



Minutes Regular City Council Meeting April 14, 2016

Minutes of the Regular Council Meeting of Thursday, April 14, 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

Councilmember Robin Arredondo-Savage

Councilmember Lauren Kuby

Councilmember Joel Navarro (*participated telephonically at 6:40 p.m.;
joined the meeting at 7:06 p.m.*)

Vice Mayor Corey D. Woods

Councilmember Kolby Granville

Councilmember David Schapira

STAFF PRESENT:

Andrew Ching, City Manager

Ken Jones, Deputy City Manager – Chief Financial Officer

Steven Methvin, Deputy City Manager/Chief Operating Officer

Various Department Heads or their representatives

Judi Baumann, City Attorney

Brigitta M. Kuiper, City Clerk

Don Bessler, Public Works Director

Mayor Mitchell called the meeting to order at 6:25 p.m.

1. Vice Mayor Woods 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 Councilmember Granville to approve agenda items 3A1 – 3A2; second by Councilmember Arredondo-Savage. Motion passed unanimously on a voice vote 6-0.

1. Regular City Council Meeting - January 28, 2016, February 11, 2016, and February 25, 2016
2. Executive Session - March 17, 2016

B. Acceptance of Board, Commission and Committee Meeting Minutes

Motion by Councilmember Granville to accept agenda items 3B1 – 3B8; second by Vice Mayor Woods. Motion passed unanimously on a voice vote 6-0.

1. Development Review Commission - February 23, 2016
2. Development Review Commission Study Session - February 23, 2016
3. Hearing Officer - March 1, 2016 and March 15, 2016
4. History Museum and Library Advisory Board - March 2, 2016
5. Human Relations Commission - February 9, 2016
6. Mayor's Youth Advisory Commission - March 1, 2016 and March 15, 2016
7. Parks, Recreation, Golf and Double Butte Cemetery Advisory Board - February 17, 2016
8. Tempe Municipal Arts Commission - February 10, 2016 and February 24, 2016

4. REPORTS AND ANNOUNCEMENTS

A. Mayor's Announcements

1. *Week of the Young Child Proclamation*

Mayor Mitchell read a proclamation declaring April 10 – 16, 2016, as the Week of the Young Child in Tempe, Arizona.

2. *2016 State of the Neighborhoods*

Mayor Mitchell announced that on Saturday, April 16, 2016, he will be providing his annual State of the Neighborhoods address, which will be followed by neighborhood awards and workshops.

B. City Manager's Announcements

Andrew Ching, City Manager, stated that agenda item 5C8 is an intergovernmental agreement between the City of Tempe and Arizona State University (ASU) regarding public safety. He thanked ASU and City officials for their work on this agreement.

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 5B5 and 5C2, which were removed for separate consideration; second by Councilmember Granville. Motion passed unanimously on a roll call vote 6-0.

A. Miscellaneous Items

5A1. Approved the February 2016 Report of Claims Paid to be filed for audit.

Fiscal Impact: Total payments in February: \$15,647,013.17.

5A2. Approved a fiscal year 2015-16 Capital Improvements Program budget appropriation transfer from project number 5605949, Fire Medical Rescue Training Center Facilities, to project number 5603619, Fire Medical Rescue Apparatus Replacement, to provide fiscal year 2015-16 funding for the purchase of a ladder truck. The funding for award of a contract to Rosenbauer South Dakota, LLC for a ladder truck.

Fiscal Impact: \$500,000 of fiscal year 2015-16 appropriations will be transferred from CIP project No. 5605949, Fire Medical Rescue Training Center Facilities, to CIP project No. 5603619, Fire Medical Rescue Apparatus Replacement. Total CIP appropriations will not increase as a result of the transfer. General obligation bonds will be the source of funding for the ladder truck replacement project.

5A3. Approved fiscal year 2015-16 Capital Improvements Program budget appropriation transfers from cost center 9854 (Streets Grant Contingency) to project number 6707961 (Tempe Butte Power Line Relocation) to provide funding for the award of construction contracts to B and F Contracting, Inc. and Arizona Public Service for trenching, electrical line replacement, and other work associated with undergrounding of existing power lines on Tempe Butte. (Related to Agenda Item 5B25)

Fiscal Impact: \$376,512.95 of the fiscal year 2015-16 appropriations will be transferred from cost center 9854, Streets Grant Contingency, to Capital Improvements Program Project No.

6707961, Tempe Butte Power Line Relocation. Funding for the project is in the Underground Utility Fee reserve in the Traffic Signals Capital Project Fund.

- 5A4. Approved the transfer of budget appropriation from the Solid Waste Fund to the Capital Improvement Project Fleet Maintenance Improvements to fully fund construction of the compressed natural gas fuel dispensing system at the Public Works fuel yard. (Related to Agenda Item No. 5B26)

Fiscal Impact: \$44,000 of the Solid Waste Fund's fiscal year 2015-2016 operating budget, appropriated in cost center 3713, will be transferred to Capital Improvement Project No. 6705189 to fully fund the project construction. The entire project is funded by the Solid Waste Fund.

- 5A5. Approved fiscal year 2015-16 Capital Improvements Program (CIP) budget appropriation transfers from CIP project numbers 6305981A Structural Assessment Diablo Stadium); 6307117 (I-10 Pit Engineering Study); 6399827 (Tischler Bise Development Impact Fee Study); and, 6303089 (Athletic Field Lighting Improvements) to project number 6303009 (Diablo Stadium Capital Replacement and Reinvestment) for unplanned expenditures related to safety, storm damage and infrastructure repairs at Tempe Diablo Stadium.

Fiscal Impact: \$5,759 of the fiscal year 2015-16 appropriations will be transferred from CIP project number 6305981A, (Structural Assessment Diablo Stadium); \$5,700 will be transferred from project number 6399827 (Tischler Bise Development Impact Fee Study); \$24,195 from project number 6307117 (I-10 Pit Engineering Study); and \$45,550 from project number 6303089 (Athletic Field Lighting Improvements) to project number 6303009 (Diablo Stadium Capital replacement and Reinvestment). The total combined transfer is \$81,204.

- 5A6. Approved fiscal year 2015-16 Capital Improvement Program appropriations transfers from project #6705229 (Water Heater Replacement) and from project #6707031 (Waste & Vent Pipe Renov) to project #6799779 (Emergency Capital Repairs) to provide funding to respond to emergencies during the rest of the fiscal year.

Fiscal Impact: \$30,000 will be transferred from project #6705229 (Water Heater Replacement) and \$22,181 from project #6707031 (Waste & Vent Piping Renov) to project #6799779 (Emergency Capital Repairs). The total combined transfer is \$52,181. All of the projects involved are in the General Governmental Capital Improvement Projects Fund.

- *5A7. Held a public hearing and recommended the approval of a series 12 restaurant liquor license for Tokyo Inc., dba Tokyo Joe's, 4715 South Rural Road, Suite 104.

Fiscal Impact: N/A

- *5A8. Held a public hearing and recommended the approval of a series 10 beer and wine store liquor license for Bottleshop 48 LLC, dba Bottleshop 48, 3316 & 3318 South McClintock Drive.

Fiscal Impact: N/A

- *5A9. Held a public hearing and recommended the approval of a series 18 In-state craft distillery liquor license for Red Mountain Distilling and Spirits LLC, dba Red Mountain Distilling and Spirits, 625 South Smith Road, Suite 25.

Fiscal Impact: N/A

- *5A10. Held a public hearing and recommended the approval of a series 01 In-state producer's liquor license for Arizona Spirits LLC, dba Arizona Distilling Co., 601 West University Drive.

Fiscal Impact: N/A

B. Award of Bids/Contracts

- 5B1. Approved the utilization of a one-year State of Arizona contract with Bridgestone/Firestone of North America, Inc. for the purchase of tires and tubes.

Fiscal Impact: Total cost of this contract will not exceed \$225,000. Sufficient funds have been appropriated in the General Fund – cost center 3264 (Fleet Services Inventory) – for the anticipated expenditures.

- 5B2. Approved the utilization of a one-year State of Arizona contract with Goodyear Tire and Rubber Company to purchase tires and tubes.

Fiscal Impact: Total cost of this contract will not exceed \$85,000. Sufficient funds have been appropriated in the General Fund – cost center 3264 (Fleet Maintenance Inventory) – for the anticipated expenditures.

- 5B3. Approved the utilization of a one-year City of Scottsdale contract with Ancon Services Company for routine and trouble spot cleaning of the City's sewer system, lift stations, and wet wells.

Fiscal Impact: The cost of this contract shall not exceed \$200,000 during the one-year contract period. Sufficient funds have been appropriated in the Water/Wastewater Fund - cost center 3022 (Distribution & Collection) for the anticipated expenditures in the current fiscal year.

- 5B4. Approved a one-year contract renewal with Heinfeld, Meech & Company, P.C. for professional financial statement audit services for the Internal Services Department and other City departments on an as-needed basis.

Fiscal Impact: Total cost of this contract will not exceed \$130,000 during the contract renewal period. Sufficient funds have been appropriated in General Fund cost center 1831 (Accounting), Community Facilities District Fund cost center 5016 (Community Facilities District - Equipment, Insurance and Contingency), Transit Fund cost center 3911 (Transit Admin and Regional Services), Section 8 Housing Fund cost center 2772 (Section 8 Administration), and other City-wide cost centers as needed for anticipated expenditures in the current fiscal year.

- 5B5. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Approve a one-year contract renewal with CHC Wellness to provide a wellness program offered to eligible City employees.

- 5B6. Approved a one-year contract renewal with Vulcan Materials to supply base material and asphalt compounds to make repairs to City streets and facilities.

Fiscal Impact: Total cost of this one-year contract will not exceed \$100,000. Sufficient funds have been appropriated in the Highway User Fund cost centers 3813 – (Construction) and 3814 (Right of Way Maintenance) - for the anticipated expenditures.

- 5B7. Approved one-year contract renewals with Arizona Truck and Coach, Auto Body Specialists, and Maaco Collision Repair & Auto Painting for vehicle body repairs and painting.

Fiscal Impact: Total combined cost of these contracts will not exceed \$100,000. Sufficient funds have been appropriated in the General Fund – cost center 3262 (Fleet Services Maintenance) – for the anticipated expenditures.

- 5B8. Approved a one-year contract renewal 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 \$67,000 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 contract renewal with F2 Industries, LLC for powdered activated carbon used by the Public Works Department.

Fiscal Impact: Total cost of this contract will not exceed \$650,000. Sufficient funds have been appropriated in the Water/Wastewater Fund – cost centers 3013 (Johnny G. Martinez Water Treatment Plant) and 3014 (South Tempe Water Treatment Plant) for the anticipated expenditures in the current fiscal year.

- 5B10. Approved a one-year contract renewal for annual software maintenance and support with Versaterm, Inc. for the City's integrated public safety system for the Police Department.

Fiscal Impact: Total cost of this contract will not exceed \$360,199.79 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. Approved a one-year contract renewal with Pride Group, LLC for special event equipment rental and services to be used by various City departments.

Fiscal Impact: Total cost of this contract will not exceed \$75,000 during the one-year renewal period. Sufficient funds have been appropriated in the General Fund cost centers 1212 (Diversity Office), 2522 (Recreation – Special Services), 2531 (Recreation – Kiwanis Recreation Center), and Government Grants or Donations Fund cost center 2577 (Special Event Donations) for the anticipated expenditures in the current fiscal year.

- 5B12. Approved a one-year contract renewal with Crop Production Services for ryegrass seed and bentgrass seed for use at City parks, golf courses and sports complexes.

Fiscal Impact: Total cost of this contract will not exceed \$135,000 during the one-year renewal period. Sufficient funds have been appropriated in several General Fund Field Operations cost centers and the Golf Fund for the anticipated expenditures in the current fiscal year.

- 5B13. Approved one-year contract renewals with Hypertec USA, Inc., and Sequiris Group, LLC for the purchase of information technology security software, hardware, related accessories, and products on an as needed basis.

Fiscal Impact: Total combined cost of these two contracts will not exceed \$230,000 during the one-year contract renewal term. Sufficient funds are available in General Fund - cost center 1997 (IT Security Administration) and other City-wide cost centers as needed for the anticipated expenditures.

- 5B14. Approved a two-year contract renewal with Aquatic Consulting and Testing, Inc. for Tempe Town Lake cleaning, inspection, and maintenance services.

Fiscal Impact: Total cost of this contract will not exceed \$396,764.16 during the two-year renewal period. Sufficient funds have been appropriated in the Community Facilities District Fund - cost center 5014 (Lake Surface and Shoreline Cleanup) for the anticipated expenditures in the current fiscal year.

- 5B15. Approved one-year contract renewals with Fisher Scientific, Copper State Supply, AGS Safety and Supply, and Clark Security Products for the supply of safety related products to be used throughout the City.

Fiscal Impact: Total combined cost of these contracts shall not exceed \$200,000 over the one-year renewal period.

- 5B16. Approved one-year contract renewals with SolarCity Corporation, Oak Leaf Energy Partners and Green Choice Solar for the development, construction and maintenance of solar photovoltaic electric generating systems.

Fiscal Impact: There is no cost related to these renewals. This action will continue the availability of the named solar providers on an approved short list from which future projects could be awarded through separate Council action.

- 5B17. Awarded one-year contracts with four, one-year renewal options to Foster Electric Motor Service, Inc., Keller Electrical Industries, Inc., and Laron Inc. for water plant mechanic services on an as-needed basis. **(Contract #2016-67 A-C)**

Fiscal Impact: Total cost of this contract shall not exceed \$500,000 during the one-year contract period. Sufficient funds have been appropriated in the Water and Wastewater Fund – cost centers 3013 (Johnny G. Martinez Plant) and 3014 (South Tempe Water Plant) – for the anticipated expenditures.

- 5B18. Awarded a one-year contract with five, one-year renewal options to Praxair, Inc. to purchase refrigerated liquid carbon dioxide that is used in the purification process for drinking water. **(Contract #2016-68)**

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

- 5B19. Awarded a contract to NiteHawk Sweepers, LLC for the purchase of a regenerative sweeper for cleaning of the City's multi-use pathways. **(Contract #2016-69)**

Fiscal Impact: Total cost of this contract will not exceed \$112,000. Sufficient funds have been budgeted in the Transit Fund – cost center 3917 (Bus Stop & Bikeway Maintenance) – for the anticipated expenditures.

- 5B20. Awarded a two-year contract with three, one-year renewal options to United Fire Equipment Company for the dress and station uniforms worn by the Fire Medical Rescue Department personnel. **(Contract #2016-70)**

Fiscal Impact: Total cost of this contract will not exceed \$170,000 during the initial two-year contract period. Sufficient funds have been appropriated in the General Fund cost center 2340 (Fire – Emergency Services) for the anticipated expenditures in the current fiscal year.

- 5B21. Awarded a five-year contract with one, two-year renewal option to The Bicycle Cellar, Inc. for the operation of the Regional Bicycle Center at the Tempe Transportation Center. **(Contract #2016-71)**

Fiscal Impact: There is no cost to the City for this contract. The contractor compensates the City with monthly rent payments. Total income to the City for the initial five year term will be \$38,000.

- 5B22. Approved a fifteen-year lease agreement with two, five-year renewal options between the City of Tempe and Tempe Union High School District for the Benedict Fields complex. **(Contract #2016-72)**

Fiscal Impact: The City is obligated to pay \$1 per year for the lease of the District-owned property. The City also pays to maintain the facilities installed on the site by the City and the cost to program activities on the site. The costs to maintain the facilities and provide activities are budgeted annually in the City's operating and capital budgets. No new facilities or activities are required by the agreement.

- 5B23. Awarded a construction manager at risk construction services contract to Hunter Contracting Co. for drying beds at South Tempe Water Treatment Plant. **(Contract #2016-73)**

Fiscal Impact: The construction services contract amount is \$364,284.42 and the project contingency amount is \$36,000. Funds to cover these contracts and related costs are appropriated for fiscal year 2015/16 in Capital Improvement Project No. 3205919, South Tempe Water Treatment Plant Asset Maintenance.

- 5B24. Awarded a one-year contract with four, one-year renewal options to Mining, Rock, Excavation & Construction LLC for the purchase of towable air compressors. **(Contract #2016-74)**

Fiscal Impact: Total cost of this one-year contract will not exceed \$76,000. Sufficient funds have been budgeted in the Water/Wastewater Fund – cost centers 3022 (Distribution & Collection) and 3024 (Irrigation) – for the anticipated expenditures.

- 5B25. Awarded a construction contract to B&F Contracting, Inc. **(Contract #2016-75)** and a professional services consultant contract to Logan Simpson Design, Inc. **(Contract #2016-76)** for power line relocation at Hayden Butte. (Related to Agenda Item No. 5A3)

Fiscal Impact: The construction contract amount is \$207,145.88, the professional services contract amount is \$66,668.00, and the project contingency amount is \$21,000.00. Funds to cover this contract and related costs are appropriated for fiscal year 2015/16 in Capital Improvement Project No. 6707961, Powerline Relocation – Hayden Butte.

- 5B26. Awarded a construction contract to RKS Plumbing & Mechanical, Inc. for expansion of the compressed natural gas fuel dispensing system at the Public Works Department fuel yard, west of the East Valley Bus Operations and Maintenance Facility. (Related to Agenda Item No. 5A4) **(Contract #2016-77)**

Fiscal Impact: The construction contract amount is \$149,700 and the project contingency amount is \$15,000. Funds to cover this contract and related expenses were approved and appropriated for fiscal year 2015/16 in Capital Improvement Project No. 6705189, Fleet Maintenance Improvements.

C. Resolutions

- 5C1. Adopted **RESOLUTION NO. R2016.33** authorizing the Chief of Police or designee(s), to execute a grant award agreement between the State of Arizona, Governor's Office of Highway Safety and the Tempe Police Department to accept funding for overtime and employee related expenses to participate in the two-week Buckle Up Arizona Enforcement Campaign throughout the City of Tempe. **(Contract #2016-78)**

Fiscal Impact: The amount of the total grant award is \$10,000. This grant award will supplement the Police Department's existing General Fund budget appropriation. Sufficient budget appropriation for expenditure of this grant was authorized in the Police Grants and Restricted Revenue Fund (Fund 45) as part of the fiscal year 2015-16 adopted budget.

5C2. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Adopt a resolution authorizing the Mayor to execute the Second Amendment to that certain Lease between the City of Tempe, and PKY FUND II PHOENIX II, LLC, a Delaware limited liability company ("Parkway"), successor in interest to Hayden Ferry Lakeside, LLC, covering property located at 40 East Rio Salado Parkway. (Resolution No. R2016.34)

5C3. Adopted **RESOLUTION NO. R2016.35** authorizing the Tempe Municipal Court to accept grant funding from the Arizona Department of Veterans' Services to establish an East Valley Regional Veterans' Court.

Fiscal Impact: The amount of the grant award is \$100,000 in state funds. Acceptance of this grant does not require any matching City funds. This grant award will supplement the Tempe Municipal Court's existing General Fund budget appropriation. Sufficient budget appropriation for expenditure of this grant was authorized for fiscal year 2015-16, and a new fund and cost center will be established.

5C4. Adopted **RESOLUTION NO. R2016.36** authorizing the Mayor to execute an Amendment to Intergovernmental Agreement between Maricopa County Animal Care and Control and the City of Tempe for animal care and control services. (**Contract #2014-115B**)

Fiscal Impact: Total amount shall not exceed \$117,000 over the one-year contract term. Sufficient budget appropriation for this expenditure was requested as part of the Police Department's General Fund Budget (cost center 2259) in the recommended fiscal year 2016-17 budget.

5C5. Adopted **RESOLUTION NO. R2016.37** authorizing the Mayor to execute Amendment #1 to an Intergovernmental Agreement between the City of Tempe and Valley Metro for the operations and maintenance of the Tempe Streetcar Project. (**Contract #2000-78A**)

Fiscal Impact: The Tempe Streetcar operations and maintenance costs will be covered by the Tempe Transit Fund. Estimated annual operations and maintenance costs are projected to be approximately \$4.2 million, partially offset by fare box recovery and other possible agreements or revenue sources.

5C6. Adopted **RESOLUTION NO. R2016.39** authorizing the Mayor to execute Amendment #1 to a Public Way Use Agreement between the City of Tempe and Valley Metro to utilize public right-of-way for the Tempe Streetcar Project. (**Contract #2004-147A**)

Fiscal Impact: N/A

5C7. Adopted **RESOLUTION NO. R2016.40** authorizing the Mayor to execute the Subrecipient Agreement between the AARP Foundation and the City of Tempe to accept and disburse a federal grant from the Department of Justice, Office of Juvenile Justice and Delinquency Prevention passed through the AARP Foundation for the provision of a juvenile mentoring program. (**Contract #2016-79**)

Fiscal Impact: The amount of the grant award is \$180,000 for performance between February 1, 2016 and January 31, 2018. Sufficient budget appropriations for expenditure of this grant were authorized in the Governmental Grants and Donations Fund (Fund 46), as part of the 2015-16 adopted budget.

- 5C8. Adopted **RESOLUTION NO. R2016.41** authorizing the Mayor to execute an Intergovernmental Agreement with the Arizona Board of Regents, a body corporate, acting for and on behalf of Arizona State University, Tempe Campus to execute an agreement outlining their obligations regarding cooperative public safety resources, duties and programs. **(Contract #2016-80)**

Fiscal Impact: No fiscal impact.

CONSENT AGENDA ITEMS REMOVED FOR SEPARATE CONSIDERATION:

- 5B5. **Contract with CHC Wellness to provide a wellness program to City employees.**

Councilmember Granville asked staff to explore partnering with various organizations to offer City employees merchant discounts in return for employee participation in exercise-related events, as part of the wellness program.

Motion by Councilmember Granville to approve agenda item 5B5; second by Vice Mayor Woods. Motion passed unanimously on a roll call vote 6-0.

- 5B5. Approved a one-year contract renewal with CHC Wellness to provide a wellness program offered to eligible City employees.

Fiscal Impact: Total cost of this contract will not exceed \$250,000 during the one-year renewal period beginning July 1, 2016. Sufficient funds will be budgeted in the Health Fund – cost center 4167 (Employees) – for the anticipated expenditures in the upcoming fiscal year.

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- 5C2. **Resolution authorizing the Second Amendment to a Lease with PKY FUND II PHOENIX II, LLC, 40 East Rio Salado Parkway.**

Mayor Mitchell stated that the developer has requested a revision to the language in Section 3. Rental, first sentence, to change the amount of the rental to \$200,000, as opposed to \$150,000.

Motion by Councilmember Granville to approve agenda item 5C2, as amended; second by Councilmember Schapira. Motion passed unanimously on a roll call vote 6-0.

- 5C2. Adopted **RESOLUTION NO. R2016.34** authorizing the Mayor to execute the Second Amendment to that certain Lease, *as amended*, between the City of Tempe, and PKY FUND II PHOENIX II, LLC, a Delaware limited liability company ("Parkway"), successor in interest to Hayden Ferry Lakeside, LLC, covering property located at 40 East Rio Salado Parkway. **(Contract #2000-63E2)**

Fiscal Impact: The Lease is scheduled to expire January 31, 2019; the Second Amendment to Lease extends the term by 2 years to January 31, 2021. During the extension, Parkway will pay the required excise tax rate and \$150,000 per year for the term of the two-year extension.

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 Corporate Job Bank, All About People, and Kelly Services for temporary staffing services.

There was no discussion on agenda item 6A1.

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

- 6A1. Approved the utilization of one-year State of Arizona contracts with Corporate Job Bank, All About People, and Kelly Services for temporary staffing services utilized throughout the City.

Fiscal Impact: The total combined cost of these three contracts shall not exceed \$2,000,000 during the one-year contract period. Sufficient funds have been appropriated in various funds and cost centers for the anticipated expenditures.

- 6A2. Contracts with Hunter Contracting Co. and C. Williams Construction Engineering, Inc. for water and sewer line replacement along Farmer Avenue from Broadway Road to First Street and along First Street to Mill Avenue.

There was no discussion on agenda item 6A2.

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

- 6A2. Awarded a construction manager at risk construction services contract to Hunter Contracting Co. (Contract #2016-81) and a professional services consultant contract to C. Williams Construction Engineering, Inc. (Contract #2016-82) for water and sewer line replacement along Farmer Avenue from Broadway Road to First Street and along First Street to Mill Avenue.

Fiscal Impact: The construction services contract amount is \$3,339,941.32, the professional services consultant contract amount is \$59,760, and the project contingency amount is \$335,000. A portion of the funds to cover these contracts and related costs are approved and appropriated in fiscal year 2015/16 Capital Improvement Project Nos. 3204969, Water System Rehabilitation or Replacement of Aging Infrastructure (\$800,000), and 3299969, Collection System and Pump Station Replacement and Repair (\$400,000). The balance is proposed to be funded in fiscal year 2016/17.

- 6A3. Resolution authorizing an Intergovernmental Agreement with Valley Metro to design, construct, and finance the Tempe Streetcar Project.

Motion by Councilmember Kuby to amend the last sentence of the Intergovernmental Agreement (IGA) with Valley Metro, Exhibit B, Page 4, 6.0 Propulsion System, to state: "The City has a strong preference to solutions that support off-wire systems for the greatest lengths feasible in the downtown area."

Don Bessler, Public Works Director, noted that he discussed several minor clarifications that Councilmember Kuby would like to see in the IGA with Valley Metro officials who have indicated that they are agreeable to the proposed changes.

Councilmember Schapira stated that he supports the proposed amendment, with the exception of the language "in the downtown area" because it is too limiting; he suggested removing that language from the proposed amendment. He would prefer to not have a high level of specificity in the IGA or the Request for Proposals (RFP).

Mr. Bessler stated that Valley Metro understands that it is the desire of the City Council to find the greatest ability for off-wire technology while limiting the risks, and that he does not that believe the suggested language would be of concern to Valley Metro officials. He stated that in order to proceed through the preliminary engineering phase and meet federal grant deadlines, the areas for off-wire technology need to be clearly identified. Mill Avenue and Ash Avenue have already been identified by the City Council as important areas to have off-wire capabilities. Having an overly broad RFP will slow down the design process. The more specific the IGA is regarding off-wire technology, the better the project will flow through the design and permitting processes.

Councilmember Schapira voiced concern that Valley Metro may predetermine the length of the off-wire section, prior to the RFP process.

Councilmember Kuby amended her previous motion to amend the last sentence of the Intergovernmental Agreement (IGA) with Valley Metro, Exhibit B, Page 4, 6.0 Propulsion System, to state: "The City has a strong preference to solutions that support off-wire systems for the greatest lengths feasible." Second by Councilmember Schapira.

Vice Mayor Woods stated that he supports the amendment, and asked staff how Valley Metro would view the amendment since Valley Metro has not had an opportunity to review the language.

Mr. Bessler stated that the amendment will likely be acceptable to Valley Metro. He emphasized the importance of City Council, City staff, and Valley Metro all having the same understanding of the off-wire technology preference. Judi Baumann, City Attorney, stated that the City Council could continue the matter of the amendment to the IGA to the next Regular City Council Meeting to allow additional time for the City to work with Valley Metro officials on the proposed language.

Councilmember Granville stated that there would be no benefit of having off-wire technology along Rio Salado Parkway, given the unknown amount of risk. He supports the amendment with the language "in the downtown area". Without that level of specificity, there could be a bidding conflict for the longest off-wire section. Councilmember Schapira discussed the importance of having that area being attractive and walkable. Councilmember Navarro stated that the IGA language could be revised to include "reliable technology".

Councilmember Kuby noted the term "feasible" has meaning as it relates to technology, and was the terminology used by The Center for Transportation and the Environment (CTE) to describe the wireless system and the route. The amendment would ensure that there is an option for wireless technology in the future. Mr. Bessler reiterated that he believes that the proposed amendment is not substantive enough for Valley Metro to re-examine the IGA.

The amended motion passed on a roll call vote 6-1 with Councilmember Granville voting no.

Councilmember Kuby proposed a second amendment the IGA, Exhibit B, Page 4, 6.2 Off Wire Technology. Currently it reads: "Off Wire Technology, if used, will be determined during the preliminary engineering phase of the project." The revised language would read: "The type of off wire technology will be determined at the conclusion of the vehicle selection process."

Mr. Bessler stated that this process includes additional time and emphasis placed on the vehicle selection portion of the project. The proposed language revision is acceptable to Valley Metro.

Second by Councilmember Schapira to approve the second amendment to the IGA language. Motion passed 6-1 on a roll call vote, with Councilmember Granville voting no.

Motion by Councilmember Schapira to approve agenda item 6A3, *as amended*; second by Vice Mayor Woods. Motion passed 6-1 on a roll call vote, with Councilmember Granville voting no.

- 6A3. Adopted **RESOLUTION NO. R2016.38** authorizing the Mayor to execute an Intergovernmental Agreement, *as amended*, between the City of Tempe and Valley Metro to design, construct, and finance the Tempe Streetcar Project. (**Contract #2016-83**)

Fiscal Impact: The Tempe Streetcar operations and maintenance costs will be covered by the Tempe Transit Fund. Estimated design, construction, and finance costs are projected to be approximately \$4.2 million; partially offset by fare box recovery and other possible agreements or revenue sources. The City is also obligated to \$13 million in capital funding which is anticipated to be reimbursed by impacted property owners.

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- B. Ordinances and Items for Introduction and First Hearing - None.

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- C. Ordinances and Items for Second Hearing and Final Adoption

- *6C1. 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 opened the public hearing. There was no discussion or public comment on agenda item 6C1. The public hearing was closed.

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

- *6C1. Held the second and final public hearing and adopted **ORDINANCE NO. O2016.19** 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.

Fiscal Impact: No impact on City funds.

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- *6C2. Ordinance authorizing the abandonment of a sewer line easement in the vicinity of Rural Road and Apache Boulevard to facilitate development of the project at 1000 East Apache Boulevard.

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

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

- *6C2. Held the second and final public hearing and adopted **ORDINANCE NO. O2016.20** 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.

Fiscal Impact: N/A

***6C3. 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 opened the public hearing.

Scott Price, Tempe, downtown merchant, read excerpts from a statement from the merchant community in support of the ordinance, and who are committed to raising \$100,000 over the next year to help the homeless. 70% of downtown businesses are owned and operated by community members, which contribute \$5 million annually in sales taxes. He discussed the increase in sidewalk sitting since the ordinance was reversed in November, 2014. The ordinance will address behaviors, and should be applied fairly to everyone. Merchants are requesting that the City address urban camping, littering, public consumption of alcohol, public urination and defecation, and aggressive panhandling; and, to direct more funds to agencies that can provide assistance.

Drew Sullivan, Tempe, spoke in opposition to the ordinance. He provided a quote from the writer Anatole France as follows: "It is not the fault of the homeless if business rent rates are too high or if a business model is unsuccessful."

Kelly Calvert, Tempe, spoke in support of the ordinance. He described being insulted and threatened by people sitting on downtown sidewalks and has observed public urination.

Rob Prosis, Tempe, spoke in support of the ordinance. He stated that he spends time at Tempe Marketplace as opposed to Mill Avenue, to avoid being harassed; the downtown has a stigma. He questioned how downtown businesses survive; the homeless act as store greeters. He questioned whether the City Council's loyalties lie with the residents, tourists, businesses, taxpayers, and University students or with the transients, homeless, drug users, and the mentally ill. It is the City's responsibility to consider the wellbeing of the entire City. He urged the City Council to explore what works in other cities so that those practices can be implemented in Tempe.

Erika Prosis, Tempe, spoke in support of the ordinance. She stated that the Mill Avenue district represents the soul of Tempe. Many of her friends and relatives will not visit Tempe due to bad experiences. This multi-faceted problem will not be solved by one ordinance. The ordinance will help to address the problem. It is not unreasonable to ask people not to sit on the sidewalk. Downtown businesses rely on the City to support their businesses. There is an outspoken minority on this issue; the silent majority spends their money elsewhere.

Sarah R. (*last name not provided*), Tempe, spoke in opposition to the ordinance. She stated that the ordinance is a step backwards for Tempe; it is the opposite of a progressive policy. Arizona is viewed as a racist and homophobic state. She urged the City Council to address the causes of homelessness on Mill Avenue. This ordinance will relocate homeless individuals into neighborhood parks, placing the burden in neighborhoods. Homeless individuals have been sitting on Mill Avenue for many years. She questioned the reasons why visitors are not coming to Mill Avenue.

Josh Smusz, Tempe, spoke in opposition to the ordinance. He stated that he will ensure that businesses that support this ordinance close this summer.

Megan McCluskey, Tempe, spoke in opposition to the ordinance. She stated that this ordinance will disproportionately and unfairly target the homeless, whose voices are not heard. The ordinance is not the only solution to the problem.

Dustin Short, Tempe, spoke in opposition to the ordinance. The City promotes that it is friendly to people that have dementia and the lesbian, gay, bisexual, and transgender community. These individuals are disproportionately impacted by having a higher representation within the homeless community.

Darlene Justus, Tempe, spoke in opposition to the ordinance. She stated that there is a problem on Mill Avenue. The benches that were removed on Mill Avenue to combat this issue should be replaced. Although the City supports many homeless programs and agencies, housing should be considered as a possible solution. Many of these people are assisted in surrounding jurisdictions, although they feel that Tempe is their community and they do not want to be relocated.

Chad Wilford, owner of Fat Tuesday on Mill Avenue, spoke in support of the ordinance. His customers are being driven away by the behaviors of people on Mill Avenue, regardless of whether they are homeless or not. Panhandling and sidewalk sitting are separate issues from the homeless problem. The business community is committed to raising money to help fund programs to provide for those in need. Business owners should not have to sacrifice their rights in order to allow people to do whatever they want in front of downtown businesses.

Moonshadow, Phoenix, works in downtown Tempe, spoke in support of the ordinance. She stated that sitting or lying on the sidewalk does not help these individuals. Sidewalks are public rights of way. It is a public nuisance when someone in a wheelchair or a parent with a stroller has to move around someone that is sitting or sleeping on the sidewalk.

Danny Foreman, Gilbert, works in Tempe, spoke in support of the ordinance. He is concerned for the human dignity of everyone involved. Helping these individuals, versus relocating them, is needed. This ordinance can be used as a tool for intervention and to offer programs to individuals in need. The City may need to look for larger scale solution.

Mayor Mitchell closed the public hearing.

Councilmember Kuby stated that Councilmembers consider facts and data in order to make informed decisions. Laws impact public safety and economic development. She discussed downtown crime data provided by the Tempe Police Department from January to March, 2016, relating to the area affected by the ordinance. The data does not support the claims that have been made regarding homeless activity. Downtown sales taxes for fiscal years 2013 – 2015/16 rose by 20%. Revenue is increasing in the downtown disproportionately, compared to other regions of the City; the vacancy rate for commercial office space is also low.

Councilmember Kuby continued, discussing the existing law in the Tempe City Code (City Code) regarding aggressive panhandling and noted that a sidewalk sitting ordinance will not stop aggressive panhandling activity, which is a Class 1 misdemeanor. The City Prosecutor has indicated that individuals can be prosecuted based on witness testimony; the police do not have to witness the violation in order for an arrest to be made. The City Code also states that it is unlawful for any person to use the sidewalk for lying, sleeping, or otherwise remaining in a sitting position in a way that impedes the right of way or causes a safety risk. No citations have been issued since the City Code was amended in 2014. There are laws such as criminal littering and creating obstructions that do not target a specific socio-economic status. The homeless are not routinely suspects in violent or petty crimes; homeless individuals are 13 times more likely to be victims of a violent crime than the general public, and 67% have been victims of theft compared to 1.4% of the general public. The focus should be on behavior, versus creating a new law. She urged the City Council to commit to the continuous engagement of the homeless population within the community; to work with City departments, the Tempe Community Action Agency (TCAA), and various non-profit organizations; and, to look at the Housing First program, to break the cycle of chronic homelessness. She discussed the decrease in TCAA funding and stated that the City is not adequately addressing the increasing need for social and human services. She asked Councilmembers to consider scheduling a Town Hall on the issue of homelessness to explore addressing this regional issue in a holistic manner. She stated that she will be voting no on the proposed ordinance.

Vice Mayor Woods commended Councilmember Kuby on her passion for this issue. He believes that the City can consider a sidewalk sitting ordinance, while continuing to support human services agencies. As a former member of TCAA, he stated that TCAA does an exceptional job in providing human service programs. He noted that he has also worked with the Tumbleweed Center on their outreach efforts. In 2010, Tempe partnered with the Valley of the Sun United Way, to implement a Housing First model to house over 31 homeless individuals. The City could do more to support these types of programs. The proposed ordinance is not as strict as the original ordinance. The criminal statistics that Councilmember Kuby provided demonstrate that the Tempe Police Department is not unfairly targeting the homeless population. He is confident that the Police Department and the City Court will fairly administer the ordinance. This ordinance is about behavior; it is not a social class issue.

Motion by Councilmember Navarro to approve agenda item 6C3; second by Councilmember Arredondo-Savage.

Mayor Mitchell stated that the City and the community support human and social service programs. There is a much larger social issue that needs to be addressed. This ordinance does not limit anyone from standing on a corner or sitting on a bench; it targets people that are sitting or lying down on the sidewalk. This ordinance will not result in a criminal citation. The City will continue to work with community partners to help those in need. He discussed the citation data for the past 15 years.

Councilmember Kuby stated a Police Officer is more likely to issue a civil violation rather than a criminal violation, as there is less of an impact to an individual with a civil violation. She feels there will be a lot more civil complaints filed with the passage of this ordinance. She noted that Tempe has held constant with human services funding during times when other cities cut their funding.

Councilmember Arredondo-Savage spoke in support of the ordinance. She stated that the City has done a good job to help everyone in Tempe, not just those in need, but those who have concerns as well. She commended the business community for raising funds for this cause. This is an opportunity to make changes. The City will continue to work with community stakeholders. The Police Department Crisis Intervention Team is continuing to train and will be able to offer assistance to those in need. This ordinance is a middle ground to change behaviors in the downtown.

Councilmember Granville spoke in support of the ordinance. He stated that he is concerned about the lack of records regarding who may be targeted with this ordinance. He voiced support for the Police Department; however, he would want the ordinance to be revisited if there is evidence of unfair enforcement.

Councilmember Schapira noted that downtown businesses have concerns regarding the poor response times by the Police Department to calls for theft, harassment, or inappropriate behavior. The Police Department has indicated that adding another law would increase police response times. He feels that this ordinance is not a solution or a sound policy.

Councilmember Navarro stated that police officers respond to calls relating to behavior; this is not a homeless issue. He works with the homeless on a daily basis; this can be a tool for fire and police personnel to connect the homeless with resources. He thanked the merchants for volunteering to raise funds to help the homeless.

Motion passed on a roll call vote 5-2, with Councilmembers Kuby and Schapira voting no.

- *6C3. Held the second and final public hearing and adopted **ORDINANCE NO. O2016.21** amending Chapter 29, Article V, of the Tempe City Code relating to sitting or lying down on public sidewalks in the downtown commercial district.

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

- *6C4. **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 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.**

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

Motion by Vice Mayor Woods to approve agenda item 6C4; second by Councilmember Navarro. Motion passed unanimously on a roll call vote 7-0.

- *6C4. Held the second and final public hearing and adopted **ORDINANCE NO. O2016.22** 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.

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

- *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.**

Charles Huellmantel, applicant representative, stated that it is his understanding that there may be a request to continue agenda item 6C5.

Councilmember Arredondo-Savage requested additional time to review the design changes and to work with the developer to address concerns about the project. Councilmember Granville voiced concern about feedback fatigue from residents. His preference is for this to be the last continuance that is granted.

Judi Baumann, City Attorney, asked for a specific date for the continuance to allow for revisions to be provided to the City Council and to the public.

Motion by Councilmember Arredondo-Savage to continue agenda item 6C5 to the April 21, 2016, Regular Council Meeting; second by Vice Mayor Woods.

Councilmember Kuby stated that she would like to see a schematic that shows the context of the development in relation to Farmer Avenue. Mr. Huellmantel agreed to provide the requested schematic.

Mayor Mitchell expressed his concerns regarding the density and height of the project. The City owns the land. In 2007, several parties made proposals to the City, with Mr. Huellmantel being awarded the RFP based on certain stipulations in the PAD. He stated the importance of looking at all of the parcels, in their entirety. He questioned what the proposed development will be for Parcel 4, which is currently zoned for 50 dwelling units per acre. The development of individual parcels has a bearing on the rest of the projects to be developed throughout the Farmer Arts District.

Councilmember Kuby discussed the importance of public participation and how that may assist the developer in making changes to the project.

Mayor Mitchell opened the public hearing.

Dr. Ernesto Fonseca, Tempe, stated that he would like to see the plans before expressing an opinion with regard to the density and height of the project.

Charles Lee, Tempe, spoke in support of the project.

Drew Sullivan, Tempe, spoke in opposition to the project. He stated that three Councilmembers support this development project, despite opposition from neighbors who have demanded that this project conform to the voter ratified General Plan 2040. He is aware that Huellmantel and Affiliates are from Tempe and have connections to the City. The developers have not listened to residents' concerns on the project size, density, traffic, and affordability. The project does not serve as a buffer to the downtown. Even though the developers are frustrated by the limitations of the General Plan, they should have to abide by the General Plan.

Mayor Mitchell read into the record that Scott Price supports the project.

Charles Goffnett, Tempe business owner, stated that he shares the concerns of the downtown business community. Density will increase the population downtown, which is needed for businesses to succeed. The City should demand quality products from developers, quality materials, and appropriate amounts of shade. He urged the City Council not to deny projects based on density and height alone, but instead to welcome density. People who live in close proximity to their work do not use vehicles; they eat, shop, and use services that are near their homes.

Debra Zajac, Tempe, spoke in opposition to the project. She stated that she is concerned with the impact of all of the development in the area. She questioned why the project needs to be so large and dense in order to be profitable. The City owns this property and does not need to accept a project that is not suitable. Businesses should factor the slow summer months into their business plan.

Jordan Schell, Tempe, spoke in support of the project and the developers. If the City decides to not build high rises or offices at this location with its proximity to downtown, then there should be a discussion about not building anything.

Larry Djinis, Tempe, spoke in support of the project. He stated that people are becoming more engaged in their communities because of the growth in downtown. People want an urban lifestyle that includes a walkable, bike friendly area that is close to work, amenities, and public transportation.

John Kane, Tempe, spoke in opposition to the project. He discussed the importance of the project supporting the entire district and what density should look like on Farmer Avenue. Creating a pedestrian experience is important. Half of the site is a parking garage. He is concerned about the project transition of scale.

Karyn Gittis, Tempe, spoke in opposition to the project. She stated this land is important. She is concerned about the project density and the traffic that the project will generate. She expressed appreciation for Mr. Huellmantel's work and suggested including the property in the Character Area Plan process; this community effort could include Mr. Huellmantel's participation in considering density that does not overpower the surrounding area. There are many new projects along University Drive.

Mario Martinez, Tempe, spoke in opposition to the project. He stated that he would support a continuance of this item in order to reach a compromise. The project is too dense and is next to a residential area. The Riverside Neighborhood Association would like this project to be no higher than seven stories in height.

Dustin Short, Tempe, spoke in opposition to the project. He expressed disappointment that this item is being continued. He is concerned about corruption because at the time the project was awarded, the applicant was engaged to a Councilmember. Vice Mayor Woods clarified that at the time the RFP was granted in 2007, the applicant and Councilmember were not involved. The Councilmember in question recused herself from any matters relating to Mr. Huellmantel.

Mr. Short referred to the multiple continuations of this development granted by Councilmembers. Councilmembers also approved a five-year extension after a new plan was presented to the Development Review Commission. He questioned why the City is only working with one applicant; it has been a decade with nothing having been built on this property.

Councilmember Navarro explained that the City has granted a variety of extensions for projects located on City-owned property. This also occurs with various other projects and developers. Mayor Mitchell added that the extension was based on the premise of the previously approved plan, not the plan currently under consideration.

Todd Green asked Councilmembers how the public input provided to date is impacted by a continuance. Councilmember Arredondo-Savage stated that she welcomes public input, including the possibility of scheduling a neighborhood meeting; additional time to explore other options may be helpful to the City Council and the community. She expressed concern about developers submitting project changes late in the process; there are times when projects improve with more density. Mr. Green expressed concern about the sustainability of the existing housing stock. When the density is lowered, it creates an income stream for property investors that benefit from infrastructure improvements and transit options. He questioned the sense of urgency to approve this project and noted that the City Council has already approved many multi-family housing projects.

Mayor Mitchell closed the public hearing and questioned if continuing this item to the April 21, 2016, Regular Council Meeting, would allow adequate time to hold a neighborhood meeting.

Councilmember Arredondo-Savage withdrew her motion to continue the item to the April 21, 2016, Regular Council Meeting; Vice Mayor Woods withdrew his second. Mr. Huellmantel agreed to participate in a neighborhood meeting.

Councilmember Kuby stated that she supports a continuance and requested additional information regarding what the public amenity value is for this project, including what the cost to the City is, and what the value of the land is to the State.

Motion by Councilmember Arredondo-Savage to continue agenda item 6C5 to the May 12, 2016, Regular Council Meeting and to schedule a neighborhood meeting with City staff, the applicant, and neighborhood residents; second by Vice Mayor Woods. Motion passed unanimously on a roll call vote 7-0.

- *6C5. *Continued to the May 12, 2016, Regular Council Meeting* a 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. *(This item was continued from the March 17, 2016 Regular Council Meeting)* (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.**

Charles Huellmantel, applicant representative, provided a PowerPoint presentation and reviewed the history of the land located at 401 South Farmer Avenue, compared to the current proposed project. The parcel is located close to the light rail, bus routes, and the future streetcar. Office and retail space has been added to the ground floor of the building and the parking garage. Mr. Huellmantel reviewed the floor, site, landscape, and elevations plans, and the pedestrian and multi-use pathways.

Matthew Mooney, Parkway Properties (Parkway) representative, discussed the partnership between Parkway and the City of Tempe on the Hayden Ferry Lakeside and Tempe Gateway projects, and noted that the office vacancy rates in downtown Tempe are among the lowest in the country. The market demand is for mid- to low-rise office products. The proposed building is designed to integrate unique retail and co-working uses in a pedestrian-friendly environment.

Mr. Huellmantel read the following stipulation into the record: "The approval of the landscape plan for Tract A of Farmer Arts District, Parcel 2, will be withdrawn from the remainder of this approval. After working with the City, Salt River Project (SRP), and Union Pacific Railroad, in good faith, the applicant shall submit for approval of the landscape plan by the Development Review Commission. The applicant agrees that SRP's consent to this proposed stipulation does not waive any of SRP's rights, and that the applicant shall not make any claim or argument that SRP is estopped from disputing the applicant's rights as related to SRP's easement rights." Mr. Huellmantel stated that this stipulation has been reviewed with the City Manager and the City Attorney.

Michael O'Connor, Associate General Manager and Chief Legal Executive, SRP, stated that the stipulation is acceptable to SRP.

In response to questions from Councilmember Kuby, Mr. Huellmantel stated that Arizona Public Service (APS) will provide service to the project; however, SRP owns and operates the transmission lines on the east side of the property. He stated that he will consult with his partners regarding solar project components. Councilmember Kuby noted there is a 30% tax credit extension and an accelerated depreciation rule for commercial solar projects.

Mayor Mitchell opened the public hearing.

Mayor Mitchell read into the record that Charles Lee supports the project.

Scott Marohnic, Tempe property owner, spoke in support of both the Farmer Arts District projects, which will benefit the community. He voiced concern about the loss of surface parking for the Parcel 2 project. He has spoken with the applicant about opening the parking garage to the public on evenings and weekends. He asked the City Council to consider a stipulation that the parking garage be open for public use on evenings and weekends. The alignment of Farmer Avenue will shift the parallel parking from the west side to the east side of Farmer Avenue, further decreasing the amount of parking options.

John Kane, Tempe, spoke in opposition to the project. He displayed a diagram of the original Planned Area Development (PAD) from 2007. At that time, the density was approximately 50 units per acre; the plan was for creative class office space and was residential/pedestrian-centric. The proposed large floor plan and parking garage are more vehicle-centric. Locating a parking garage across the street from residential development is not appropriate.

Tim Palmer, Tempe, spoke in support of the project. He noted that traffic is a concern in Tempe and that there is a need for a paradigm shift about traffic movement in Tempe. In response to a Councilmember questioning if Mr. Palmer had any recommendations on how to improve traffic flow, Mr. Palmer stated that there is a need to manage growth more effectively; density impacts traffic flow.

Scott Price, Tempe, spoke in support of the project. He would like to see some compromise so that the project can move forward. Empty lots are not good for the City.

Mayor Mitchell closed the public hearing.

In response to questions from Councilmembers, Mr. Huellmantel stated there will be approximately 700 parking spaces, and it is the developer's intent to make parking available to the public through the ParkiT system, for a fee. Mr. Mooney discussed the design of the building and stated that the two types of industries with the most growth in downtown Tempe are financial services and technology companies. Mr. Huellmantel noted that the parking garage contains office space which will belong to the City; much of the ground floor will be restaurant space with a pedestrian atmosphere. Four sides of the building will have shade and landscaping. Councilmembers indicated a desire for the developer to incentivize the tenants to use the light rail and the future streetcar. Matt Mooney stated that people are increasingly utilizing bikes, light rail, Valley Metro transit, and the Orbit system.

Mayor Mitchell commended Mr. Huellmantel, Mr. Mooney, and Todd Marshall for their work in Tempe. He stated that Farmer Avenue is a very narrow street to accommodate the anticipated increase in traffic. In 2007, Mr. Huellmantel was awarded the RFP for development of this City-owned land based on certain stipulations, and the price of the land was based on the project that was originally proposed. Since that time, the project has increased in density, without renegotiating the price of the land. It is important for the City to get the maximum value for this property. Tempe is landlocked and has few vacant parcels left to develop; it is important to get this project done right. He stated that he supports urban density; however, it is unclear what the right amount of density should be. What is built on Parcel 1 will impact what is built on the remaining parcels in the Farmer Arts District.

Councilmember Kuby discussed her concerns about the walkability and the amount of parking on this small street. Vice Mayor Woods stated that he feels that the parking garage will provide ample parking for the offices, extra parking for neighborhood residents, and parking for downtown events.

Councilmember Navarro stated that while he supports the height and density, he also wants what is appropriate for the area. Tempe is a strategically located urban city and with that comes an increase in traffic as well as an increase in various modes of transportation. The parking garage also offers parking options for Parcel 1. Phoenix has seen significant development activity next to one of its historical neighborhoods. This is a good project that is logically defined.

Brigitta Kuiper, City Clerk, clarified that staff has requested that the City Council vote on the Amended PAD separately from the Development Plan Review, and that the motion for the Amended PAD include the stipulation as read into the record by Mr. Huellmantel.

Motion by Councilmember Schapira to approve the Amended PAD, with the additional stipulation as read into the record; second by Vice Mayor Woods. Motion passed on a roll call vote 5-2 with Mayor Mitchell and Councilmember Kuby voting no.

Motion by Vice Mayor Woods to approve the Development Plan Review; second by Councilmember Schapira. Motion passed on a roll call vote 5-2 with Mayor Mitchell and Councilmember Kuby voting no.

- *6C6. Held the second and final public hearing and adopted **ORDINANCE NO. O2016.18**, for an Amended Planned Area Development Overlay *with an additional stipulation*, and approved 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. *(This item was continued from the March 17, 2016 Regular Council Meeting)*

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.

7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

Councilmember Granville

- Friday, April 29, 2016 – Arbor Day 5K event; proceeds will benefit the Trees for Tempe program.

Councilmember Schapira

- Tempe has been chosen by the Institute for Childhood Success to receive \$80,000 to \$175,000 worth of technical assistance for a pilot program and a feasibility study. He thanked Councilmember Navarro and Mayor Mitchell for their participation, as well as the Tempe Elementary School District and Childsplay for partnering with the City.

Councilmember Kuby

- Saturday, April 9, 2016 – Thanked everyone involved in the Tempe Community Action Agency Walk for the Homeless event. Congratulated Rosemary Schapira for her participation in a 5K race.
- Sustainability Circle events: Changing Hands Bookstore, Wednesday, April 20, 2016; Eisendrath House, Saturday, April 23, 2016; and, Boulders on Broadway, Wednesday, April 27, 2016.
- Friday, April 22, 2016 – “A” Mountain Restoration Earth Day event.
- Tuesday, April 12, 2016 – Equal Pay Day. Tempe is moving forward with an equal pay initiative which will include a business self-assessment tool, workshops, and website information.

Vice Mayor Woods

- Friday, April 15, 2016 – Blaze Pizza event, 105 W. University Drive.
- Thanked Councilmembers Granville and Kuby, City staff, and various individuals for their assistance with the Adaptive Reuse Program.

Councilmember Navarro

- Thanked Councilmember Schapira for his work on the Early Childhood pre-kindergarten grant.
- Thanked Councilmember Kuby on her assistance with the Java with Joel sustainable discussions.
- Happy Birthday to his daughter; congratulated her on her athletic achievements.

Mayor Mitchell

- Saturday, April 16, 2016 – State of the Neighborhoods Awards and Workshops, Tempe History Museum.

8. PUBLIC APPEARANCES

A. Scheduled – None.

B. Unscheduled – None.

The meeting adjourned at 9:39 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 April 14, 2016, by the Tempe City Council, Tempe, Arizona.

Mark W. Mitchell, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk