



## Minutes Regular City Council Meeting August 18, 2016

Minutes of the Regular Council Meeting of Thursday, August 18, 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 Kolby Granville (*participated telephonically at 7:19 p.m.; arrived at 7:35 p.m.*)

Councilmember Randy Keating

Councilmember Joel Navarro (*participated telephonically*)

Vice Mayor Robin Arredondo-Savage

Councilmember Lauren Kuby (*participated telephonically*)

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

Shauna Warner, Neighborhood Services Manager

Various Department Heads or their representatives

Judi Baumann, City Attorney

Kay Savard, Deputy City Clerk

Isaac Chavira, Transportation Maintenance Manager

Ryan Levesque, Deputy Community Dev. Dir.-Planning

### **Mayor Mitchell called the meeting to order at 6:09 p.m.**

1. Councilmember Schapira stated that in lieu of giving an invocation, he will pray to himself and encouraged others to pray to themselves in the manner in which they are accustomed.
2. Mayor Mitchell led the audience in the **Pledge of Allegiance**.

### **3. MINUTES**

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

**Motion by Councilmember Keating to approve agenda item 3A1; second by Vice Mayor Arredondo-Savage. Motion passed unanimously on a voice vote 6-0.**

1. Executive Session - August 4, 2016

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

**Motion by Councilmember Keating to accept agenda items 3B1 – 3B9; second by Councilmember Schapira. Motion passed unanimously on a voice vote 6-0.**

1. [Hearing Officer - July 5, 2016 and July 19, 2016](#)
2. [Mayor's Commission on Disability Concerns - July 11, 2016](#)
3. [Merit System Board - February 10, 2016](#)
4. [Neighborhood Advisory Commission - June 1, 2016](#)
5. [Tempe Municipal Arts Commission - July 13, 2016](#)
6. [Tempe Fire Public Personnel Public Safety Retirement Board - May 5, 2016](#)
7. [Tempe Police Public Personnel Public Safety Retirement Board - June 2, 2016](#)

8. [Tempe Veterans Commission - February 24, 2015 and June 7, 2016](#)
9. [Transportation Commission - May 10, 2016](#)

#### 4. REPORTS AND ANNOUNCEMENTS

##### A. Mayor's Announcements

1. **Recognition of Tempe Solid Waste Team for Winning Solid Waste Association of North America (SWANA) Award**  
Mayor Mitchell recognized the City's Solid Waste and Recycling Services Team and announced that Tempe has been named Municipality of the Year by the Arizona chapter of the Solid Waste Association of North America.
2. **Board and Commission (re)appointments**  
Mayor Mitchell announced that Board and Commission appointments are listed on tonight's agenda [agenda item 5A9].
3. **Recognition of Ms. Arizona, Katelyn Niemiec**  
Meeting viewers watched a video outlining the work that Katelyn Niemiec, Ms. Arizona 2016, has done related to bullying issues and about the various organizations that she works with in the City of Tempe. Mayor Mitchell read a proclamation declaring August 18, 2016, as Ms. Arizona Katelyn Niemiec day in Tempe, Arizona.

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

1. **[Graffiti Abatement Program Update](#)**  
Isaac Chavira, Transportation Maintenance Manager, provided a status update on the City's Graffiti Abatement Program. Mr. Chavira discussed reactive and proactive abatement approaches and comparative statistics; collaborative partners; various graffiti abatement projects; and, program challenges. He provided an overview of the City's web-based Geographic Information System and the various types of data that the program provides.
2. **[Neighborhood Handbook and Directory Update](#)**  
Shauna Warner, Neighborhood Services Manager, provided an update on the recently updated Neighborhood Handbook and Directory. The process included feedback from residents. Tempe has 81 neighborhood associations, 132 homeowners' associations, and 9 affiliate associations. Ms. Warner outlined the revisions made to the Neighborhood Handbook and Directory and discussed an online web-based map of associations that includes character area boundaries. Both documents are provided to neighborhood leaders.

#### 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 Arredondo-Savage to approve the consent agenda, with the exception of items 5C6 and 5C5, which were removed for separate consideration, and to be considered in that order; second by Councilmember Schapira. Motion passed unanimously on a roll call vote 6-0.**

**A. Miscellaneous Items**

5A1. [Approved the June 2016 Report of Claims Paid to be filed for audit.](#)

**Fiscal Impact:** Total payments in June: \$25,602,090.67.

5A2. [Approved an Amended Subdivision Plat for 7TH STREET MIXED USE, located at 110 East University Drive. The applicant is Sender Associates, Chtd.](#)

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

5A3. [Approved a one-year membership renewal with the Arizona Municipal Water Users Association.](#)

**Fiscal Impact:** Total cost of the one-year membership renewal will not exceed \$110,411. Sufficient funds have been appropriated in the Water and Wastewater Fund – cost center 3002 (Water Administration) for the anticipated expenditures.

\*5A4. [Held a public hearing and recommended the approval of a series 10 beer and wine store liquor license for Tempe Skyline Inc., dba Tempe Beer & Deli, 2044 East Southern Avenue.](#)

**Fiscal Impact:** N/A

\*5A5. [Held a public hearing and recommended the approval of a series 18 In-state craft distillery liquor license for Adventurous Stills LLC, dba Adventurous Stills, 2125 East 5th Street Suite 102.](#)

**Fiscal Impact:** N/A

\*5A6. [Held a public hearing and recommended the approval of a series 11 hotel/motel liquor license for Heritage Inn of Tempe, LLC, dba Hilton Garden Inn, 2102 East Rio Salado Parkway.](#)

**Fiscal Impact:** N/A

\*5A7. [Held a public hearing and recommended the approval of a series 07 beer and wine bar liquor license for Heritage Suites of Tempe LLC dba Homewood Suites, 2104 East Rio Salado Parkway.](#)

**Fiscal Impact:** N/A

\*5A8. [Held a public hearing and recommended the approval of a series 12 restaurant liquor license for Portillo's Hot Dogs LLC, dba Portillo's Hot Dogs, 65 South McClintock Drive.](#)

**Fiscal Impact:** N/A

5A9. [Approved seven appointments to four City of Tempe boards, commissions, and committees.](#)

**Fiscal Impact:** N/A

**Development Review Commission**  
Nicholas Labadie (Partial Term) (Alternate)

**Term Expires 07/01/2018**  
Appointment

**Family Justice Commission**  
Judith Homer (Partial Term) (At-Large Member)

**Term Expires 12/31/2016**  
Appointment

Andi Fetzner (Partial Term) (Nonprofit Sector Member)  
Margaret R. "Peggy" Tinsley (Partial Term) (Legal Serv. Provider)

**Terms Expire 12/31/2017**  
Appointment  
Appointment

Ilene L. Dode (Partial Term) (At-Large Member)	<b>Term Expires 12/31/2018</b> Appointment
<b>Human Relations Commission</b> Carl Hermanns (Partial Term)	<b>Term Expires 12/31/2017</b> Appointment
<b>Technical Code Advisory Board of Appeals</b> David Fabok (Partial Term) (Fire Medical Rescue Department Representative)	<b>Term Expires 12/31/2017</b> Appointment

**B. Award of Bids/Contracts**

- 5B1. [Approved the utilization of a one-year State of Arizona contract with Lowe's and a one-year Maricopa County contract with Home Depot for store-wide purchase agreements for maintenance, repair, operating materials, tools, and supplies.](#)

**Fiscal Impact:** Total combined cost of these two contracts will not exceed \$150,000 during the one-year contract period. Sufficient funds have been appropriated in various funds and cost centers City-wide for the anticipated expenditures in the current fiscal year.

- 5B2. [Approved the utilization of a one-year City of Phoenix contract with Freightliner of Arizona for the purchase of a roll-off equipped truck.](#)

**Fiscal Impact:** Total cost of this contract will not exceed \$195,000. Sufficient funds have been appropriated in the Solid Waste Fund – cost center 3715 (Roll-Off Tilt Frame) – for the anticipated expenditures.

- 5B3. [Approved the utilization of a one-year Maricopa County contract with PFVT Motors \(dba Peoria Ford\) for the purchase of Ford light duty vehicles.](#)

**Fiscal Impact:** Total cost of this contract will not exceed \$225,000. Sufficient funds have been appropriated in various cost centers in the General, Water/Wastewater, Performing Arts, and Highway User Funds for the anticipated expenditures.

- 5B4. [Approved the utilization of a one-year City of Mesa contract with Fleetpride for the supply of parts for City vehicles and equipment.](#)

**Fiscal Impact:** Total cost of the contract shall not exceed \$75,000 during the one-year contract period. Sufficient funds have been appropriated in the General Fund – cost center 3262 (Fleet Services Maintenance) – for the anticipated expenditures.

- 5B5. [Approved the utilization of one-year State of Arizona contracts with Genuine Parts Company and Auto Zone for the supply of repair parts for City vehicles and equipment.](#)

**Fiscal Impact:** Total cost of these two contracts shall not exceed \$200,000 during the one-year contract period. Sufficient funds have been appropriated in the General Fund – cost center 3262 (Fleet Services Maintenance) – for the anticipated expenditures.

- 5B6. [Approved the utilization of one-year City of Phoenix contracts with Chapman Ford, Phoenix Transmission and Engine, and RWC International for vehicle maintenance and repair services.](#)

**Fiscal Impact:** Total cost of these three contracts shall not exceed \$100,000 during the one-year contract period. Sufficient funds have been appropriated in the General Fund – cost center 3262 (Fleet Services Maintenance) – for the anticipated expenditures.

- 5B7. [Approved a one-year contract renewal with Universal Police Supply Company to provide ballistic vests, carriers, and trauma plates for the Police Department.](#)

**Fiscal Impact:** Total combined cost of this one-year contract shall not exceed \$91,000. Sufficient funds have been appropriated in General Fund cost center 2251 (Professional Development Bureau) for the anticipated expenditures in fiscal year 2016/2017.

- 5B8. [Approved a one-year contract renewal with Drake Equipment for the purchase and installation of vehicle bodies.](#)

**Fiscal Impact:** Total cost of this contract will not exceed \$91,000 during the one-year contract renewal period. Sufficient funds have been appropriated in various funds and cost centers for the anticipated expenditures.

- 5B9. [Approved a one-year contract renewal with Altec Industries for the purchase of aerial lift trucks.](#)

**Fiscal Impact:** Total cost of this one-year contract will not exceed \$110,000. Sufficient funds have been budgeted in the Highway User Revenue Fund – cost center 3825 (Signal Systems) for the anticipated expenditures.

- 5B10. [Approved a one-year contract renewal with Prema LLC for products and services related to the City's green organics program.](#)

**Fiscal Impact:** Total cost of this contract will not exceed \$150,000. Sufficient funds have been appropriated in the Solid Waste Fund – cost center 3718 (Uncontained Refuse) – for the anticipated expenditures.

- 5B11. [Approved the award of 35 one-year contracts with four, one-year renewal options to firms that supply full service repairs and repair parts for City vehicles and equipment. \(Contract #2016-168\)](#)

**Fiscal Impact:** Total combined cost of these 35 contracts shall not exceed \$350,000 during the one-year contract period. Sufficient funds have been appropriated in the General Fund – cost center 3262 (Fleet Services Maintenance) – for the anticipated expenditures.

- 5B12. [Awarded one-year contracts with four, one-year renewal options to West Coast Turf and Evergreen Turf for the supply and installation of sod used by the Public Works Department. \(Contract #2016-169 A-B\)](#)

**Fiscal Impact:** Total cost of this contract will not exceed \$75,000 during the initial one-year contract period. Sufficient funds have been appropriated in Performing Arts Fund cost center 3611 (TCA Art Park), Golf Fund cost centers 2511 (Rolling Hills Golf Course) and 2512 (Ken McDonald Golf Course), and General Fund cost centers 2552 (Parks Maintenance – Admin), 2553 (Diablo Stadium Maintenance), 2554 (Parks Maintenance – Rio Salado), 2556 (North Parks), 2557 (Parks Maintenance – RS CFD), and 2559 (South Parks) for the anticipated expenditures in the current fiscal year.

- 5B13. [Awarded one-year contracts with four, one-year renewal options to Hoffman Southwest \(Roto-Rooter Service and Plumbing\), Service Pros Plumbing Heating & Cooling, and RKS Plumbing and Mechanical for plumbing work associated with the Service Line Protection Program and Water/Sewer Program. \(Contract #2016-170 A-C\)](#)

**Fiscal Impact:** Total combined cost for these three contracts will not exceed \$650,000 during the one-year contract term. Sufficient funds have been appropriated in the General

Fund – cost center 3290 (Service Line Protections) – and the Water/Wastewater Capital Project Fund – cost center 3299969 (Collection and Pump Replacement & Repairs) – for the anticipated expenditures.

- 5B14. [Approved the First Amendment to the 20-year Solar Services Agreement \(Contract #2015-232A\) and Performance Guarantee and Limited Warranty Agreement \(Contract #2015-232.1A\) with SolarCity Corporation for the development, construction, and maintenance of the Johnny G. Martinez Water Treatment Plant solar electric generating system.](#)

**Fiscal Impact:** The revised total cost of the 20-year Solar Services Agreement for the Johnny G. Martinez Water Treatment Plant (JGM) system is \$1,911,616. Due to the lower per kilowatt-hour (kWh) cost associated with the solar production portion of the systems' energy demand as compared to traditional utility power costs the City will realize a revised 20-year net present value savings over currently approved energy budgets of \$531,134.

- 5B15. [Approved a five-year Municipal Bill-Crediting Agreement with Salt River Project Agricultural Improvement and Power District. \(This item relates to agenda item 5C3\) \(Contract #2016-171\)](#)

**Fiscal Impact:** To effectuate Tempe's Power Sales Contract with the Arizona Power Authority, Salt River Project Agricultural Improvement and Power District will take delivery of Tempe's Hoover electric power and will provide power bill crediting for Tempe's use of this resource in-lieu of other energy supplies. Over the five-year term of this contract, the estimated cost to Tempe for delivery of Hoover power is \$83,390, and the estimated power bill credit from Salt River Project is \$104,668, for an approximate net benefit to Tempe of \$21,278.

C. **Resolutions**

- 5C1. [Adopted RESOLUTION NO. R2016.79 authorizing the Mayor to execute a Certification Acceptance Agreement between the City of Tempe and the Arizona Department of Transportation for design, plans, specifications, estimates, contract awards, and inspections for Federal-Aid Highway Program projects. \(Contract #2016-172\)](#)

**Fiscal Impact:** No impact on City funds.

- 5C2. [Adopted RESOLUTION NO. R2016.80 approving receipt and expenditure of a grant from Arizona State University Office of Entrepreneurship and Innovation to provide funding for Youth Entrepreneurship Programming at the Business Resource and Innovation Center at Tempe Public Library.](#)

**Fiscal Impact:** The amount of the grant award is \$850. 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 2016-17 adopted budget.

- 5C3. [Adopted RESOLUTION NO. R2016.81 authorizing the Mayor to execute a 50-year contract with the Arizona Power Authority for the delivery of Tempe's allocation of Schedule D-1 Hoover Dam hydro power energy resources. \(This item relates to agenda item 5B15\) \(Contract #2016-173\)](#)

**Fiscal Impact:** Tempe will pay the Arizona Power Authority annually for Tempe's allocation of Hoover Dam hydro power resources. The Salt River Project will provide power bill crediting for Tempe's use of this resource in-lieu of other energy supplies. The estimated cost to Tempe for delivery of Hoover power is \$83,390 in years one

through five, and \$60,700 in years six through ten, for a total ten-year cost estimate of \$144,090. The estimated power bill credit from Salt River Project is \$104,668 in years one through five, and \$100,476 in years six through ten, for a total ten-year bill credit estimate of \$205,144. The net benefit to Tempe over the first ten years of this contract is estimated at \$61,054 (\$21,278 in year's one through five, and \$39,776 in years six through ten).

- 5C4. [Adopted RESOLUTION NO. R2016.82 authorizing the City Manager \(or designee\) to negotiate an agreement for the development and lease of approximately 18 acres of City-owned land located on Rio Salado Parkway west of Tempe Center for the Arts.](#)

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

- 5C5. **[THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.](#)** [Adopt a resolution authorizing the Mayor to execute an amendment to the development agreement among the City of Tempe, Tempe Investors, LLC, and LCV Property, Inc., regarding development of the property located at 1030 East Baseline Road. \(Resolution No. R2016.83\)](#)

- 5C6. **[THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.](#)** [Adopt a resolution authorizing the Mayor to execute an amendment to the settlement agreement between the City of Tempe, et. al. and Tempe Investors, LLC, et al., regarding the matter of Tempe Investors, LLC, v. City of Tempe. \(Resolution No. R2016.84\)](#)

- 5C7. [Adopted RESOLUTION NO. R2016.86 authorizing the Mayor to sign the annual Operations Funding Agreement \(Number Nine\) with Valley Metro Rail, Inc. for light rail transit services for fiscal year 2016-2017. \(Contract #2016-175\)](#)

*Fiscal Impact:* The gross cost is \$9,902,000 funded with the following applied revenue sources: Transit Tax \$5,699,000; fare revenue \$3,751,000; federal preventive maintenance funds \$255,000; and advertising revenue \$197,000. Sufficient funding for this Agreement has been appropriated in the Transit Fund (cost center 3921) as part of the adopted fiscal year 2016-17 budget.

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

- 5C6. **Resolution authorizing an amendment to the settlement agreement with Tempe Investors, LLC, et al., regarding *Tempe Investors, LLC, v. City of Tempe.***

Mayor Mitchell announced that the documents for agenda item 5C6 have been modified to reflect the name of the affiliate entity, JLB Baseline, LLC, in place of Tempe Investors, LLC.

**Motion by Councilmember Schapira to approve agenda item 5C6, as amended; second by Vice Mayor Arredondo-Savage. Motion passed unanimously on a roll call vote 6-0.**

- 5C6.** Adopted **RESOLUTION NO. R2016.84**, *as amended*, authorizing the Mayor to execute an amendment to the settlement agreement, *as amended*, between the City of Tempe, et. al and *JLB Baseline, LLC*, et al., regarding the matter of *Tempe Investors, LLC, v. City of Tempe*. (**Contract #2015-286A**)

**Fiscal Impact:** No fiscal impact to the City.

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- 5C5.** Resolution authorizing an amendment to the development agreement with Tempe Investors, LLC, and LCV Property, Inc., regarding development of property at 1030 East Baseline Road.

Mayor Mitchell announced that the documents for agenda item 5C5 have been modified to reflect the name of the affiliate entity, JLB Baseline, LLC, in place of Tempe Investors, LLC.

**Motion by Vice Mayor Arredondo-Savage to approve agenda item 5C5, as amended; second by Councilmember Keating. Motion passed unanimously on a roll call vote 6-0.**

- 5C5.** Adopted **RESOLUTION NO. R2016.83**, *as amended*, authorizing the Mayor to execute an amendment to the development agreement, *as amended*, among the City of Tempe, *JLB Baseline, LLC*, and LCV Property, Inc., regarding development of the property located at 1030 East Baseline Road. (**Contract #2015-288A**)

**Fiscal Impact:** No fiscal impact to the City.

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## 6. NON-CONSENT AGENDA

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

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

- \*6A1.** [Public hearing for the Zoning Map Amendment and Planned Area Development Overlay for a partial time extension or initiate the reversion of prior entitlements for M7 MIXED USE DEVELOPMENT, 701 South Mill Avenue.](#)

Charles Huellmantel, applicant representative, introduced property owner, Sam Gordon, and an additional property owner representative, Manjula Vaz. Mr. Huellmantel stated that the properties for this Planned Area Development (PAD) are located on the south side of 7<sup>th</sup> Street from Mill Avenue to the next block. The applicant is requesting a time extension for the property entitlements to provide an opportunity for the applicant to work collaboratively with surrounding property owners on a proposed project, as well as exploring other development options for this property. Since the initial approval of the PAD for this property, the surrounding property ownerships have fractured due to several legal proceedings, litigation, as well as bankruptcy. The project will likely be presented to the City Council as a separate PAD.

Mr. Huellmantel stated that the applicant worked with Councilmembers and the Downtown Tempe Authority, and is requesting that the following stipulation be added: "The Applicant will work with the Downtown Tempe Association [Authority] (DTA) to convert space east of the former eJoy Café, located at 15 East 7th Street, to a "pop-up" or temporary park. The temporary park space, subject to the approval of the Community Development Director, will include seating, moveable trees and grade bed, temporary shade, and free wi-fi. The owner shall work with the DTA to define hours of

operation. This “pop-up” park shall remain for the length of the extension, until the site has a regular use or is ready for construction for a new project.” He stated that the installation of a park will activate the site and that the DTA supports this request. Mr. Huellmantel submitted the proposed stipulation to City staff, for the record.

Mayor Mitchell opened the public hearing.

Philip Yates, Tempe, Riverside Neighborhood Association President, stated that the proposed project is completely different than the recently proposed project called *The Standard*. He compared various aspects of the proposed and previous projects and stated that this project should have been required to go to the Development Review Commission; the project should not be before the City Council at this time.

The public hearing was closed.

In response to a question, Ryan Levesque, Deputy Community Development Director – Planning, clarified that the proposed project is what was entitled for a PAD map amendment in 2006. He outlined various project elements and discussed how the property ownership has changed over time. Any substantive changes to the plan would require a Development Plan Review (DPR) and City Council approval.

Mr. Huellmantel stated that the applicant understands that the process would include a DPR if substantive changes to the project were proposed. The properties on either side of the proposed project are in litigation; all three properties are run-down. If the litigation is resolved, there is the potential to build the approved project. The applicant has been meeting with Arizona State University (ASU) representatives to explore various projects, and is also considering projects that would be unrelated to ASU. The applicant does not want to build a project and have the bordering properties remain in litigation.

Councilmembers explained that *The Standard* project was presented to the City Council because the project was different than what the current PAD is entitled to. There are four lots at this location, with three different owners. If any of the owners were to propose a project that is different from the masterplan, it would require an amended PAD and it would have to go back through the process. Mr. Levesque clarified that time extensions for entitlements are typically granted for a term of no more than one year.

**Motion by Vice Mayor Arredondo-Savage to approve a one-year time extension for entitlements to August 18, 2017, and include the stipulation for the installation of a pop-up park, for agenda item 6A1; second by Councilmember Schapira. Motion passed on a roll call vote 5-1 with Councilmember Kuby voting no.**

- \*6A1. Held a public hearing for a review of the Zoning Map Amendment and Planned Area Development Overlay and approved a time extension to August 18, 2017 and added a stipulation for entitlements for M7 MIXED USE DEVELOPMENT, located at 701 South Mill Avenue.

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

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- \*6A2. [Public hearing for a Zoning Map Amendment and Planned Area Development Overlay for a time extension or initiate the reversion of prior entitlements for MILLER-CURRY TOWNHOMES, 1245 North Miller Road.](#)

Mayor Mitchell opened the public hearing. There was no public comment or discussion on agenda item 6A2. The public hearing was closed.

**Motion by Councilmember Navarro to approve agenda item 6A2; second by Councilmember Keating.**

Councilmember Navarro clarified that his motion was to initiate the reversion of prior entitlements.

**The motion to initiate the reversion process passed on a roll call vote 5-1 with Councilmember Keating voting no.**

- \*6A2. Held a public hearing for a review of the Zoning Map Amendment and Planned Area Development Overlay and approved the initiation of the reversion of prior entitlements for MILLER-CURRY TOWNHOMES, located at 1245 North Miller Road.

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

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- \*6A3. [Public hearing for a Zoning Map Amendment and Planned Area Development Overlay for a time extension or initiate the reversion of prior entitlements for 8TH & RURAL, 855 South Rural Road.](#)

Mayor Mitchell opened the public hearing and called upon the applicant to make a statement.

Charles Huellmantel, applicant representative, stated that the applicant is requesting a time extension for project entitlements. Mr. Huellmantel provided background information regarding the project and noted that this is a unique case. Several years ago, former Mayor Hugh Hallman requested that the developer retract the originally proposed 13-story project, and build something larger on the adjacent property. The City issued two Request for Proposals, which resulted in a development agreement (DA) with Golub (Developer). The DA required the developer to install a traffic signal and to relocate a canal. The installation of the traffic signal entailed obtaining the permission of the City as well as Valley Metro Rail; this is the only traffic signal that has been added to an operating rail line in Tempe. The relocation of the canal was a lengthy process that entailed obtaining the permission of the Bureau of Land Management, Salt River Project (SRP), Arizona State University (ASU), ASU Board of Regents, Arizona Public Service Company (APS), and the City. There is also an easement request from APS related to the property on tonight's City Council meeting agenda [agenda item #6C1]. The applicant has spent a significant amount of time and approximately \$3 million in meeting the DA requirements; and, is in the process of orienting the site into a position where it could be developed later this year. Based on this complicated process and because the applicant has met the requirements of the DA, the applicant is requesting additional time to work on the PAD.

The public hearing was closed.

Mr. Huellmantel stated that the applicant filed an application with the City in March 2016 to amend the PAD because the preference is to build a different project. Later this year, an alternative project will be presented to the City Council.

Michael Glazier, property owner, stated that the applicant would like to revise the project design, keep the same type of use, use a single phase approach to development of the site, and produce a less dense product.

In response to questions from Councilmembers, Mr. Huellmantel emphasized that the Developer intends to develop the property and has done so across the country, including the Waterfront project in Scottsdale. The Developer's preference is to modify the PAD; however, the Developer would build what has already been approved in the DA. The Developer owns all of the land with the exception of a small portion, which is owned by SRP, and remnant portions of land that are owned by ASU. As soon as the canal relocation is completed, the Developer will have met all of its obligations in the DA; however, the site is not ready for development.

Mr. Huellmantel stated that this is an awkwardly shaped parcel, which has been complicated to assemble due to the various entities involved in the process. The City chose to issue two Request for Proposals, versus developing the property. He discussed the challenges resulting from how the property has changed over time and the investments made to the infrastructure.

In response to questions from Councilmembers, Mr. Levesque provided background information on this project, which began in 2012. At that time, the property was rezoned for multiple zoning districts and for a PAD; the project did not include a development plan review. A PAD was granted for a 4-year time period, with an expiration date of March 22, 2016. In the interim, the applicant filed a preliminary site plan and has subsequently filed a formal application. Staff is in the process of working with the applicant on finalizing that application with the intent to schedule future public hearings before the City Council. Staff anticipates the submittal of a revised PAD in the near future, which would be different than what the current extension request entails.

In response to questions from Councilmembers, Mr. Glazier stated that Golub develops, manages, and leases its properties. There are instances when there are third party assignments. Golub has a national footprint in multi-family, market rate development. Golub's intention is to manage this property, and would likely do so as a third party manager/leasing agent, even if the property were sold. He discussed various property management operations in several markets.

In response to questions from Councilmembers, Mr. Huellmantel stated that the APS easement on this meeting agenda is critical because it will allow the Developer to complete the SRP canal relocation, making that land developable. The Developer is also working with ASU because ASU owns remnant portions of land that should be turned over to the Developer in exchange for the installation of the traffic signal. The DA requires that there be an intergovernmental agreement between ASU and the City regarding those property remnants, which are located around the driveway portion of the project. If an IGA is not agreed upon, it would impact the driveway portion of the development; however, the property would still be a developable. Discussions with ASU include how to improve the driveway portion of the project.

**Motion by Vice Mayor Arredondo-Savage to approve a time extension to March 22, 2017, for agenda item 6A3; second by Councilmember Keating.**

Councilmember Navarro asked for clarification of the time extension date and whether or not the applicant has agreed to that date. Mr. Huellmantel stated that the applicant is requesting a time extension to September 22, 2017, which is an 18 month extension from March 22, 2016. The applicant filed an application for an amended PAD, before the March 2016 expiration date. It is a lengthy process to prepare construction documents for a building of this size. A one-year time extension from today would be more helpful than an extension to March 22, 2017.

Councilmember Navarro stated that his preference would be to grant a one-year extension, to August 18, 2017. Vice Mayor Arredondo-Savage explained that she chose the March 22, 2017 date because the City Council approved the initial entitlement request with the condition that the building permit application be completed on or before March 22, 2016. That was a significant date in the process. She voiced confidence that the Developer will be able to work through the process.

Councilmember Schapira discussed how complicated these types of projects can be. Based on what the applicant is saying, he is concerned that the proposed time extension will not be helpful. **Substitute motion by Councilmember Schapira to grant a time extension for one-year from today's date. Second by Councilmember Navarro.**

Judi Baumann, City Attorney, stated that because there was a prior motion that has been seconded, a vote needs to be taken on the prior motion before an amendment can be made. Councilmember Schapira requested that the City Attorney consult the rules and confirm that a substitute motion would not be voted on first. In response to a question from Mayor Mitchell, Ms. Baumann indicated that the Mayor, as the Presiding Officer, has the authority on how to proceed; she believes that after a motion has been made and seconded, a vote needs to be taken. Councilmember Schapira stated that he believes this is a violation of the rules. Vice Mayor Arredondo-Savage declined to amend her motion.

**The motion to approve a time extension for prior entitlements to March 22, 2017, passed on a roll call vote 5-1, with Councilmember Navarro voting no.**

- \*6A3.** Held a public hearing for a review of the Zoning Map Amendment and Planned Area Development Overlay and approved a time extension to March 22, 2017 for entitlements for 8TH & RURAL, located at 855 South Rural Road.

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

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- 6A4.** [Time extension of the Temporary Use Parking of parking spaces for UNIVERSITY SQUARE, 110 East University Drive.](#)

Darin Sender, Sender and Associates, applicant representative, stated that the requested time extension for temporary use parking is a contingency plan. The applicant agrees with the staff stipulation of a two-year extension to have the ability to continue utilizing the parking lot in its current condition. The applicant is confident that development will begin prior to the end of the time extension.

**Motion by Vice Mayor Arredondo-Savage to approve a two-year time extension for agenda item 6A4; second by Councilmember Keating. Motion passed unanimously on a roll call vote 6-0.**

- 6A4.** Approved a time extension to August 18, 2018 for the Temporary Use Parking of 409 parking spaces for UNIVERSITY SQUARE, located at 110 East University Drive. The applicant is Sender Associates.

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

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- 6A5.** [Development Plan Review and Subdivision Plat for LAKE COUNTRY VILLAGE PHASE IV, 1040 East Baseline Road.](#)

Charles Huellmantel, applicant representative, stated that the City Council has reviewed different versions of this project at various intervals. The project is located at Baseline Road and Lakeshore Drive. Several neighborhood meetings have been held regarding this project. Mr. Huellmantel displayed graphic illustrations of the existing project area and examples of projects that the developer, LGE, has done. The Wendy's restaurant that is located along the Baseline Road portion of the property will be relocated on the project site, into a more modern building. Project amenities include an Alamo Drafthouse Cinema movie theater, restaurants, shade, pathways, and multi-family development. Installation of a paseo is a requirement of the settlement agreement.

Councilmembers voiced support for the project; thanked everyone involved in the process; thanked the applicant for addressing concerns of neighbors; and, voiced support for a movie theater. Mr. Huellmantel thanked City staff for their assistance throughout the process.

**Motion by Councilmember Keating to approve agenda item 6A5; second by Vice Mayor Arredondo-Savage. Motion passed unanimously on a roll call vote 6-0.**

- 6A5.** Approved a Development Plan Review and Subdivision Plat consisting of approximately 50,000 sf of restaurant/retail space and a theater for LAKE COUNTRY VILLAGE PHASE IV, located at 1040 East Baseline Road. The applicant is Huellmantel & Affiliates.

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

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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 granting a utility easement to Arizona Public Service Company near the southeast corner of Rural Road and 8th Street, an easement agreement, and related documents.**

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

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

- \*6C1.** Held the second and final public hearing and adopted **ORDINANCE NO. O2016.42** authorizing the granting of a utility easement to Arizona Public Service Company over certain City-owned land located near the southeast corner of Rural Road and 8th Street, and authorizing the Mayor or his designee to execute an Easement Agreement and related documents. **(Contract #2016-174)**

***Fiscal Impact:*** N/A

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- \*6C2. Ordinance amending the Tempe City Code, Chapter 19, Motor Vehicles and Traffic, relating to parking and civil sanctions.**

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

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

- \*6C2.** Held the second and final public hearing and adopted **ORDINANCE NO. O2016.43** amending the Tempe City Code, Chapter 19, relating to Motor Vehicles and Traffic, parking and civil sanctions.

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

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- \*6C3. Ordinance for an Amended Planned Area Development Overlay and a Development Plan Review for LPT RIO IV, 1870 West Rio Salado Parkway.**

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

**Motion by Vice Mayor Arredondo-Savage to approve agenda item 6C3; second by Councilmember Keating. Motion passed unanimously on a roll call vote 6-0.**

- \*6C3.** Held the second and final public hearing and adopted **ORDINANCE NO. O2016.44** for an Amended Planned Area Development Overlay and approve a Development Plan Review for a new office building and parking garage for LPT RIO IV, located at 1870 West Rio Salado Parkway. The applicant is RSP Architects.

**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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- \*6C4. Ordinance to amend the Tempe City Code, by amending Section 6-54, relating to the prohibition on the sale of cats and dogs.**

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

*Councilmember Granville joined the meeting telephonically at 7:19 p.m.*

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

- \*6C4.** Held the second and final public hearing and adopted **ORDINANCE NO. O2016.45** amending the Tempe City Code, Section 6-54 relating to Animals, in general, by amending Article III relating to the prohibition on the sale of cats and dogs.

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

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- \*6C5. Ordinance amending Chapter 2 to add Article IX to the Tempe City Code, relating to lobbyist registration.**

Mayor Mitchell opened the public hearing. There was no public comment on agenda item 6C5. Mayor Mitchell closed the public hearing.

**Motion by Vice Mayor Arredondo-Savage to approve agenda item 6C5; second by Councilmember Keating.**

**Motion by Councilmember Schapira to amend the motion as follows: on page 4, remove the \$50 from Section F. and replace it with \$20.**

Mayor Mitchell stated that there has been a motion and a second to approve the agenda item; he then requested legal guidance. Judi Baumann, City Attorney, stated that once a motion has been made, there could be debate to add an amendment. Councilmember Schapira discussed the process and the impact of substitute motions.

Mayor Mitchell restated that there has been a second to the motion to approve the agenda item. Ms. Baumann stated that if an ordinance is amended substantively, then the City Charter requires that the ordinance go back through the two public hearings process. Councilmember Schapira clarified that the amendment would have to be approved for the ordinance to go through the process again.

Mayor Mitchell asked about the process related to motions. Ms. Baumann asked if the Councilmember who made the original motion was willing to withdraw their motion. Vice Mayor Arredondo-Savage declined to withdraw her motion.

Councilmember Schapira asked for a point of order and requested that the City Attorney consult and cite from the rules before moving forward with this agenda item; Councilmember Kuby concurred with this request.

*Councilmember Granville arrived at the meeting at 7:35 p.m.*

Ms. Baumann noted that the point of order is not referenced in the City Council Rules of Procedures and deferred to Mayor Mitchell, as the Presiding Officer.

*The meeting was recessed at 7:26 p.m. for a break and reconvened at 7:33 p.m. with all Councilmembers present.*

Mayor Mitchell announced that according to Roberts Rules of Order, if there is any question, the question results back to the Chair. He asked Councilmember Schapira to restate the proposed amendment to the original motion and noted that there needs to be a second to the motion to amend, before it can be voted upon.

**Councilmember Schapira restated the motion to change the dollar amount on page 4 of the ordinance, where only expenditures by lobbyists over \$50 would be reported is changed to \$20. Councilmember Kuby seconded the motion.** Councilmember Schapira noted that these are the same lobbyist reporting requirements that have been adopted by the State Legislature.

Mayor Mitchell noted that if the proposed amendment is opposed by the City Council, the next vote will be on the original motion.

Councilmember Kuby voiced support for the requirements being the same as the Legislature.

Councilmembers discussed the lobbyist reporting requirements based on if all Councilmembers are invited to an event, versus individual Councilmembers being invited to an event. The ordinance excludes lobbyist-reporting requirements for events that all Councilmembers are invited to. Mayor Mitchell noted that there are events that not all Councilmembers are invited to; the typical cost for breakfast or lunch meetings totals \$50. In response to a question, Ms. Baumann stated that the lobbyist would have to report the expenditure for a meal that is over \$50 in cases where not all Councilmembers were invited; the same would apply if the lobbyist-reporting amount was \$20.

Vice Mayor Arredondo-Savage voiced support for the working group recommendation and for the Committee of the Whole process; input was included in the process. This has not been an issue in the past and she does not support making unexpected and significant changes so late in the process. This is a positive, transparent step. She noted that Tempe is not the State Legislature and that she does not support the amendment.

Councilmember Schapira stated that if a Councilmember is not participating in a working group, the only opportunity a Councilmember has to make a change is at this stage, unless the Councilmember can convince the working group to decide otherwise. He stated that this request is not last minute as he has raised this issue three times. He does not want to have lower standards than what the State Legislature has adopted.

Mayor Mitchell stated that the working group has had extensive debate and dialogue on this topic. Councilmembers have had an opportunity to provide input during working group meetings, Work Study Sessions, and two public hearings.

Councilmembers discussed the lobbyist reporting requirements in other cities. Phoenix and Peoria have a \$25 reporting requirement. Mayor Mitchell stated that he would support mirroring the Phoenix and Peoria reporting requirements. Councilmember Navarro expressed an interest in confirming the Phoenix and Peoria lobbyist-reporting requirements. Councilmember Schapira stated that he could amend his motion to require a \$25 threshold instead of \$20.

Vice Mayor Arredondo-Savage noted that this has been a long, significant, and inclusive process and asked Ms. Baumann if the amendment passes, would the ordinance be required to go back through the process again. Ms.

Baumann stated that there is a City Charter provision that states if an ordinance is amended as to any matter of substance, it needs to go through the process again. Councilmember Kuby questioned why amending the lobbyist registration reporting amount would be considered an item of substance, or a major amendment.

In response to a question, Ms. Baumann clarified that the exception portion of the ordinance relating to lobbyist gift reporting requirements applies to all Councilmembers being invited to events. Reporting requirements apply to the lobbyist and not the Councilmember.

**The motion to amend the original motion, to change the dollar amount on page 4 of the ordinance, where only expenditures by lobbyists over \$50 would be reported, to \$20, failed on a roll call vote 3-4 with Mayor Mitchell, Vice Mayor Arredondo-Savage, and Councilmembers Keating and Navarro voting no.**

*Councilmember Navarro left the meeting at 8:00 p.m.*

**Motion by Councilmember Schapira to amend the original motion, to say \$25 instead of \$50; second by Councilmember Kuby. Motion failed on a roll call vote 3-3 with Mayor Mitchell, Vice Mayor Arredondo-Savage, and Councilmember Keating voting no and Councilmember Navarro absent.**

**Mayor Mitchell stated that the original motion was to approve the ordinance as stated on the agenda. The motion passed unanimously on a roll call vote 6-0, with Councilmember Navarro absent.**

**\*6C5.** Held the second and final public hearing and adopted **ORDINANCE NO. O2016.46** amending Chapter 2 to add Article IX to the Tempe City Code relating to lobbyist registration.

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

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

Councilmember Granville

*Newsweek* ranked Tempe Preparatory Academy the #1 high school in Arizona and #15 in the United States.

Vice Mayor Arredondo-Savage

Monday, September 12, 2016 – Tempe Coalition Town Hall event, Corona del Sol High School.

Saturday, August 20, 2016 – College Connect event, Tempe Public Library.

Councilmember Keating

Welcomed the Arizona State University freshman class and encouraged students to vote.

Councilmember Kuby

Thanked Homelessness Town Hall participants and Arizona State University for use of their venue.

Thanked Councilmembers Keating and Navarro for their participation on a housing first initiative working group.

Mayor Mitchell

Congratulated Tempe Preparatory Academy for being ranked the #1 high school in Arizona.

Welcomed Arizona State University students back to school.

**8. PUBLIC APPEARANCES**

**A. Scheduled – None.**

**B. Unscheduled**

Kim Loza, Tempe, voiced concern regarding the decision to reclassify the North Tempe Neighborhood Association (NTNA) from a neighborhood association to an affiliate organization; this is a demotion. NTNA is one of the oldest neighborhood associations in Tempe and its neighborhood association designation should be grandfathered. She discussed her views regarding why the reclassification occurred and noted that no one has explained that decision to her satisfaction. She discussed the NTNA's positive working relationship with City officials and a desire to continue that relationship.

Darlene Justus, Tempe, requested that the NTNA neighborhood association designation be grandfathered. During her time as President of the association, NTNA's freedom of speech and its legacy have been compromised. Ms. Justus provided a history of the NTNA membership, accomplishments, partnerships, and outlined the various issues that NTNA will continue to address. She announced that she will be retiring as President in October. Members of the NTNA have no legal authority over citizens or over other neighborhood associations. NTNA is a group of concerned citizens volunteering their time to better their neighborhoods. NTNA was formed before the City had a Neighborhood Services Department, and was given privileges as a neighborhood association.

Bruce Braley, Tempe, spoke on behalf of citizens who live north of the town lake and declining efforts to improve north Tempe. Previous speakers have listed the accomplishments of the NTNA. He participated in two meetings with City staff and has heard no justification for the recent elimination of City-funded mailings or for the reduction in the status of NTNA, which he disagrees with. He e-mailed Councilmembers regarding a recent neighborhood meeting where certain attendees displayed inappropriate behaviors. The purpose of that meeting was to ensure that the revision process for the neighborhood handbook included public input. Public input was not solicited before the handbook was finalized. He requested that there be a second forum to review the neighborhood handbook. He discussed the sergeant at arms that is present at City Council Meetings to enforce civility.

Deb Gain Braley, Tempe, requested that the decision to reclassify the NTNA as an affiliate organization be reconsidered; it is a downgrade that has not been fully explained. NTNA has done good deeds over the years. She participates in NTNA and has spoken at the State Legislature regarding issues that impact Tempe. She discussed receiving limited City support and mailing assistance for various NTNA events and meetings.

Nancy Saxton, Tempe, discussed traffic concerns in the Lakes Community neighborhood and at Lakeshore Drive and Baseline Road due to new development in the area; accidents and cut thru traffic are issues of concern. She requested that the City's Traffic Engineer do a traffic study and consider narrowing Lakeshore Drive. Mayor Mitchell stated that City staff will meet with Ms. Saxton to discuss her concerns.

**The meeting adjourned at 8:10 p.m.**

I, Kay Savard, the duly-appointed Deputy 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 August 18, 2016, by the Tempe City Council, Tempe, Arizona.

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Mark W. Mitchell, Mayor

ATTEST:

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Kay Savard, Deputy City Clerk