



Minutes Regular City Council Meeting June 9, 2016

Minutes of the Regular Council Meeting of Thursday, June 9, 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

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
Alex Smith, Deputy Community Dev. Dir. – Special Projects

Mayor Mitchell called the meeting to order at 6:03 p.m.

1. Councilmember Schapira 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 Kuby to approve agenda item 3A1; second by Vice Mayor Woods.
Motion passed unanimously on a voice vote 7-0.**

1. Executive Session - May 12, 2016 and May 23, 2016

B. Acceptance of Board, Commission and Committee Meeting Minutes

**Motion by Councilmember Kuby to accept agenda items 3B1 – 3B4; second by Vice Mayor Woods.
Motion passed unanimously on a voice vote 7-0.**

1. [Board of Adjustment - April 27, 2016](#)
2. [Hearing Officer - May 3, 2016](#)
3. [Historic Preservation Commission - February 11, 2016, March 10, 2016](#)
4. [Historic Preservation Committee Archaeologically Sensitive Classification Subcommittee - April 9, 2015](#)

4. REPORTS AND ANNOUNCEMENTS

A. Mayor's Announcements

1. United Arizona Employee's Association (UAEA) Educational Scholarship

Mayor Mitchell invited Leah Sergeant, United Arizona Employee's Association (UAEA) Communications Coordinator to the podium and announced that Taylor Diaz, daughter of Alicia Diaz, and Carmen Bermudez, daughter of Hilda and Victor Bermudez, have each been awarded a UAEA Scholarship.

B. City Manager's Announcements

Andrew Ching, City Manager, welcomed recently hired Ralph Remington, Deputy Community Services Director – Arts/Cultural, to the City of Tempe.

5. CONSENT AGENDA

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

Judi Baumann, City Attorney, clarified that on agenda item 5B18, the effective date of Judge Kevin Kane's two-year appointment as Presiding Judge of the Tempe Municipal Court is July 18, 2016, not July 8, 2016, as indicated on the agenda.

Motion by Councilmember Arredondo-Savage to approve the consent agenda with the exception of agenda item 5A3, which was removed for separate consideration, and agenda item 5A5, which was removed/deleted from the agenda; second by Councilmember Schapira. Motion passed unanimously on a roll call vote 7-0.

A. Miscellaneous Items

5A1. [Approved a Final Subdivision Plat for SALT, located at 260 East Rio Salado Parkway. The applicant is Huellmantel & Affiliates.](#)

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

5A2. [Authorized the Mayor to execute a Wired Telecommunications License and Right-of-Way Use Agreement between McLeodUSA Telecommunications Services, LLC, dba Paetec Communications, LLC and the City of Tempe. \(Contract #2016-117\)](#)

Fiscal Impact: N/A

5A3. **[THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.](#)** [Approve the Leadership in Community Resilience Program grant offered by the National League of Cities.](#)

***5A4.** [Held a public hearing and recommended the approval of a series 12 restaurant liquor license for Devil's Tower LLC, dba San Tan Flat@Minder Binder, 715 South McClintock Drive.](#)

Fiscal Impact: N/A

***5A5.** **[REMOVED/DELETED AT THE REQUEST OF STAFF](#)** ~~Hold a public hearing to recommend the approval of a series 12 restaurant liquor license for Nickels & Dimes Inc., dba Tilt Studio, 5000 South Arizona Mills Circle, Suite 669.~~

- *5A6. [Held a public hearing and recommended the approval of a series 12 restaurant liquor license for LCT Café Inc., dba Asian Fusion Café, 725 South Rural Road, Suite 103.](#)

Fiscal Impact: N/A

B. Award of Bids/Contracts

- 5B1. [Approved an increase of the contract amount with London Bridge Marine Corporation to purchase phase II enhancements to the docks recently replaced on the south shore of Tempe Town Lake.](#)

Fiscal Impact: Total spending on this contract will not exceed \$274,500 and will increase the contract value from \$268,000 to \$274,500, an increase of \$6,500. This additional cost is part of the Phase II upgrades which is budgeted in the Park Improvement/Recreation Capital Improvement Project Fund for fiscal year 2016/17 and, if approved by City Council, would be implemented in the next fiscal year.

- 5B2. [Approved the utilization of one-year State of Arizona contracts with Sunbelt Rental, Empire Southwest, Neff Rental, and Hertz Equipment Rental for tool and equipment rental.](#)

Fiscal Impact: Total cost of this contract will not exceed \$100,000. Sufficient funds have been appropriated in the various funds and cost centers citywide for the anticipated expenditures.

- 5B3. [Approved the utilization of one-year State of Arizona contracts with Borders Turf and Tractor, Bingham Equipment Company, John Deere Company, Simpson Norton Corporation, and A to Z Equipment for the purchase of grounds keeping, golf and sports field maintenance equipment used by the Public Works Department.](#)

Fiscal Impact: Total combined cost of these contracts will not exceed \$150,000. Sufficient funds have been appropriated in the General Fund in various cost centers for the budgeted expenditures in fiscal year 2016/2017.

- 5B4. [Approved the utilization of a one-year National Intergovernmental Purchasing Alliance contract issued by the City of Tucson to The Toro Company, represented locally by Simpson Norton Corporation, for the purchase of grounds keeping, golf and sports field maintenance equipment used by the Public Works Department.](#)

Fiscal Impact: Total cost of the one-year contract will not exceed \$205,000. Sufficient funds have been appropriated in the General and Golf Funds in various accounts for the budgeted expenditures in fiscal year 2016/2017.

- 5B5. [Approved a one-year contract renewal with Symetra Life Insurance Company to provide Stop Loss Insurance.](#)

Fiscal Impact: Total cost of this contract will not exceed \$750,000 during the one-year renewal period beginning July 1, 2016. Sufficient funds will be appropriated in the Health Fund – cost centers 4167 (Employees) and 4169 (Cobra Participants) – for the anticipated expenditures in fiscal year 2016/2017.

- 5B6. [Approved a one-year contract renewal with Crafcoc, Inc. for the purchase of asphalt crack sealing compound.](#)

Fiscal Impact: Total cost of this one year contract will not exceed \$150,000. Sufficient funds have been appropriated in the Highway User Revenue Fund – cost center 3813 (Construction) – for the anticipated expenditures.

- 5B7. [Approved a one-year contract renewal with The Environmental Quality Company to provide hazardous materials trained personnel to assist with material collection, segregation and labeling at the City's Household Products Collection Center and any special hazardous waste collection events sponsored by the City.](#)

Fiscal Impact: Total cost of this contract will not exceed \$100,000. Sufficient funds have been appropriated in the Solid Waste Fund – cost center 3721 (Hazardous Material Safety) – for the anticipated expenditures.

- 5B8. [Approved the one-year renewal of contracts with Bustamante & Associates; Gabriel & Ashworth; Green & Baker; Gust Rosenfeld; lafrate & Associates; Kutak Rock; Littler Mendelson; Dickinson Wright; Diane M. Miller; Sanders & Parks; Sims Murray; Roger Spencer; and Struck Wieneke & Love to provide legal representation in the event that the use of outside legal counsel becomes necessary.](#)

Fiscal Impact: Total cost of these 13 contracts will not exceed \$350,000 during the one-year renewal period. Sufficient funds have been appropriated in the Risk Management Fund – cost center 2611 (Liability Claims/Risk) – and the General Fund – cost center 1710 (Legal Services) – for the anticipated expenditures. For representation other than litigation, fees shall be charged back to the department for which services are rendered.

- 5B9. [Approved a one-year contract renewal with Sun Country Truck Equipment for the purchase of utility truck bodies.](#)

Fiscal Impact: Total cost of this one-year contract will not exceed \$200,000. Sufficient funds have been budgeted in various funds and cost centers for the anticipated expenditures.

- 5B10. [Approved one-year contract renewals with ACT Towing, LLC dba All City Towing, Apache Sands Service Center, Inc., and Towing Professionals of Arizona, Inc. for vehicle towing services.](#)

Fiscal Impact: Total combined cost for City fleet tows shall not exceed \$30,000 during the one-year renewal period. Costs associated with Police initiated tows are the responsibility of the vehicle owner with a combined annual estimated market value of \$1,025,000. For costs incurred by the City, sufficient funds have been budgeted in the General Fund – cost center 3262 (Fleet Maintenance) – for the anticipated expenditure in the 2016/2017 fiscal year.

- 5B11. [Approved one-year contract renewals with Scott McAlister \(Division I\), Robert A. Butler \(Division II\), and Samantha Herd \(Division III\) to provide public defender representation for indigent defendants whose cases are filed with the City of Tempe Municipal Court.](#)

Fiscal Impact: Total combined cost of these contracts will not exceed \$300,000 during the one-year contract period. Sufficient funds have been budgeted in the General Fund – Cost Center 1410 (Judicial Division – Administration) – for the anticipated expenditures.

- 5B12. [Approved a thirty-one month sole source contract renewal for software maintenance and support services with Environmental Systems Research Institute for computer-based mapping software that is used City-wide through the Enterprise Geographic Information System. \(Contract #2016-119\)](#)

Fiscal Impact: Total cost of this contract will not exceed \$415,576 during the thirty-one month contract period. Sufficient funds have been appropriated in General Fund cost center 1991 (IT Administration) for the anticipated expenditures. The City will pay for software maintenance and support services on an annual basis.

- 5B13. [Approved a one-year sole source contract renewal for software maintenance and support services with TSC America, dba TATA American International, for the City's business/privilege tax software system.](#)

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

- 5B14. [Awarded a professional services consultant contract to Gannett Fleming, Inc., for structural investigation services at Johnny G. Martinez and South Tempe Water Treatment Plants. \(Contract #2016-120\)](#)

Fiscal Impact: The professional services consultant contract amount is \$463,785. Funds to cover this contract were approved and are appropriated for fiscal year 2015/16 in Capital Improvement Project No. 3207879, Water Treatment Plants - Concrete Structures Condition Assessment.

- 5B15. [Awarded job order no. 10 to CSW Contractors, Inc. for emergency repair of a 6-inch waterline leading from the water distribution main within Mill Avenue near 14th Street to Tempe St. Luke's Hospital.](#)

Fiscal Impact: The total job order amount is \$70,838.11. 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.

- 5B16. [Awarded job order no. 5 to Sunland, Inc. – Asphalt & Sealcoating for resurfacing of the parking lots at the Tempe Sports Complex and Police Substation at 8201 South Hardy Drive.](#)

Fiscal Impact: The total job order amount is \$160,722.82, and the project contingency amount is \$15,000. Funds to cover this job order contract and related costs are appropriated for fiscal year 2015/16 in Capital Improvement Project No. 5407791, City Facility Parking Lots.

- 5B17. [Awarded a contract to Benjamin Victor for a permanent, public art project, for a Tempe Public Safety Memorial located within Tempe Beach Park. \(Related to agenda item 5C3\) \(Contract #2016-121\)](#)

Fiscal Impact: Total cost of the contract is \$350,000 and will be paid from matching funds of \$175,000 from private donations and City funds of \$175,000. Sufficient funds have been appropriated in Police Protection Capital Improvement Project Fund cost center 5507709 - Public Safety Memorial for the anticipated expenditures.

- 5B18. [Approved the two year appointment of Judge Kevin Kane as Presiding Judge of the Tempe Municipal Court, effective July 18, 2016, and authorized the Mayor to sign the agreement. \(Contract #2016-122\)](#)

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

- 5B19. [Approved the 17-day Employment Agreement Addendum for MaryAnne Majestic as Presiding Judge, for the period of July 1, 2016 to July 17, 2016. \(Contract #2012-57A\)](#)

Fiscal Impact: The estimated cost for salary and benefits for the Presiding Judge position for 17-days is \$10,557. Sufficient funds have been allocated in the General Fund budget for this position.

C. Resolutions

- 5C1. [Adopted RESOLUTION NO. R2016.54 approving a grant from the Arizona State Library for a new Library Services and Technology Act Grant and authorizing the use of such grant funds.](#)

Fiscal Impact: The amount of the grant award is \$15,000 in federal funds. Acceptance of this grant does not require any matching city funds. Sufficient budget appropriation for expenditure of this grant is authorized in the Governmental Grants (Fund 46) as part of the FY 2015-16 adopted budget.

- 5C2. [Adopted RESOLUTION NO. R2016.55 approving the naming of the John Gannon Literacy Center within the Tempe Public Library.](#)

Fiscal Impact: No fiscal impact.

- 5C3. [Adopted RESOLUTION NO. R2016.59 authorizing the Chief of Police or designee\(s\), to approve a contribution from the Tempe Police Foundation in the amount of \\$183,000 for the Public Safety Memorial. \(Related to agenda item 5B17.\)](#)

Fiscal Impact: The amount of the contribution is \$183,000. Sufficient budget appropriation for expenditures of this contribution is authorized in the Capital Improvement Project No. 5507709 (\$175,000), Public Safety Memorial and in the Police Grant and Restricted Revenue Fund, Fund 45 (\$8,000) as part of the fiscal year 2015-16 adopted budget.

- 5C4. [Adopted RESOLUTION NO. R2016.60 authorizing the approval of the 2015 Maricopa County Multi-Jurisdictional Multi-Hazard Mitigation Plan to address the mitigation of naturally occurring hazards in Tempe.](#)

Fiscal Impact: Although the Plan references efforts and plans managed by the Water, Engineering, Transportation and Fire Departments, it does not impose any requirements other than are already outlined in the various department's approved Capital Improvement Projects and operating budgets. There is no fiscal impact directly and solely related to this plan.

- 5C5. [Adopted RESOLUTION NO. R2016.61 authorizing the Memorandum of Understanding between the United Arizona Employees Association and the City of Tempe, effective July 1, 2016 to June 30, 2021. \(Contract #2016-123\)](#)

Fiscal Impact: This Memorandum of Understanding includes increases in compensation consistent with the 2016-2021 long range budget forecast for increases in total personnel costs.

- 5C6. [Adopted RESOLUTION NO. R2016.63 authorizing the Addendum dated May 27, 2016 to the Memorandum of Understanding between the Tempe Officers Association and the City of Tempe, effective July 1, 2014 to June 30, 2017. \(Contract #2014-124A\)](#)

Fiscal Impact: This Memorandum of Understanding includes increases in compensation consistent with the 2016-2017 fiscal year budget provisions for increases in total personnel costs.

- 5C7. [Adopted RESOLUTION NO. R2016.64 authorizing the Memorandum of Understanding between the Tempe Firefighters' Unit and the City of Tempe, effective July 1, 2016 to June 30, 2019. \(Contract #2016-124\)](#)

Fiscal Impact: This Memorandum of Understanding includes increases in compensation consistent with the 2016-2019 long range budget provisions for increases in total personnel costs.

CONSENT AGENDA ITEM REMOVED FOR SEPARATE CONSIDERATION:

5A3. Leadership in Community Resilience Program grant.

Councilmember Kuby acknowledged Public Works Director Don Bessler for his leadership in obtaining \$10,000 of grant funding. The funding will help to ensure that Tempe's infrastructure is resilient to climate change impacts, economic dislocation, and social and environmental vulnerabilities.

Motion by Vice Mayor Woods to approve agenda item 5A3; second by Councilmember Arredondo-Savage. Motion passed unanimously on a roll call vote 7-0.

5A3. Approved the Leadership in Community Resilience Program grant offered by the National League of Cities. **(Contract #2016-118)**

Fiscal Impact: The amount of the grant award is \$10,000. Sufficient budget appropriations for expenditure of this grant are authorized in the Governmental Grants and Donations Fund (Fund 46) as part of the fiscal year 2015-16 adopted budget.

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 Bill Luke Chrysler Jeep & Dodge, Courtesy Chevrolet, Don Sanderson Ford, Larry Miller Toyota, Midway Chevrolet, Chapman Ford, PFVT Motors, and San Tan Auto Partners for the purchase of vehicles.](#)

There was no discussion on agenda item 6A1.

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

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

Fiscal Impact: Total combined cost of these contracts will not exceed \$2,950,000. Sufficient funds have been budgeted in various cost centers in the General, Water/Wastewater, Performing Arts, and Highway User Funds for the anticipated expenditures in fiscal year 2016/2017.

6A2. [Contract with Rush Truck Centers of Arizona, Inc. for the purchase of refuse vehicles.](#)

There was no discussion on agenda item 6A2.

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

- 6A2.** Approved a one-year contract renewal with Rush Truck Centers of Arizona, Inc. for the purchase of five refuse vehicles.

Fiscal Impact: The total cost of this one-year contract renewal will not exceed \$1,900,000. Sufficient funds have been budgeted in the Solid Waste Fund – cost center 3713 (Residential) and 3714 (Commercial) – for the anticipated expenditures in the upcoming fiscal year.

***6A3. [Public hearing and a resolution approving the fiscal year 2016-2017 annual assessment for the Downtown Tempe Enhanced Services Improvement District, ruling on objections, making corrections, approving a new district map, and approving modified assessments.](#)**

Mayor Mitchell opened the public hearing. There was no discussion or public comment on agenda item 6A3. Mayor Mitchell closed the public hearing.

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

- *6A3.** Held a public hearing, and adopted **RESOLUTION NO. R2016.56** approving the fiscal year 2016-2017 annual assessment for the City of Tempe Downtown Tempe Enhanced Services Improvement District, ruling on objections, making corrections, approving a new district map, and approving modified assessments.

Fiscal Impact: The annual assessment for City owned property within the District for FY2016/2017 is \$119,455.80. Sufficient budget appropriation for the City's annual assessment was included as part of Community Development's recommended FY 2016/17 General Fund budget, cost center 2712.

B. Ordinances and Items for Introduction and First Hearing

***6B1. [Ordinance authorizing the abandonment of a portion of a Public Utility Easement, southwest corner of Broadway Road and Dorsey Lane.](#)**

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

- *6B1.** Introduced and held the first public hearing to adopt an ordinance authorizing the abandonment of a portion of an existing Public Utility Easement located at the southwest corner of Broadway Road and Dorsey Lane. The second and final public hearing was scheduled for June 23, 2016. (Ordinance No. O2016.34)

Fiscal Impact: N/A

***6B2. [Ordinance to amend the Tempe City Code, Sec. 6-31, Dogs, Cats, Etc., Generally, relating to the removal of animal waste.](#)**

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

- *6B2.** Introduced and held the first public hearing to adopt an ordinance to amend the Tempe City Code, Sec. 6-31, Dogs, Cats, Etc., Generally, relating to the removal of animal waste. The second and final public hearing was scheduled for June 23, 2016. (Ordinance No. O2016.36)

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

***6B3. [Ordinance for an Amended Planned Area Development Overlay and approve a Development Plan Review for THE STANDARD AT TEMPE, 11 East 7th Street.](#)**

Mayor Mitchell introduced the ordinance and opened the public hearing.

Charles Huellmantel, Huellmantel & Affiliates, applicant representative, provided a PowerPoint presentation of the project, located at 11 East 7th Street. He stated that the Development Review Commission voted 6-1 to approve the project. The applicant has been meeting with representatives from Arizona State University (ASU) to discuss ASU's concerns about the project and to explore ways to improve the project; additional meetings will be scheduled. This project is a 26-story mixed-use, student housing development. The project fronts on 7th Street, which is an important pedestrian connector area. The project is under the maximum allowed height for the original Planned Area Development (PAD). There are alleyways on two sides of the property. Mr. Huellmantel discussed the site location, site plan, streetscape, landscape plan, building materials, upgraded paving materials, wide sidewalks, street furniture, shade, seating, lighting, mature palo verde and palm trees, and the use of upgraded materials in alleyways. The applicant is willing to select another variety of trees to ensure various projects along 7th Street utilize the same species of trees.

Councilmember Navarro suggested that lush tree species be used in the streetscape from Mill Avenue to College Avenue. Shade, walkability, and themed landscaping are important. He also noted the importance of using alleyways to provide pedestrian connectivity. Mr. Huellmantel stated he and the applicant will be working with staff on the stipulations regarding the streetscape and alleyways.

Philip Yates, Tempe, expressed concern about having 26 stories on a 3,460 square foot parcel of land. 800 people will be renting rooms, versus renting units. The glass and steel building materials are not non-reflective, which may impact vehicle drivers.

Councilmember Granville questioned the use of palm trees in a desert environment and suggested using a tree species that provides more shade along the streetscape from Mill Avenue to College Avenue. He deferred to staff for the specific tree species. He also suggested a stipulation to require a security plan. Mr. Huellmantel expressed his willingness to work with City staff on a security plan. He clarified that the palm trees are in addition to, and not in place of, shade trees; he is willing to work with staff on an appropriate tree species.

Mayor Mitchell discussed the emphasis that City Council placed on the streetscape portion of the Opus project that is also located on 7th Street, the walkable connecting path, and the importance of pedestrian access. He questioned whether student housing is the highest and best use of this parcel of land, given that the City is landlocked. His preference would be a plan that resembles an entire City block, which is how the original PAD was presented; the proposed project is in the middle of the street block. The Downtown Tempe Authority (DTA) has been working on improving the image of downtown Tempe. A student housing complex at this location does not fit the vision of the downtown. Compared to the originally proposed project, the density in the number of dwelling units has increased over 50%, with a 10% increase in lot coverage. ASU is in the process of building 10,000 new beds. In a letter from ASU,

ASU officials expressed concerns about the safety of such a large scale student housing project; they recommend a maximum of seven stories in height. Public safety officials have expressed concern regarding student housing projects that have balconies.

Mr. Huellmantel stated that he will be prepared to address these concerns at the June 23, 2016, Regular City Council Meeting (RCM). He has worked with the Planning and Police Departments to reduce the size of the balconies and to ensure that balconies are capable of being videotaped. Potential conversion plans to an alternative housing model are included in the meeting packet materials.

Councilmember Kuby asked about privacy concerns with the balconies being videotaped. Mr. Huellmantel stated the concern of Planning and Police staff was to ensure that there is awareness of what occurs on the balconies, from the outside public view. Ongoing discussions are occurring with ASU on this issue. The project is designed to be for students, and rented by the bed. According to the Fair Housing Act, these units cannot be restricted solely to students. In a similar project, a unit was offered to a police officer in exchange for watching over the facility. ASU students, regardless of where they are located, must adhere to the ASU Code of Conduct.

Councilmember Arredondo-Savage noted the importance of walkability, shade, the pedestrian experience, and connectivity. She appreciates the retail component. The project streetscape and alleyways need to set the tone for future developments in the area. She is not concerned about the height of the project; however, she is concerned about the density. The project has been transformed from the original intent of condominiums and a hotel, to a student housing project, which does not fit the vision of Mill Avenue. West 6th was never intended to be student housing and now up to half of its residents are students. She anticipates that having 840 students in a high rise building will be problematic. She stated that she will have difficulty supporting this project as a student housing project. She supports a balance of housing opportunities, ongoing dialogue with ASU regarding property management, partnering with ASU, and maintaining a good relationship moving forward. Mr. Huellmantel clarified that renters will be renting beds, and not rooms. This aspect of the project will be covered in more detail at the June 23, 2016, RCM.

Councilmember Schapira voiced appreciation for Mr. Huellmantel's willingness to consider the concerns expressed, for working with ASU, and for being forthright about this project being a student housing product.

In response to a question from Councilmember Kuby, Mr. Huellmantel stated that the rental costs per bed will vary depending on the unit; he will provide a breakdown on the rental costs at the June 23, 2016, RCM. Councilmember Kuby stated that she shares some of the concerns expressed by her colleagues.

Vice Mayor Woods voiced a preference for ASU students to live in student housing projects rather than living in neighborhoods. Many students live in neighborhoods because the type of student housing that they desire is not available. Tempe needs an upgraded housing product that includes amenities. He is not concerned with the project being student housing, or with the height of the building. He appreciates the applicant working proactively with ASU regarding the balconies and the facility management project elements.

The public hearing was closed.

- *6B3.** Introduced and held the first public hearing to adopt an ordinance for an Amended Planned Area Development Overlay and approve a Development Plan Review for a 26-story mixed-use development, containing 335 dwelling units and 3,460 square feet of commercial area for THE STANDARD AT TEMPE, located at 11 East 7th Street. The applicant is Charles Huellmantel, Huellmantel & Affiliates. The second and final public hearing was scheduled for June 23, 2016. (Ordinance No. O2016.37)

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.

***6B4. [Ordinance for an Amended Planned Area Development Overlay and approve a Development Plan Review for THE FOUNDRY, 204 West University Drive.](#)**

Mayor Mitchell introduced the ordinance.

Darin Sender, Sender and Associates, applicant representative, displayed a schematic of the building design. She noted that the project has been in the planning phase for over five years and is designed specifically for the downtown area. The project includes a grocery store component and a mixture of various land uses. She introduced Bill Cano and Steven Rice of Whole Foods Market (Whole Foods). She discussed the various community benefits that Whole Foods offers, including their support of area non-profit organizations. The project also includes an elevator to the residential portion of the project.

Ms. Sender offered to show a video that describes technology that prevents grocery carts from being removed from the premises. Councilmember Granville read the currently proposed portion of the development agreement relating to the technology to prevent grocery cart theft and requested that the applicant work with staff to develop more detailed language regarding the specific technology to be used. Ms. Sender discussed the type of grocery cart technology being proposed and agreed to work with staff on the proposed development agreement language. She noted that the specific grocery cart technology has not yet been selected.

Ms. Sender discussed the location, site plan, elevations, floor plans for the grocery and residential units, site and building amenities, building materials and colors, demographics, and landscaping. The project also includes a proposed streetcar stop platform that includes landscaping. The zoning allows for 65 dwelling units or higher, per acre.

Mayor Mitchell opened the public hearing.

Daron Kettler, Goodyear, spoke in support of the project. He stated that he works in Tempe and voiced appreciation for the time and attention the applicant has spent on the project. Whole Foods will bring value to the community.

Clay Creaser, Gilbert, spoke in support of the project. He stated that he works in Tempe and noted that Whole Foods will not only be a place to shop, but to have lunch and to socialize.

Tom Melton, Chandler, spoke in support of the project. He stated that he works in Tempe. Whole Foods will create jobs, is a good employer, and will provide a much needed grocery store; it will be a community asset.

Cathy Hernandez, Chandler, spoke in support of the project. She stated that she works in Tempe.

Chad Pulcheon, Phoenix, spoke in support of the project. He stated that he works in Tempe. Converting a vacant lot into a grocery store will provide a dining option and will be good for the community.

Sarah R. (last name not provided), Tempe, spoke in opposition to the project. She noted that approximately 4,000 luxury living units will be built in downtown, leading to the displacement of people from their homes due to rising rent rates; this is a sign of gentrification. She stated that 75% of the Hanover project is vacant and that only four units of The Newport have been sold. Tempe is approving high-end, luxury buildings, at a rapid rate. She questioned what the demand is for expensive apartments. A grocery store is needed, although she would prefer a more affordable grocery store. Whole Foods pays low wages. She suggested that this project be 100% workforce housing, specifically for the Whole Foods and State Farm employees. She is concerned about the traffic on Ash Avenue and University Drive; it is also dangerous for bicyclists. She submitted a poll from the Maple Ash Farmer Wilson neighborhood residents, with only seven residents that are in favor of a Whole Foods in this location; the majority of those polled prefer a different, affordable grocery store option.

Vice Mayor Woods asked Ms. Sender about the traffic study completion date. Ms. Sender stated the traffic study has been submitted to staff and it is her understanding that there were no major issues. A resubmittal of the traffic study is being finalized and will be provided to staff, as well as the neighbors.

Karyn Gitlis, Tempe, spoke in support of having a grocery store at this location. Whole Foods is a community-oriented organization. The density is appropriate. She discussed several neighborhood-friendly components in the project design. Her main concern relates to traffic impacts in the neighborhood. When she met with the development team regarding the traffic study, she did not receive any data; she has received assurances that additional traffic impacts will not materialize. She suggested that the developer provide insurance through an escrow account held by the City for potential future traffic impacts to the neighborhoods. She questioned how the neighborhoods will benefit from the developer's investment in a quad gate for an existing quiet zone. She looks forward to more neighborhood meetings with the developer regarding neighborhood traffic impacts.

Mayor Mitchell stated that it was his understanding that the Hanover project currently has a 65% occupancy rate; Hanover does not rent units to students. He requested that staff confirm the occupancy rate at the Hanover.

Mayor Mitchell closed the public hearing.

Councilmember Kuby discussed Whole Foods price comparisons with Sprouts; the healthier options of non-processed foods that are available at Whole Foods; and, acknowledged that Sprouts also gives back to the community. Sarah R. noted that the neighbors have indicated a preference for having Sprouts at this location.

- *6B4.** Introduced and held the first public hearing to adopt an ordinance for an Amended Planned Area Development Overlay and approve a Development Plan Review for a new nine-story mixed-use development with a grocery store and 292 dwelling units for THE FOUNDRY, located at 204 West University Drive. The applicant is Darin Sender of Sender and Associates. The second and final public hearing was scheduled for June 23, 2016. (Ordinance No. O2016.38)

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 fee structure at the time of permit issuance.

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- *6B5.** [Ordinance authorizing a development agreement, deeds, a land and improvements lease, a memorandum of lease and additional documents with FDG Local Tempe Associates, LLC \("Forum"\), northwest corner of Ash Avenue and University Drive.](#)

Mayor Mitchell introduced the ordinance and opened the public hearing.

Karyn Gitlis, Tempe, asked why a Planned Area Development (PAD) is on the agenda for approval, without a development agreement. She would like to slow the process down and have a traffic plan in place before a development project is approved. Judi Baumann, City Attorney, clarified that this is the first public hearing to adopt an ordinance that would authorize the Mayor to execute the development agreement. The second hearing is scheduled for June 23, 2016, and the PAD and the Development Plan Review (DPR) will be included on that meeting agenda.

Councilmember Granville noted that the 10-year Government Property Lease Excise Tax (GPLET) incentive is valued at \$600,000 to \$700,000 a year in entitlements. He likes the project design, although it is not a project he would give a GPLET to without a grocery store component. He discussed the GPLET expiration which would allow 540 days of GPLET tax incentives, without a grocery store in operation. Without the grocery store, there would be no purpose for a tax incentive. He requested that staff draft a stipulation for City Council consideration for the repayment of the GPLET value for each month there is not a grocery store in operation.

Ms. Baumann confirmed that the City Council has the option to discuss these types of issues at this meeting.

Vice Mayor Woods stated that the developer has been working on bringing a grocery store to this location for over five years. He acknowledged the applicant's perseverance and due diligence on the project. He is comfortable with the developer's loss of the GPLET, in the event that the developer does not perform. He expressed concern about adding more stipulations at this point. Having a grocery store in this area is important.

Councilmember Navarro questioned if the developer is required to repay the incentives due to a grocery store not operating, what would be the incentive for attracting another grocer to this location. He does not want to obstruct the developer or the project by adding another stipulation.

Councilmember Granville explained that the GPLET would be \$55,000 a month. A business owner would be compelled to find a grocer in order to avoid repaying GPLET funding to the City.

Councilmember Schapira noted that these tax breaks are only given when there is a public benefit. He is not concerned about both parties abiding by the agreement. Staff needs to ensure there is language in the agreement to ensure that there is a public benefit.

Vice Mayor Woods stated that the current language is sufficient in providing protection to the City. He noted that GPLET funds will not be provided to the developer until a certificate of occupancy has been issued by the City.

Alex Smith, Deputy Community Development Director – Special Projects, stated that the language in the development agreement provides for the GPLET lease to begin with the issuance of the Certificate of Occupancy for the building, with an additional year to allow for tenant improvements. Mr. Smith stated that if the grocery store ceases operation for more than 60 days, the GPLET will automatically terminate unless the developer executes a lease agreement with another grocery store within 270 days from the date the grocery store ceased operation; and, the replacement grocery store opens for business within 270 days after execution of the lease.

Councilmember Schapira stated that he understands the timeframe needed for tenant improvements. However, if the grocer vacates the space, there is no justification for a tax break during the timeframe when there is no public benefit being provided. In this case, the City is allowing a 270 day timeframe after a grocer vacates the premises, where the property owner would continue to receive the GPLET.

Councilmember Kuby stated that there should be some type of notification if Whole Foods decides to withdraw from the agreement, which would allow additional time to find another grocer to occupy that space. She agreed that more protection is needed regarding the GPLET terms.

Darin Sender, Sender and Associates, applicant representative, stated that she understands that the grocery store is a significant benefit to the community and to the project. If something happens to the Whole Foods arrangement, the development agreement allows for a 270 day timeframe for the property owner to look for a new tenant. After a new lease is executed, additional time will be needed for tenant improvements. To penalize the developer in the case that Whole Foods fails would only deter the developer from getting a new grocery store as well as cause financial distress. The developer does not want that space to be vacant.

Councilmember Schapira stated that he takes exception to the reference of paying due taxes as being a penalty. Requiring repayment of a benefit that was not earned is not a penalty. The GPLET is a substantial tax break. Ms. Sender stated that the project is providing additional benefits such as the quad gates for extra security for the quiet zone at an estimated cost of \$500,000, plus the cost of operations and maintenance for 20 years; this is a risk to the developer. Tenant parking spaces are also being offered to the City, as well as a Class A residential apartment project that includes a condominium plat for future conversion. The City will receive the rental taxes from the apartments as well as the salary taxes from the residents.

Councilmember Granville clarified that if a grocery store closes, there is 270 days to secure a new tenant and an additional 270 days after that to complete tenant improvements, before the GPLET expires. He wanted to make his colleagues aware of his concerns and of his intent to work with staff on drafting a stipulation for their consideration.

Mr. Smith clarified that an additional requirement is if the GPLET terminates prior to the tenth anniversary of the Certificate of Occupancy, the condominium plat must be recorded.

Councilmember Navarro stated that he supports having a grocery store in the area and hopes that developments in the area will attract another type of grocery store, to accommodate the density. He is willing to approve a 10-year GPLET even if the grocery store remains in place for only five years. He stated that he does not support placing an additional stipulation on the developer.

Mayor Mitchell stated that this project is long overdue and that he supports a grocery store. As part of the Character Area Planning, there has been a desire for many years to have a grocery store amenity for downtown neighborhoods.

Mr. Smith clarified that in years nine and ten of the lease, the GPLET rate will need to be paid; the abatement only applies to the first eight years of the agreement.

Councilmember Arredondo-Savage expressed appreciation to Ms. Sender, her team, and Whole Foods, for bringing this vision to downtown Tempe. This project will be an important asset to the area. She is willing to take a risk on approving the GPLET. To make this more complicated for the developer by adding a stipulation is not business friendly.

The public hearing was closed.

- *6B5. Introduced and held the first public hearing to adopt an ordinance authorizing the Mayor to execute a development agreement, deeds, a land and improvements lease, a memorandum of lease and additional documents with FDG Local Tempe Associates, LLC ("Forum") with respect to the project to be constructed at the northwest corner of Ash Avenue and University Drive. The second and final public hearing was scheduled for June 23, 2016. (Ordinance No. O2016.39)

Fiscal Impact: The development agreement provides for a 10-year government property lease with an 8-year abatement of the Government Property Lease Excise Tax. The development agreement also provides for the abandonment of certain city-owned right-of-way in exchange for 10 reserved parking spaces within the project.

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

- *6C1. [Ordinance amending Chapter 12, Article II, Tempe City Code, relating to floodplain management, by amending Sections 12-29 and 12-31 respectively, relating to standards of construction and standards for utilities within special flood hazard areas.](#)

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 Councilmember Arredondo-Savage 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. O2016.33** amending Chapter 12, Article II, Tempe City Code, relating to floodplain management, by amending Section 12-29, relating to standards of construction, and by amending Section 12-31, relating to standards for utilities within special flood hazard areas.

Fiscal Impact: No impact on City funds.

***6C2. [Ordinance for a Planned Area Development Overlay and a Development Plan Review for NEWMAN CENTER / THE MAXWELL ON COLLEGE, 712 South College Avenue.](#)**

Mayor Mitchell opened the public hearing.

Trevor Barger, applicant representative, discussed recent meetings held with ASU and noted that another meeting is scheduled for next week regarding project issues and concerns. Based on this, he requested a continuance of this agenda item to the June 23, 2016, Regular City Council Meeting.

Motion by Councilmember Arredondo-Savage to continue agenda item 6C2 to the June 23, 2016, Regular City Council Meeting, with the understanding that no more continuance requests will be granted; second by Vice Mayor Woods. Motion passed unanimously on a roll call vote 7-0.

***6C2.** *Continued to the June 23, 2016, Regular City Council Meeting, the second and final public hearing to adopt an ordinance for a Planned Area Development Overlay and approve a Development Plan Review for a new mixed-use development containing 295 dwelling units, restaurant, retail, office, classroom, and church uses for NEWMAN CENTER / THE MAXWELL ON COLLEGE (PL150419), located at 712 South College Avenue. The applicant is Maxwell Tempe, LLC. (Ordinance No. O2016.29) This item was continued from the May 26, 2016, Regular Council Meeting. (Note: A legal zoning protest has been filed; therefore, a 3/4 City Council majority vote (6 of 7) is required for approval of the Planned Area Development Overlay.)*

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 Schapira

Thanked Presiding Judge MaryAnne Majestic for her service and welcomed Presiding Judge Kevin Kane.

Councilmember Arredondo-Savage

Thanked Presiding Judge MaryAnne Majestic for her service.

Recognized Angel Carbajal, Assistant Police Chief, for his work on the Tempe Public Safety Memorial at Tempe Beach Park.

Councilmember Navarro

Recognized Angel Carbajal, Assistant Police Chief, for his work on the Tempe Public Safety Memorial at Tempe Beach Park.

Councilmember Granville

Acknowledged the recent death of Muhammad Ali.

Mayor Mitchell

Thanked Presiding Judge MaryAnne Majestic for her service and her work on the Homeless and Veterans Court related programs.

Happy Father's Day to all fathers.

8. PUBLIC APPEARANCES

A. Scheduled – None.

B. Unscheduled – None.

The meeting adjourned at 7:46 p.m.

I, Brigitta M. Kuiper, the duly-appointed City Clerk of the City of Tempe, Maricopa County, Arizona, do hereby certify the above to be the minutes of the Regular City Council meeting of June 9, 2016, by the Tempe City Council, Tempe, Arizona.

Mark W. Mitchell, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk