

LEGAL ACTION SUMMARY

**Tempe City Council
Regular Council Meeting
Harry E. Mitchell Government Center
Tempe City Hall - City Council Chambers
31 East Fifth Street, Tempe, Arizona
Thursday, January 26, 2017
6:00 PM**

[MEETING VIDEO](#)

Members of the City Council may attend either in person or by telephone conference call.

1. **INVOCATION – Councilmember Navarro**
2. **PLEDGE OF ALLEGIANCE**
3. **MINUTES – Councilmember Schapira**

A. Approval of City Council Meeting Minutes

1. Executive Session - January 12, 2017
2. [Regular City Council Meeting - December 8, 2016](#)

APPROVED

B. Acceptance of Board, Commission and Committee Meeting Minutes

1. [Tempe Aviation Commission - December 13, 2016](#)
2. [Commission on Disability Concerns - August 1, 2016, November 7, 2016, and December 5, 2016](#)
3. [Development Review Commission - October 25, 2016 and November 9, 2016](#)
4. [Development Review Commission Study Session - October 25, 2016 and November 9, 2016](#)
5. [Fire Public Safety Personnel Retirement System Board - December 1, 2016](#)
6. [Fire and Police Public Safety Personnel Retirement System Board Joint Meeting - December 1, 2016](#)
7. [Hearing Officer - January 3, 2017](#)
8. [Tempe Human Relations Commission - December 13, 2016](#)
9. [Mayor's Youth Advisory Commission - December 6, 2016](#)
10. [Parks, Recreation, Golf and Double Butte Cemetery Advisory Board - December 21, 2016](#)
11. [Police Public Safety Personnel Retirement System Board - December 1, 2016](#)
12. [Transportation Commission - November 8, 2016](#)

ACCEPTED

4. **REPORTS AND ANNOUNCEMENTS**

- A. Mayor's Reports and Announcements
 - 1. 2016 Annual Board and Commission Report
- B. City Manager's Reports and Announcements

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.

A. **Miscellaneous Items**

- 5A1. [Approve a fiscal year 2016-17 Capital Improvements Program budget appropriation transfer from Federal Grant Contingency to Railroad Crossing Safety Improvements – Union Pacific Railroad at Broadway Road. \(Related to Agenda Item 5B5\)](#)

Fiscal Impact: \$170,000 of fiscal year 2016-17 appropriations will be transferred from Fund 54 Street Improvement-CIP No. 9854-Streets Grant Contingency to CIP Project No. 5405381- Broadway Rail Safety Improvements. Total Capital Improvement Program appropriations will not increase as a result of the transfer. The construction costs for this project are reimbursable through a Highway Safety Improvement Program (HSIP) Section 130 grant through the Federal Highway Administration.

APPROVED

- 5A2. [Approve the fiscal year 2016-17 Capital Improvements Program budget appropriation transfer from Project Contingency - Federal Grant & Local project 60-9860 to Tempe Streetcar project 6008459.](#)

Fiscal Impact: This transfer will provide initial budget appropriation of \$1,533,216 for the project. The funding sources for this appropriation consist of Public Transportation Funding (PTF) and a Transit Oriented Development (TOD) grant. Total Capital Improvement Program appropriations will not increase as a result of this transfer. Tempe's local funding commitment for project construction (local match through the public private partnership that is being created) will not exceed \$13 million. Total local project budget appropriation through fiscal year 2020/21 is estimated to be \$17,591,005, which includes the \$13 million public private partnership commitment, administrative costs in the amount of \$2,953,128, land acquisition/ROW costs in the amount of \$512,877, traffic signals design and engineering in the amount of \$600,000 and a concurrent non-project activity contingency in the amount of \$200,000.

APPROVED

- 5A3. [Approve the Tempe Diablos Charities, Inc. grant award in order to accept and spend grant funds to provide the 2017 YouthFest Courage Awards and the Tempe Teen Changemakers Recognition Dinner.](#)

Fiscal Impact: The amount of the grant award is \$14,500. Sufficient budget appropriation for expenditure of this grant was authorized in the Restricted Revenue and Donations Fund (Fund 44) as part of the Fiscal Year 2016-17 adopted budget.

APPROVED

- 5A4. [Approve the Tempe Diablos Charities, Inc. grant award in order to accept and spend grant funds for the Tempe College Connect program.](#)

Fiscal Impact: The amount of the grant award is \$10,000. Sufficient budget appropriation for expenditure of this grant was authorized in the Restricted Revenue and Donations Fund (Fund 44) as part of the Fiscal Year 2016-17 adopted budget.

APPROVED

- 5A5. [Approve a Final Subdivision Plat for FRY'S FUEL CENTER 43, located at 5110 South Wendler Drive. The applicant is Sustainability Engineering Group.](#)

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

APPROVED

- *5A6. [Hold a public hearing to recommend the approval of a series 12 restaurant liquor license for Plur Café LLC, dba Plur Café, 909 East Lemon Street.](#)

Fiscal Impact: N/A

THIS ITEM WAS WITHDRAWN, AT THE REQUEST OF THE APPLICANT

B. Award of Bids/Contracts

- 5B1. [Approve the utilization of a two-year City of Chandler contract with Bank of America for procurement card services utilized by all City departments.](#)

Fiscal Impact: There is no cost to the City for this contract, however it is anticipated that the City will receive an estimated \$153,000 annual rebate from Bank of America for each contract year. Annual rebates are based upon the aggregate transaction volume of the City and approximately fifteen other agencies.

APPROVED

- 5B2. [Approve one-year contract renewals with Border States Industries, Capital Electric Supply, Summit Electric Supply and Wesco Distribution to purchase electrical supplies.](#)

Fiscal Impact: Total cost of these four contracts will not exceed \$500,000 during the one-year contract period. Sufficient funds have been appropriated in multiple Funds including; General, Water/Wastewater, Transit, Highway User, and Capital Improvement Projects.

APPROVED

- 5B3. [Approve one year contract renewals with Alpine Pinnacle, Inc., Designer Care Company, Henry Schein, Inc., and Midwest Medical Supply Company for the purchase of disposable latex and non-latex gloves for use throughout the City.](#)

Fiscal Impact: Total one-year combined cost of these renewals is estimated at \$200,000. Sufficient funds have been appropriated in a variety of applicable department cost centers for the 2016/2017 fiscal year.

APPROVED

- 5B4. [Approve a one-year contract renewal with Wesco Distribution, Inc. to purchase LED cobra head lighting fixtures used for street lighting.](#)

Fiscal Impact: Total cost of this one-year contract will not exceed \$200,000. Sufficient funds have been appropriated in the Highway User Fund (cost center 3824 – Street Light and Signals) for the anticipated expenditures.

APPROVED

- 5B5. [Award a construction contract to AJP Electric, Inc. for the railroad crossing safety improvements for the Union Pacific Railroad at Broadway Road located at 221 East Broadway Road. \(Related to Agenda Item 5A1\)](#)

Fiscal Impact: The construction contract amount is \$129,875 and the project contingency amount is \$12,987.50. Funds to cover this contract and related costs are appropriated for fiscal year 2016/17 in the Capital Improvement Project No. 5405381, Broadway Rail Safety Improvements.

APPROVED

- 5B6. [Award professional services contracts to AMEC Foster Wheeler Environment & Infrastructure, Inc.; Ricker, Atkinson, McBee, Morman & Associates, Inc.; and Speedie and Associates, Inc. to provide on-call materials testing and related services.](#)

Fiscal Impact: The total contract amount for each firm is not to exceed \$200,000. Funding for materials testing comes from two sources. Testing associated with private development and utilities construction is funded by operating budget cost center 2721 and testing related to Capital Improvement project construction is funded by the individual project.

APPROVED

- 5B7. [Award a one-year contract to ReSource Arizona to replace the carpet in the lobby of the Tempe Center for the Arts.](#)

Fiscal Impact: Total cost of this contract will not exceed \$200,000 during the one-year contract term. Sufficient funds have been appropriated in the General Governmental Capital Improvement Project Fund – cost center 6707559 (TCA Asset Restoration) for the anticipated expenditures in the current fiscal year.

APPROVED

C. Resolutions

- 5C1. [Adopt a resolution authorizing the Mayor to sign a Cancellation of Operating Agreement for School Crossing with Tempe Elementary School District #3. \(Resolution No. R2017.14\)](#)

Fiscal Impact: N/A

THIS ITEM WAS CONTINUED TO THE FEBRUARY 9, 2017 REGULAR COUNCIL MEETING

- 5C2. [Adopt a resolution prescribing standards of financial disclosure for local elected officials, and repealing Resolution No. 1858. \(Resolution No. R2017.15\)](#)

Fiscal Impact: None.

ADOPTED

- 5C3. [Adopt a resolution approving the sale, execution and delivery of Excise Tax Revenue Refunding Obligations, Series 2017, and related documents, authorizing the redemption in advance of maturity of certain outstanding obligations; and authorizing the taking of all other necessary actions contemplated by this resolution. \(Resolution No. R2017.16\)](#)

Fiscal Impact: Approximate savings of \$950,000 in future debt service costs is currently anticipated for the refinanced bonds. The debt service on these bonds will be paid out of the Debt Service Fund and Community Facilities District Fund.

ADOPTED

- 5C4. [Adopt a resolution approving the sale, execution and delivery of Transit Excise Tax Revenue Refunding Obligations, Series 2017, and related documents, authorizing the redemption in advance of maturity of certain outstanding obligations; and authorizing the taking of all other necessary actions contemplated by this resolution; and ratifying the actions of all officers and agents of the City and others with respect to the transfer, prepayment, defeasance and redemption. \(Resolution No. R2017.17\)](#)

Fiscal Impact: Approximate savings of \$1.4 million in future debt service costs is currently anticipated for the refinanced bonds. The debt service on these bonds will be paid out of the Transit Special Revenue Fund.

ADOPTED

- 5C5. [Adopt a resolution approving the naming of the James Elmore Pedestrian Bridge at Tempe Town Lake. \(Resolution No. R2017.18\)](#)

Fiscal Impact: No fiscal impact.

ADOPTED

6. NON-CONSENT AGENDA

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

Quasi-judicial items are indicated by "q-j". The City Council sits as a quasi-judicial body when hearing variances. In this situation, the City Council must conduct itself as a court, not as a legislative body. Pre-meeting contact with the City Council on quasi-judicial matters is prohibited. Any materials or conversations concerning the item shall only be presented to the City Council at the scheduled public hearing.

A. Miscellaneous Items/Bids/Contracts/Resolutions

- 6A1.** [Award a five-year contract with five, one year renewal options to Clean Energy Cryogenics to provide inspection, maintenance, and repair services to the liquid/compressed natural gas fueling station at the East Valley Bus Operations and Maintenance facility.](#)

Fiscal Impact: Total cost of this contract will not exceed \$2,000,000 during the five-year contract term. Sufficient funds have been appropriated in the Transit Fund – cost center 3914 (Transit Operations) for the anticipated expenditures in the current fiscal year.

APPROVED

B. Ordinances and Items for Introduction and First Hearing

- *6B1.** [Introduce and hold the first public hearing to adopt an ordinance authorizing the abandonment of an Easement for Public Waterline and Fire Hydrant purposes and an Easement for drainage purposes located on the North side of 1st Street, Approximately 800' East of South Hardy Drive. The second and final public hearing is scheduled for February 9, 2017. \(Ordinance No. O2017.11\)](#)

Fiscal Impact: N/A

THE SECOND AND FINAL PUBLIC HEARING WAS SCHEDULED FOR FEBRUARY 9, 2017

C. Ordinances and Items for Second Hearing and Final Adoption

- *6C1.** [Hold the second and final public hearing to adopt an ordinance authorizing the granting of a power distribution easement to Salt River Project Agricultural Improvement and Power District over certain City-owned land located north of Elliot Road, west of Rural Road and south of Guadalupe Road, and authorizing the Mayor or his designee to execute an easement agreement and related documents. \(Ordinance No. O2017.06\)](#)

Fiscal Impact: N/A

ADOPTED

- *6C2.** [Hold the second and final public hearing to adopt an ordinance authorizing the conveyance of certain City-owned land located at Rural and Terrace Roads to the Arizona Board of Regents, and the execution of a Quit Claim Deed and related documents. \(Ordinance No. O2017.07\)](#)

Fiscal Impact: N/A

ADOPTED

- *6C3. [Hold the second and final public hearing to adopt an ordinance for an Amended Planned Area Development Overlay and a Development Plan Review for a new 24-story mixed use development consisting of 393 dwelling units and retail use for SKYVIEW, located at 903 South Terrace Road. The applicant is Huellmantel and Affiliates. \(Ordinance No. O2017.08\)](#)

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.

ADOPTED, WITH SIX STIPULATIONS

- *6C4. [Hold the second and final public hearing to adopt an ordinance for a Zoning Map Amendment from CSS TOD and R-4 TOD to MU-4 TOD, a Planned Area Development Overlay, and a Development Plan Review for a new four- and five-story, mixed-use development containing 202 units and commercial uses for METRO 101, located at 2177 East Apache Boulevard. The applicant is Huellmantel & Affiliates. \(Ordinance No. O2017.09\)](#)

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.

ADOPTED

- *6C5. [Hold the second and final public hearing to adopt an ordinance for a Code Text Amendment for REGIONAL COMMERCIAL CENTER ZONING \(RCC\), consisting of changes within the RCC development standards, establishing a density for residential land use. The applicant is the City of Tempe. \(Ordinance No. O2017.10\)](#)

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

ADOPTED

- *6C6. [Hold the second and final public hearing to adopt an ordinance amending Chapter 7 of the Tempe City Code relating to Bicycles and Light Motorized Vehicles, by adding new Articles VI and VII regulating the operation of electric bicycles and light motorized vehicles. \(Ordinance No. O2017.05\) \(The first public hearing was held on December 8, 2016\)](#)

Fiscal Impact: Violation of this ordinance would result in a minimum fine of \$100.00 per occurrence.

ADOPTED

7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

8. PUBLIC APPEARANCES

According to the Arizona Open Meeting Law, the City Council may only discuss matters listed on this agenda. Matters discussed by the public during public appearances cannot be discussed by the City Council unless they are specifically listed on this agenda. There is a three-minute time limit per speaker. Speaker's visual aids or recorded tapes are not allowed.

Members of the public shall refrain from making personal, impertinent or slanderous remarks and from

becoming boisterous while addressing the City Council or while attending the meeting. Unauthorized remarks from the audience, clapping, stomping of feet, yelling or any similar demonstrations are also prohibited. Violations of these rules may result in removal from the City Council meeting.

- A. Scheduled
- B. Unscheduled

Legal Advice: If necessary, the City Council may vote to adjourn to executive session for the purpose of obtaining legal advice from the Council's attorney on any matter listed on the agenda pursuant to A.R.S §38-431.03(A)(3).

The City of Tempe endeavors to make all public meetings accessible to persons with disabilities. With 72 hours advance notice, special assistance can also be provided for sight and/or hearing impaired persons at public meetings. Please call (480) 350-2905 (voice) or (480) 350-2750 (TDD) to request an accommodation to participate in the City Council meeting.

**Agendas are also available at <http://www.tempe.gov/clerk>.
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Video replay of this meeting is available the next day at www.tempe.gov/tempe11.**