for suggestions on how to resolve this issue without burdening homeless individuals. Ms. Hamel stated that police officers have limited tools to address these issues. Across the country, crisis responder teams of mental health workers and social workers are linking individuals with services. The Homeless Court eliminates the question of whether or not those individuals should be in the criminal justice system. Councilmember Navarro stated that he is involved with similar programs for the homeless. He asked Ms. Hamel for options in situations where homeless individuals decline assistance. Ms. Hamel suggested looking at the motivations and reasons why an individual may be skeptical about receiving help. People living on the street may be fearful of anyone associated with the State or the police. She would like to see data on the portion of individuals that refuse services. Ordinances like this can further undermine the efforts to provide assistance. Councilmember Navarro stated that even with resources and crisis response teams, the homeless problem will not be fixed. The ordinance may encourage individuals to use a bench or a park, or to accept assistance. Ms. Hamel noted that there are existing City ordinances that make these activities illegal, which can lead to a criminal record. Councilmember Navarro noted that the Homeless Court would offer the individual a program to participate in, versus resulting in a criminal record. Businesses are being impacted; a solution is needed.

Councilmember Granville welcomed additional information regarding services that the City should be providing to help address this situation. Ms. Hamel stated that she would be happy to work with the City Council on potential solutions.

Councilmember Kuby stated that Tempe's Human Services budget has remained constant over the past few years, despite the recession. During that time, the need for social services has increased. The old solutions are not working; fully funding programs is one solution, starting with housing programs. She discussed unique issues related to some of the homeless individuals on Mill Avenue. More resources are needed to address these issues.

Mayor Mitchell read a statement from an individual named Moonshadow expressing her support of the ordinance so that law enforcement will have the tools to assist merchants.

Christine Tararo spoke in opposition to the ordinance. She stated that people are homeless for many reasons, including mental health issues. Issuing a ticket will not help the situation. These people are human beings that need help and compassion.

Kate Borders, Downtown Tempe Authority (DTA), spoke in support of the ordinance. This ordinance was in effect for 14 years and gave the police and the safety patrol an effective tool to ask people to move to an appropriate location for sitting; the intent is not to relocate the individual outside of the downtown district. During the 14 year period when the ordinance was in effect, less than ten citations were issued. The fear of criminalizing those in need is unfounded. Since the ordinance was repealed, there has been an increase in complaints directly correlated to sidewalk sitting, such as aggressive panhandling. Reinstating the ordinance is one way to help businesses be more successful. 70% of businesses on the Mill Avenue street level are local businesses. The ordinance would be restricted to certain hours; it would not be enforced 24 hours a day. Medical conditions are exceptions within the ordinance. This ordinance is about targeting behavior that is making it difficult for downtown businesses to be successful.

Councilmember Kuby noted that many of the homeless individuals have indicated that downtown benches do not provide shade. Ms. Borders stated that the DTA will look into providing shade in the downtown. Councilmember Kuby stated that Kate Hanley, former executive director of the Tempe Community Council, has offered to convene a group of stakeholders and human service agencies to discuss the issue of sitting on sidewalks. Councilmember Kuby asked if DTA would be willing to participate in that meeting, prior to the second public hearing on this matter. Ms. Borders stated that the DTA has been open to participating in meetings with various agencies and is happy to meet with Ms. Hanley.

Dustin Short, Tempe, spoke in opposition to the ordinance. He displayed a picture taken by the DTA of an individual sitting on a sidewalk. His concern is that the ordinance will be used as a tool to disproportionately target a certain demographic within the community. He was once a "Mill rat" and is now an urban professional. This issue has turned into class warfare. This ordinance was repealed two years ago because it was a bad idea.

Councilmember Granville asked Ms. Borders to explain how data will be collected on citations versus individuals being asked to move along, in order to determine if there is a selective process of who is being targeted. Ms. Borders stated that would be difficult. She added that the picture Mr. Short displayed was an individual sitting on private property, and not on a sidewalk.

Vice Mayor Woods stated that he has not seen any evidence that the DTA has targeted one specific class of people. He does not support policies that encourage profiling of any class, race, or group of people. The behavior is being targeted, not the person. He would expect that the law would be applied equally.

Councilmember Navarro asked for an explanation regarding how the urban camping law is enforced and requested additional information regarding the use or selling of drugs. John Rush, Interim Police Chief (Chief), stated that urban camping is challenging to enforce. Urban camping involves sleeping bags, tents, or other structures, which demonstrate that a person intends to remain at a location for a length of time; time of day would also be a consideration. Park curfews are another tool that the Police Department can use to address this activity. The use or sale of drugs is also a concern. A significant number of arrests have been made on Mill Avenue for drug activity.

Councilmember Schapira noted that there is a finite amount of police time and resources. Some of the speakers have indicated that they thought there are laws that are not being enforced in a timely manner. He asked if adding a sidewalk sitting ordinance would worsen the problem by increasing calls for service, which could increase police response times. Chief Rush noted that an increase in the calls for service would result in increased response times.

Chief Rush stated that aggressive panhandling would take a priority over sidewalk sitting. He discussed the term aggressive, as it relates to the law regarding panhandling activity, and how that impacts police response times.

Councilmember Kuby asked how a person moving from the sidewalk to a nearby bench would solve the concerns of business owners. Chief Rush stated that this discussion revolves around larger societal issues; moving an individual would not solve those issues.

Vice Mayor Woods noted there are community services in place that would alleviate fines if an individual has a financial hardship or is homeless. He asked Presiding Judge MaryAnne Majestic for clarification regarding whether or not individuals are taken to jail for not paying fines. Judge Majestic stated that the first offense, if cited, would be a civil citation, which is not a criminal fine. In the circumstance of a financial hardship, there is the alternative of community restitution in lieu of the fine at a rate of $10 an hour to pay off the fine. There is also the option to go through Homeless Court, which acknowledges an individual's homelessness status; community service hour credits are also offered to pay off the fine. A second offence would result in a Class 3 misdemeanor, which offers the option of the City Prosecutor's Diversion Program; a payment program is also available. Vice Mayor Woods noted that the City has one of the most progressive courts in the Valley. He stated that he is open to consider changes to the ordinance.

In response to a question from Councilmember Arredondo-Savage, Judge Majestic noted that the previous statute was a criminal statute with no civil component. In 2014, three sidewalk sitting citations were issued in Tempe. Two of the three individuals were also charged with criminal damage and disorderly conduct. Judge Majestic noted that the ordinance states that the fine is *up to* $100 for the first offense. The $100 fine is not mandatory; a person could receive no fine. She acknowledged the joint efforts among the Police Department, Fire Medical Rescue Department, and the CARE 7 team in addressing homelessness issues.

Councilmember Navarro stated that sleeping on the sidewalk surrounded by trash is unacceptable behavior. At the request of Councilmember Navarro, Chief Rush confirmed that the first contact by a police officer is to ask the individual to move on; most of the police contacts are less than five seconds.

Councilmember Arredondo-Savage asked about the Crisis Intervention Team (CIT) training in Tempe. Chief Rush stated that mental illness is an issue across the country. The CIT training trains officers on options available for individuals with mental illness, as opposed to arresting an individual.

Mayor Mitchell asked the City Manager to provide background information on this issue. Andrew Ching, City Manager, stated that a City Code provision was passed by the City Council that prohibited sitting on the sidewalk, citywide. This provision came back to City Council and was modified to prohibit obstructing sidewalks throughout the City. At that time the sitting on the sidewalk ordinance that pertained only to the downtown district was repealed as a part of the modification. There was no specific discussion on the record that this action was consistent with the City Council's direction to amend the ordinance for the entire City. After reviewing the ordinance and hearing various concerns, staff brought the issue back to City Council for consideration. The ordinance regarding sidewalk sitting in the downtown district had been in the City Code since 1999 and had withstood a court challenge. The ordinance had been enforced for several years, with a low frequency of citations issued. At that time, the City Council had asked for meetings with stakeholders who serve the homeless community in Tempe. The stakeholders did not have any problems with the ordinance; they did not see it as a barrier to their ability to provide human and social services. The matter was then brought before the City Council in a Work Study Session and is now being considered in a public hearing.

At the request of Vice Mayor Woods, the City Council agreed that Vice Mayor Woods and Councilmembers Kuby and Navarro will continue to work on the concerns raised, in advance of the April 14, 2016, public hearing. Councilmember Kuby stated that she would also like to work on a holistic approach to address homelessness issues when the recently hired Police Chief, Sylvia Moir, joins the City in her new position. Councilmember Kuby emphasized that there is a state law regarding aggressive panhandling and a City law regarding impeding sidewalks. The proposed ordinance is a new law regarding sidewalk sitting. None of the laws solve the problems expressed by the business owners. The problem should be addressed holistically, such as providing housing for homeless individuals.

Mayor Mitchell closed the public hearing.

*6B4. Introduced and held the first public hearing to adopt an ordinance amending Chapter 29, Article V, of the Tempe City Code relating to sitting or lying down on public sidewalks in the downtown commercial district. The second and final public hearing was scheduled for April 14, 2016. (Ordinance No. O2016.21)

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

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*6B5. Ordinance amending Chapter 2, Article II, of the Tempe City Code relating to Officers and Employees; Article III, relating to Departments; Chapter 19, Article IV, relating to finance and technology director shall be known as internal services director; Diversity Office to be known as the Office of Strategic Management and Diversity.

Mayor Mitchell introduced the ordinance and opened the public hearing. There was no discussion or public comment on agenda item 6B5.

*6B5. Introduced and held the first public hearing to adopt an ordinance amending Chapter 2, Article II, of the Tempe City Code relating to Officers and Employees; Chapter 2, Article III, relating to Departments; Chapter 19, Article IV, relating to Operation of Vehicles; amending the City Code generally to reflect that finance and technology director shall be known as internal services director; and amending the Diversity Office to be known as the Office of Strategic Management and Diversity. The second and final public hearing was scheduled for April 14, 2016. (Ordinance No. O2016.22)

Fiscal Impact: There is no fiscal impact to the City for this fiscal year.

C. Ordinances and Items for Second Hearing and Final Adoption

*6C1. Ordinance for a Reversion of the Zoning Map Amendment for 501 WEST 1ST, 501 West 1st Street.

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

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

*6C1. Held the second and final public hearing and adopted ORDINANCE NO. O2016.13 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.

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

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*6C2. Ordinance for a Reversion of the Zoning Map Amendment for 2150 SOUTHERN CAMPUS MASTERPLAN, 2150 East Southern Avenue.

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

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

*6C2. Held the second and final public hearing and adopted ORDINANCE NO. O2016.14 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.

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

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*6C3. Ordinance for a Reversion of the Zoning Map Amendment for 800 WEST, 800 West University Drive.

Mayor Mitchell opened the public hearing. There was no discussion or public comment on agenda item 6C3. Mayor Mitchell closed the public hearing.

Motion by Vice Mayor Woods to approve agenda item 6C3; second by Councilmember Schapira. Motion passed unanimously on a roll call vote 7-0.

*6C3. Held the second and final public hearing and adopted ORDINANCE NO. O2016.15 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.

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

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*6C4. Ordinance for an Amended Planned Area Development Overlay for THE MOTLEY, 1221 East Apache Boulevard.

Mayor Mitchell opened the public hearing. There was no public comment on agenda item 6C4. Mayor Mitchell closed the public hearing.

Councilmember Arredondo-Savage stated that she does not support the project due to its proximity to the neighborhood and the lack of appropriate setback to the neighborhood. Mayor Mitchell stated that he does not support this project because of its density and proximity to the single family neighborhoods in the Hudson Manor area.

Motion by Vice Mayor Woods to approve agenda item 6C4; second by Councilmember Schapira. Motion passed on a roll call vote 4-3 with Mayor Mitchell and Councilmembers Arredondo-Savage and Kuby voting no.

*6C4. Held the second and final public hearing and adopted ORDINANCE NO. O2016.16 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.

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

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*6C5. Ordinance for an Amended Planned Area Development Overlay and approve a Development Plan Review for LOT 1 @ FARMER ARTS DISTRICT – PARCEL 1, 707 South Farmer Avenue.

Mayor Mitchell opened the public hearing.

Neil Giuliano, Tempe, former Tempe Mayor, spoke in support of the project. He commended the City Council on the growth and development in the downtown area; this project fits the vision of downtown. He supports greater density in the downtown, especially along the streetcar route. Tempe is the only sustainable live, work, and play downtown environment in Arizona.

John Kane, Tempe, spoke in opposition to the project. The project is not the right scale for Farmer Avenue, nor is the scale appropriate in relation to the existing buildings. At the community meeting the proposed buildings were not presented in the context of the existing buildings. There has not been enough critical evaluation to justify the change to the development standards that were approved in the original Planned Area Development (PAD). This location needs to be a buffer between the downtown and the neighborhood. He would like to see density built in an appropriate way and in consideration of the uniqueness of Farmer Avenue.

Karyn Gitlis, Tempe, spoke in opposition to the project. She agreed with Mr. Kane's comments and stated that she is interested in the context of this building in relation to the neighborhood on the other side of University Drive. She would like the project scaled down to within the context of the surrounding neighborhood. She compared the plan presented to

the public in 2007 to the current proposed plan. She is concerned about the project intensity and traffic impacts. The proposed height is more appropriate for the Town Lake area.

Councilmember Granville asked Ms. Gitlis what she felt would be an appropriate scale and setback for this area. Ms. Gitlis stated that a public amenity such as a grocery store with two or three stories would be appropriate, and then scale the project back from that point. The height should be set much farther back from University Drive.

Rachelle Burt, Tempe, spoke in opposition to the project. She stated that she is a school teacher and is unable to afford a home in the Maple/Ash or Farmer/Wilson neighborhoods due to developments like this project. She is a renter in this neighborhood; luxury developments make renting difficult. She is concerned about the lack of affordable housing, traffic congestion, and high density. Area hotel, restaurant, and retail workers will no longer be able to afford to live in the neighborhood.

Councilmember Granville stated that the development agreement period expires in five years. If the City Council votes no on this project, the lot could potentially sit vacant for an additional two or three years before another development occurs. Ms. Burt stated that her preference is to build an affordable housing project or leave the lot vacant.

James Skinner, Tempe, spoke in support of the project. He stated that the developer has already added to the affordability in the neighborhood with projects such as Encore on Farmer senior housing and the Residences on Farmer. Tall, dense projects in the downtown will attract a grocery store. Tempe is a landlocked city with a confined downtown area. Public support for the streetcar and light rail shows that people support the downtown being an urban environment. Area businesses and employees have noted the stress placed on businesses due to the seasonality of student housing. Offering less parking will encourage the use of transit, reducing traffic congestion.

Councilmember Granville stated that business owners have expressed the need for more residential development. He asked how this housing is different from the Hanover project, which is only 25% occupied. Mr. Skinner stated that this project is being developed in a way that encourages young professionals to contribute to the economy.

Rick Storker, Tempe, spoke in support of the project. He discussed the importance of affordable housing and its positive impact.

Amanda Darling, Tempe, spoke in support of the project. She manages a business in the downtown and supports the density and height of the project. Many small businesses in the area struggle. The downtown needs more residences. The Farmer Arts District will have a different feel. Spending activity will increase, which will have an economic impact.

Ashley Nogales, Tempe, spoke in support of the project. As a small business manager, she has seen the positive impact of having more residents in the area. A higher density will increase the amount of people walking, biking, and using the light rail to access the downtown area, which will be good for the community and businesses. She noted that it would be difficult for her to afford to live in the Farmer Arts District neighborhood, on a school teacher's salary. Adding more housing to this neighborhood will not have a significant impact in a neighborhood that is already expensive to live in. It is important to offer housing options for young professionals.

Drew Sullivan, Tempe, spoke in opposition to the project. He stated that he is a business owner and is opposed to the high density of the project, which is three times the projected land use and is inconsistent with the General Plan 2040. The project does not fit the character of the neighborhood. The vision for this area was to be the buffer zone between the urban core and the neighborhoods. He discussed the lack of affordable housing in Tempe and would support a moratorium on luxury housing projects. The 85281 zip code was identified as the poorest in the east valley by the Phoenix Business Journal, with a median income of $42,000. He questioned whether the City Council values the voter approved General Plan, or if the City Council supports the developers.

Councilmember Granville noted that Tempe owns this land. He asked Mr. Sullivan if he would support this same project if it were built within the scope of the General Plan or with the current requirements of 50 dwelling units/acre (du/ac). Mr. Sullivan stated that he would prefer to have an empty lot versus having this project built. The General Plan is the only

way to stop this development. Mr. Sullivan stated that the public has wanted a grocery store for years; a library is another potential use of the property. Developers know that Tempe gives developers Government Property Lease Excise Tax (GPLET) incentives and that Tempe does not require that projects align with the General Plan; developers then propose that they need more units because of the money they have invested. Increasing the number of units increases the developers' profits. Mr. Sullivan stated that he would not support the project, even if it included a grocery store component.

Joseph Carey, Tempe, spoke in support of the project. He discussed the progression and the amenities in the downtown area that are the result of growth and density. He appreciates the ability to walk or to ride his bike to downtown destinations. Adding density will create a more diverse community. He attended an open house on this project and met the development team, who also live in Tempe. These projects create a community.

Charles Goffnett, Tempe, spoke in support of the project. He chose downtown Tempe to locate his business because of its urban environment. An urban environment is the framework for growth. Density makes downtowns exciting. The millennial generation wants to live, work, and play in an urban environment. If the number of downtown residents does not increase, no grocery store will be built. The developers are building this project in their own neighborhood.

Zachary Pebler, Tempe, spoke in support of the project. This is a responsible project; it is close to the urban core, bike lanes, the future cable car [streetcar], and is walkable. There is a housing demand for people that want to live closer to the Mill Avenue district. The trend is increased density for housing products; people are looking for smaller and more efficient living spaces.

Councilmember Granville noted that the City is not focused on making money off of this property; the property could become anything. Mr. Pebler discussed the importance of having people to fuel the businesses that surround Mill Avenue and to use various modes of transportation. The City has prepared itself for an urban downtown environment; there is a demand for this type of project. Councilmember Granville noted that that is assuming that tall buildings equate to quality of life.

Scott Price, Tempe, spoke in support of the project. He stated that he is speaking on behalf of his co-workers in the restaurant industry. He believes that adding urban density will make a difference in the seasonal shifts that businesses experience as a result of Arizona State University's school schedule. Mr. Price discussed several empty lots that were previously restaurants or businesses. Residential density will attract businesses and services to the area. Dirt lots and parking lots do not add to the quality of life.

Jordan Schell, Tempe, spoke in support of the project and agenda item 6C6. He stated that he owns two rental properties west of Farmer Avenue. Downtown growth generates vibrancy, increases amenities and the number of private businesses, and creates a live, work, and play environment. Density will attract a much needed grocery store. It is not good to have dirt lots in the downtown.

Ted Klimaszewski, Tempe, spoke in support of the project. He discussed the 20,000 to 30,000 new jobs at Tempe Town Lake within the next few years; if nearby housing opportunities are not available, people will be driving their cars to work. The development in downtown has already begun; housing options need to be provided for the workforce.

Merrill Darcey, spoke in support of the project. He noted that Parcel 1 is a residential project in a commercial area, and Parcel 2 is a commercial project in a residential area. The commercial project should be located on University Drive and the residential project should be located on Fifth Street. He supports the density, but questioned the logistics of each of the projects. Councilmember Granville noted that if the project locations were switched, residents would have to drive on Ash Avenue to get home. Mr. Darcy noted that if the residential project was built on Fifth Street, residents would be able to walk to the light rail stations and would have restaurants nearby.

Chris Burka, Tempe, spoke in support of the project. He stated that he owns a restaurant and a development business. Development on the south end of Mill Avenue and University Drive is lacking. Density will help the commercial and retail businesses on Mill Avenue. The progress began years ago and he is excited about future projects of this nature.

John Benton, Tempe, spoke in support of the project. He discussed his participation on a Downtown Planning Area Committee to create a vision and redevelopment plan. As a developer, he has been involved in various projects in Tempe. Tempe has a neo-urban environment. The proposed project will sustain Tempe's success. There is a growing demographic that seeks an urban environment and has a declining reliance on automobiles. Density has a positive impact on economic development and it provides an urban experience. He filed a document with the City Council containing the history of high density related to residential development.

Mike Jennings, Tempe, spoke in support of the project. As a business owner, resident, and father, he enjoys the downtown Tempe urban experience and does not have a problem with density or tall buildings. This vacant lot needs to be developed. As a prior Downtown Tempe Authority and Downtown Tempe Community, Inc., board member, he understands that density drives business. He recently closed two of his businesses in downtown Tempe due to lack of revenue. He would like to see more residents downtown. Having more residents spending money in downtown businesses will result in a successful and sustainable downtown.

In response to Councilmember Granville's query about how Mr. Jennings would feel about living close to a 13 story building, Mr. Jennings stated that this is about a long term vision for the City. Downtown is where density belongs, with a tent effect going from the tallest building in the center down to the lowest height in the outskirts. The proposed building height is close to the height of the West Sixth Apartments.

Kirk Harmes, Tempe, spoke in support of the project. He stated that he is impressed with the transformation of Farmer Avenue. Without density, there cannot be a walkable environment. The development plan is an appropriate density and is adjacent to a future streetcar stop; density is key to attracting retail and amenities. Urban office space and residential development are needed to allow urban residents the choice to walk to work. His comments apply to both of the proposed projects on Farmer Avenue, agenda items 6C5 and 6C6.

Trent Potter, Tempe, spoke in support of the project. He enjoys the walking and biking experience in this neighborhood.

Olivia Mast, Tempe, spoke in support of the project. She lives in the area because of its walkability. This project will lead to economic growth.

Matt Mooney, Parkway Properties (Parkway), spoke in support of the project. Parkway has invested over $300 million in office properties in downtown Tempe over the past five years. He discussed the way that Tempe leaders make decisions, land use, and how the City invests in its resources. Density is key to creating the types of amenities Parkway wants for its office tenants. Tempe has a dynamic submarket and is in competition for high quality jobs. High quality residential development is critical for attracting the types of jobs that Tempe desires.

Jay Wisniewski, Tempe business owner, spoke in support of this project and agenda item 6C6. He stated that people are attracted to this area for the diversity, the arts, and to live, work, and play, at any income level. Businesses struggle during the summer months. A majority of his employees live in Tempe; more density means more money for his staff year round. There is room for growth and density in Tempe; this project will contribute to that growth.

Councilmember Granville asked Mr. Wisniewski to discuss property lease rates and how lease rates might be impacted by having more customers. Mr. Wisniewski stated that lease rates are not an immediate concern. People and density are needed first; business owners can negotiate property lease rates with land owners.

Chris Weir, Tempe, spoke in opposition to the project. She stated that at a previous forum, the developer specified that this is a luxury development. She is not opposed to development or density; she is opposed to luxury housing. As a young professional at ASU, she earns below the median income in Tempe. She feels the term sustainability is being misappropriated by the developers and audience members. Sustainability is widely accepted as being economically appropriate as well as environmentally and culturally/socially appropriate. A luxury development does not meet the criteria for sustainability. Many of her colleagues at ASU commute to ASU from surrounding cities because of the lack of affordable housing in Tempe.

Craig Pierson, spoke in support of the project. He stated that urban density creates a large, diverse base of residents and increases market share for businesses. His business failed in Tempe. The right type of density is crucial. He stated that the developers work with architects to provide buffers that would blend a 13-story building into the fabric of Tempe.

Justine Yates, Tempe, spoke in opposition to the project. She stated that the property's original zoning is considered dense. A lot of work went into the voter approved General Plan 2040; those guidelines should be adhered to. The community would like to see development more in line with the arts for this area.

Philip Yates, Tempe, spoke in opposition to the project. He discussed concerns relating to density, parking, and traffic congestion. Locating a 13-story building with 281 units close to the oldest brick house in Tempe requires a lot of thought. There is no rush to build this type of development. Some of the individuals signing petitions for the installation of speed humps in the neighborhood are developers; those signatures should not be accepted by the City.

Vice Mayor Woods asked Shelly Seyler, Deputy Public Works Director–Transportation, about the traffic impacts of a 281 unit building and what can be done to address traffic concerns. Ms. Seyler stated that the developer conducts a traffic impact study. From a residential perspective, mitigating traffic volume and speeding are areas of focus. Ms. Seyler outlined the petition signature requirements for the installation of speed humps and stated that speed humps could address some of the traffic concerns. When asked about the status of available funding for the speed hump program, Ms. Seyler stated that the neighborhood traffic management program is not currently funded, and has not been funded since 2009. A budget request has been submitted to fund the program at $100,000 next fiscal year. There is a waiting list of approximately 50 residents that have expressed an interest in installing speed humps in their neighborhoods. There have been instances where a developer has funded speed humps, if the residents provide the required signatures.

Nick Bastian, spoke in support of the project. He stated that Tempe is landlocked and certain areas of the City will have density; this high density project fits the area and fits with the existing and future transit system. This is a livable, walkable neighborhood. Downtown is not just ASU; there are restaurants, parks, hiking, and Tempe Town Lake. The City needs funds to continue to grow, support its amenities, and to provide access to quality environments.

Todd Green, Tempe, spoke in support of the project. He discussed how residents are impacted by aircraft noise. Tempe needs density with modern buildings. There are infill projects near his neighborhood that were built in accordance with the General Plan, although he questioned if any of those developments have been successful. The developer, Todd Marshall, has built a successful, high density project in Tempe.

Dustin Short, Tempe, spoke in opposition to the project. Parcel 1 bypassed the normal development process, which could potentially be a legal issue. The project is not in conformance with the General Plan 2040 or the General Plan 2030. City staff has determined that the General Plan amendment process is unwarranted. He discussed the originally proposed plan, Zoning and Development Code requirements, and the granting of General Plan and PAD amendments. A precedent was set by granting a General Plan and PAD amendment. The reversion clause stipulation requiring construction before 2009 has not been enforced. In 2010, the land was subdivided at the request of the applicant and 65 du/ac density was applied to the new lots. The PAD being requested triples the approved density for Parcel 1. Instead of requiring the General Plan density, his concern is that City staff is including all of the acreage in the Farmer Arts District to calculate the density; this sets a precedent. To remain consistent, Mr. Short asked if the surrounding land density will be applied to future projects, which will impact land values. He questioned if Councilmembers have accepted donations from Huellmantel & Affiliates.

Councilmember Granville stated that if this project is not approved, either a nine story market rate housing project will be built or the lot will remain vacant for five years. He asked Mr. Short which he would prefer. Mr. Short stated that he would prefer either of those choices as long as the law is followed, the project is consistent with General Plan 2040, and the project creates a buffer zone between the neighborhoods and the high density urban core. Mr. Short discussed the possibility of another economic downturn within the next five years.

Councilmember Granville and Mr. Short discussed the General Plan 2030 du/ac guidelines. Dave Nakagawara, Community Development Director, clarified that in 2007, the General Plan 2030 allowed up to 25 du/ac. At that time an

accompanying General Plan amendment was required. The designation was changed to greater than 25 du/ac. The zoning entitlement for this site, Parcels 1 and 2, is 50 du/ac.

Chris Osborn, Tempe, spoke in support of the project and for agenda item 6C6. He noted that businesses lose revenue every summer, when the students leave. Residential and employment density will help the downtown community. He compared downtown Tempe to Phoenix's dense downtown employment and retail options which failed because Phoenix lacks residential density. Grocers look at density when deciding where to locate.

Clair Gresa, Tempe, spoke in opposition to the project. She asked that the project conform to the PAD. Her concern is about the increase in traffic and the amount of people that will be in the area.

Mayor Mitchell closed the public hearing.

Charles Huellmantel, Huellmantel & Affiliates, applicant representative, read a list of names of surrounding neighbors and businesses that have expressed support for the project. He then provided a PowerPoint presentation of the project. City staff supports the project and the applicant and the City have agreed to all of the stipulations. He stated there was a 6-1 Development Review Commission (DRC) vote in favor of the project. A post-tension concrete structure is included in the proposal, which the City Council previously indicated was important. The developer built the first two projects in the District: a 56-unit affordable housing project for seniors called Encore; and the Residence on Farmer, a mixture of market rate and affordable housing units. The site has access to the downtown with connectivity by light rail, the future streetcar, and a bus route. The developer has added pedestrian paths. In the future, the City intends to realign First Street with Rio Salado Parkway. Soon there will be thousands of new jobs in the area; those employees will want to live downtown.

Mr. Huellmantel discussed the proposed Farmer Arts District projects, the existing buildings, and the various projects being built in the downtown area. The Centerpoint building is significantly taller than the proposed 13 story building. Part of quality of life is being able to walk to work or to a grocery store or a restaurant; quality construction and density can also be part of the quality of life. The proposed project has never been presented as a luxury product; it is a mix between luxury and affordable housing. There is a limited amount of downtown locations where needed residences can be built.

Councilmember Granville asked how this project differs from the Hanover project, which is 25% occupied. Mr. Huellmantel stated that Hanover is not a modern building and does not have the urban feel that millennials are seeking; the location of the Hanover office should also be closer to Fifth Street. The Hanover building was designed as housing for future State Farm employees. The residents will want to be near restaurants, light rail, and bike paths.

Councilmember Arredondo-Savage stated that Hanover did not want their project to become student housing; they imposed an age limit on residents and they do not allow co-signing on leases, which may be the reason why their occupancy is lower than expected. She asked how the developer will ensure that the proposed project does not become student housing. Mr. Huellmantel stated that there will be a demand for housing as a result of the two nearby office buildings. He then discussed the history of the West Sixth Apartments and the problems it is having with transitioning from being a student housing project.

Councilmember Arredondo-Savage expressed disappointment that the applicant has not reached a compromise with the neighbors, as previously requested by the City Council. She is concerned about the project density and the number of parking spots. The project is proposing 418 bedrooms with 261 parking spots. The Hanover project has 422 bedrooms with 447 parking spots; Broadstone has 243 bedrooms with 269 parking spots; and, 1000 Apache has 767 bedrooms and 417 parking spots. Even though there is a movement to get people out of their vehicles, many people still own vehicles. She stated that it is hard for her to support the project as proposed; she would like a reduction in the density and an improved buffer to the neighborhoods. She stated that she supports the integrity of the design and the quality of construction materials.

Mr. Huellmantel discussed several developments that have been approved with a reduction in parking. The closer the proximity to light rail and the streetcar, the fewer vehicles there will be and fewer parking spots needed. People who choose to live next to transit amenities are more likely not to own cars. The developer has more property at this location;

if parking ends up being a problem, it can be solved with the next project. He asked given the project size, if more parking were added, would the project be supported. Councilmember Arredondo-Savage noted that originally the parking was intended to be underground. Economically, if the parking were to go underground, the project would require more height. The current proposal has under grade and above grade parking. There is a proposal for a Whole Foods to be located next to this project; it will have five stories of above grade parking.

Councilmember Arredondo-Savage noted that the General Plan is a guide and she is not opposed to making some exceptions, within reason. Mr. Huellmantel stated that the applicant has explored several options and it is difficult to get everyone to agree.

Mayor Mitchell stated that there has been no attempt to reduce the height of the building. He discussed how the project has changed from the original proposal made to the City Council in 2006 and 2007 to what is currently being proposed. The goal of the Farmer Arts District was to strengthen the community and to tie into the resources downtown. In 2006 and 2007, this area was supposed to be a buffer between the neighborhood and the downtown. Originally, the project was proposed to be 112 workforce housing units, the developer was going to work with Newtown representatives, there would be a number of workspaces for artists, a majority of the parking would be underground, and 50% of the proposed project would be for community-oriented purposes. The project slogan was 'Where the Heart of the Neighborhood Meets the Heart of the City'. The currently proposed project's density is too high, and does not have enough step down next to the single family neighborhood. The voter approved General Plan 2040 allows for up to 65 du/ac; this project proposes 204 du/ac, which is a 300% increase from the original proposal. General Plan amendments require a two-thirds vote of the City Council. Farmer Avenue is a small street; he is unsure if Farmer Avenue can support the anticipated traffic volume. Density does not need to be tall. There has been a lack of effort to work with the neighborhood, as requested by the City Council.

Mr. Huellmantel disagreed with the comment that he has not worked with the neighbors. There are economic realities. This plan strengthens the community and ties into the downtown resources. There are a limited number of places in downtown to place density. Density should be next to a streetcar stop and within walking distance to the light rail, and near Tempe Town Lake and various other amenities that the City has significantly invested in.

Vice Mayor Woods noted his concern is finding the right height and density for this location. He would consider changing the number of units and parking spaces, and installing speed humps, if that would make this project work for everyone.

Mayor Mitchell agreed with Vice Mayor Woods and questioned what the right type of density is for this buffer zone. The original plan with a height of 50 feet is now 13 stories.

Mr. Huellmantel noted that the linear path is not being counted for density, although it is being provided. The Centerpoint project is an example of density; this project's density is spread out. Mayor Mitchell stated that projects are considered on a case by case basis.

Councilmember Arredondo-Savage stated that she is open to finding a compromise, being respectful to the neighborhood and the businesses. She stated that density is important and should be within reason.

Mayor Mitchell commended Mr. Huellmantel for the type of architecture and construction materials proposed for the project. Mr. Huellmantel stated that the cost of construction has risen significantly since the product was originally zoned, which makes a taller building necessary.

Councilmember Granville stated that he and Mr. Huellmantel have discussed the project and have written some compromise stipulations. The trend is that business owners like this plan; single family neighborhood residents in the area do not like this plan. Based on comments from area neighbors, he does not support the proposed project today, nor does he support the stipulations he worked on with Mr. Huellmantel. He suggested that Mr. Huellmantel, Vice Mayor Woods, and members of the public that oppose the project meet to determine the type of project they would support.

Vice Mayor Woods stated that he is happy to meet with adjacent residents to discuss the project. Mayor Mitchell indicated that he would like to be included in those discussions as well.

Councilmember Schapira stated that if the Centerpoint project is considered the center of the City, the proposed project is not far from that location. He asked if there should be a discussion about whether or not to have density anywhere in the City. Mayor Mitchell emphasized that the question he posed is about the appropriate amount of density.

Councilmember Kuby stated that there have been a lot of new projects and the City Council has been approving density at various locations in and around the downtown. What is different about this location is that it borders a lot of single family homes. The process should start with the neighborhood. At a recent tree and shade summit, a speaker discussed the scale of projects in context with the buildings on a street, using many examples from Tempe. This project is not scaled appropriately in the context that it should be for Farmer Avenue. Her preference is that the project is modified to be more in line with the General Plan 2040 and the context of the neighborhood, with density that is not detrimental to the neighborhood. She stated that she does not support the proposed project.

Vice Mayor Woods stated that he does not agree that this project is not in line with the General Plan 2040. Councilmembers have expressed varying opinions on this project. The challenge is to come up with a plan that everyone can agree to.

Councilmember Navarro agreed that the applicant should continue to work with the neighborhood. His preference is for smart density, walkability, and accessibility, while being respectful of the neighborhoods. There is also the potential of a commuter rail in the future. He discussed how older buildings in downtown Phoenix can be changed by removing walls; this project has the potential for a future redesign. He discussed John Kane's vision of Farmer Avenue. Traffic problems will exist, regardless of what occurs; traffic volume increases in urban environments. He stated that he would prefer that balconies be incorporated into the project and would support further discussions about the project.

Andrew Ching, City Manager, stated that there is an item on tonight's Work Study Session agenda regarding the formal submission of the Capital Improvement Project Plan for the upcoming budget year, which must be formally introduced before April 1, 2016. As there is not another City Council meeting scheduled before April 1, 2016, staff is submitting that item to Council this evening. Due to the length of this meeting, staff is looking for another date for the City Council to meet prior to April 1, 2016.

Judi Baumann, City Attorney, noted that there is one remaining agenda item, 6C6, and requested that the Mayor consider adjourning the meeting in order to specify a future meeting date for purposes of posting the meeting date.

Councilmember Granville requested that this item be continued until the next City Council Meeting so that the Mayor and Vice Mayor have an opportunity to meet with Mr. Huellmantel and the neighbors to further discuss the project.

Councilmember Kuby asked if Councilmembers voted no on the project at this time, could a reconfiguration of the project occur. Ms. Baumann stated that reconsideration of an item that has been denied would require a two-thirds vote per the City Council Rules of Procedure; she would also need to look at the timing involved, as well as posting requirements.

Mr. Huellmantel agreed to continue this matter until the April 14, 2016, Regular Council Meeting.

Motion by Councilmember Granville to continue the second public hearing on agenda item 6C5 to the April 14, 2016 Regular City Council meeting; second by Vice Mayor Woods. Motion passed on a roll call vote 6-1 with Councilmember Kuby voting no.

*6C5. *Continued to the April 14, 2016, Regular Council meeting* the second and final public hearing to adopt an ordinance for an Amended Planned Area Development Overlay and approve a Development Plan Review for a 13-story mixed-use development, containing 281 dwelling units and 1,641 square feet of retail for LOT 1@ FARMER ARTS DISTRICT – PARCEL 1, located at 707 South Farmer Avenue. The applicant is Charles Huellmantel, Huellmantel & Affiliates. (Ordinance No. O2016.17)

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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*6C6. Ordinance for an Amended Planned Area Development Overlay and approve a Development Plan Review for FARMER ARTS DISTRICT – PARCEL 2, 401 South Farmer Avenue.

Mayor Mitchell stated that he likes the design and construction of the project, although its scalability is too high. He stated that he would be willing to work with Mr. Huellmantel on Parcel 2.

Due to the late hour, Councilmembers agreed to continue agenda item 6C6 to the April 14, 2016, Regular City Council meeting.

Mr. Huellmantel requested clarification regarding why the City Council is continuing this item, versus voting on the item. Councilmember Granville stated that he would vote yes on this project, if a vote were taken. He has not heard feedback from residents on this portion of the project.

Motion by Vice Mayor Woods to continue the second public hearing on agenda item 6C6 to the April 14, 2016, Regular City Council meeting; second by Councilmember Schapira. Motion passed unanimously on a roll call vote 7-0.

*6C6. *Continued to the April 14, 2016, Regular Council Meeting* the second and final public hearing to adopt an ordinance for an Amended Planned Area Development Overlay and approve a Development Plan Review for a new five-story building and five-story parking garage containing approximately 190,000 square feet of office and flex commercial space for FARMER ARTS DISTRICT – PARCEL 2, located at 401 South Farmer Avenue. The applicant is Huellmantel & Affiliates. (Ordinance No. O2016.18)

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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7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS – None.

8. PUBLIC APPEARANCES

A. Scheduled – None.

B. Unscheduled – Mario Martinez discussed a campaign finance complaint that Councilmember Granville filed against him concerning Facebook ads.

The meeting adjourned at 12:02 a.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 March 17, 2016, by the Tempe City Council, Tempe, Arizona.

_____
Mark W. Mitchell, Mayor

ATTEST:

_____
Brigitta M. Kuiper, City Clerk