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MINUTES OF THE REGULAR MEETING OF THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, held in the Council Chambers, 88 E. Chicago Street, on Thursday, February 10, 2011, at 7:00 p.m.

THE MEETING WAS CALLED TO ORDER BY MAYOR JAY TIBSHRAENY.

The following members answered roll call:	Jay Tibshraeny	Mayor
	Trinity Donovan	Vice-Mayor
	Kevin Hartke	Councilmember
	Rick Heumann	Councilmember
	Matt Orlando	Councilmember
	Jack Sellers	Councilmember
	Jeff Weninger	Councilmember

Also in attendance:	Rich Dlugas	Acting City Manager
	Pat McDermott	Assistant City Manager
	Mary Wade	City Attorney
	Marla Paddock	City Clerk

INVOCATION: Pastor Mike Wilson – Crossroads Nazarene Church

PLEDGE OF ALLEGIANCE: Councilmember Heumann

SCHEDULED PUBLIC APPEARANCES:

1. Mike Perry – Chandler Relay for Life Event

MR. MIKE PERRY, 575 W. Chandler Blvd., informed the Council that he was before them as a volunteer of the American Cancer Society, as well as being the Co-Chair of the 2011 Chandler Relay for Life. He hoped to have over 100 teams of 8-15 members camping out at Basha High School. Last year, the Chandler Relay event raised over $120,000.00 and hoped to crush that number this year. He asked the Mayor and Council as well as all City Departments, small businesses and all residents to participate.

COUNCILMEMBER HEUMANN stated that one of the Chandler In Focus shows will have information.

COUNCILMEMBER HARTKE stated he had attended the event last year and encouraged others to attend this year's event.

MAYOR TIBSHRAENY asked Communication and Public Affairs Director Nachie Marquez to have the City's Event Coordinator meet with Mr. Perry.

2. Tony Di Bonito – Use of Daylight at Night in Buildings and Homes

MR. TONY DI BONITO addressed the Council regarding the use of daylight at night in buildings and homes.

UNSCHEDULED PUBLIC APPEARANCES:

MR. JIM ORMSBY, 3131 E. Horseshoe Drive, addressed the Council regarding a project that was being put together by a number of Chandler business people and others that were associated with the Chandler Airport to build a solar energy product at the Airport. He stated that the project would cover 175 aircraft tie-down spaces with solar panels, generate more electricity that the Airport uses and would be done at no out of pocket expenses to the City. He believed the project was unique and positive. He stated all of the principals of the project were read to go, including: utilities, financing and contractors. He stated that a Letter of Intent from the City was holding the project up. The letter would be used to put the project on a list with SRP for the current round of funding. He stated that the letter was being denied or delayed. He believed that the delay might result in the project not being done with SRP and with the organizers giving up on the project. He noted that he was not personally associated with the project, but rather wanted to make the Council and others aware of the situation. He told the Council that a national organization named the Aircraft Owners and Pilots Association had a publication of over 500,000 in circulation. He noted that the publication had an article on the Vina Escondida project. He believed it would be an excellent opportunity for publicity. He asked the Council to ensure that the letter of intent be provided as soon as possible so that the opportunity is not missed.

MAYOR TIBSHRAENY asked staff to follow up on the issue.

CONSENT:

MOVED BY COUNCILMEMBER HEUMANN, SECONDED BY COUNCILMEMBER HARTKE, TO APPROVE THE CONSENT AGENDA AS PRESENTED.

MOTION CARRIED UNANIMOUSLY (7-0).

1. MINUTES:

APPROVED, as presented, minutes of the City Council meetings of the Special Meeting on January 24, 2011; Special Meeting on January 27, 2011; the Regular Meeting of January 27, 2011; and the Special Meeting of January 27, 2011.

2. CITY CODE AMENDMENT: Chapter 50 Ord. #4263

ADOPTED Ordinance No. 4263 amending Chapter 50, Sections 50-11 through 50-12 of the Chandler City Code to change certain water, reclaimed water and sewer fees.

3. CITY CODE AMENDMENT: Chapters 43 and 45 Ord. #4267

ADOPTED Ordinance No. 4267 adopting updated versions of existing construction standards and amending Chapter 43, Section 43-5, Subsections 43-5.1, 43-5.2, 43-5.3, 43-5.4, 43-5.5, 43-5.7, 43-5.10 and 43-5.12, and Chapter 45, Sections 45-1 and 45-2 of the Chandler City Code.

4. PROPERTY VACATION: Alleyway Ord. #4269

ADOPTED Ordinance No. 4269 vacating a portion of the north-south alleyway east of Arizona Avenue, south of Boston Street, north of Frye Road and west of Washington Street, consisting of approximately 0.2310 acres.

5. CABLE TELEVISION SERVICES REQUIREMENTS AMENDMENT Ord. #4276

ADOPTED Ordinance No. 4276, Amendment No. 2 to the Cable Television Services Requirements, and accepting I-Net Services Concessions in lieu of Liquidated Damage Fees related to Ordinance No. 2890 – Cable Television License Agreement between the City of Chandler and Qwest Broadband Services, Inc.

6. REZONING: Falcon Pointe At Pinelake Ord. #4279

ADOPTED Ordinance No. 4279, DVR10-0004, Falcon Pointe At Pinelake, rezoning from PAD for Business Park and Planned Industrial District (I-1) to PAD (Multi-Family Residential) with PDP to allow a multi-family residential development located at the SEC of Pinelake Way and Ocotillo Road, approximately one-half mile east of Arizona Avenue on the south side of Ocotillo Road.

7. REZONING: Medinah Plaza Ord. #4283

ADOPTED Ordinance No. 4283, DVR10-0016 Medinah Plaza, rezoning from Single-Family Residential (SF-8.5) to PAD along with PDP for a commercial building located north of the NEC of Alma School Road and Erie Street.

8. AMENDED EASEMENT: Santan Technology Park Ord. #4284

ADOPTED Ordinance No. 4284 granting an amended easement for ingress and egress and parking purposes on City land located immediately east of the Santan Technology Park for the purpose of allowing the construction of covered parking improvements.

9. CITY CODE AMENDMENT: Chapters 32 and 20 Ord. #4272

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4272 amending Chapter 32, Sections 32-1, 32-4.1(I) and (N), and Chapter 20, Sections 20-3(C) and (D) of the Chandler City Code to reduce the requirements for Special Event vendor registration.

As part of a review of current licensing requirements, Staff determined that the current process for licensing vendors at Special Events was an area that could be streamlined to provide better service to the vendors and event sponsors, without adversely impacting City revenues or regulatory compliance.

The current code provision in Chapter 32, Special Events, states that all vendors at civic or commercial events are required to have a Transaction Privilege Tax License. Under Chapter 20, Transient Merchants, vendors at commercial events are additionally required to have Transient Merchant (Peddler) Licenses. Given the documentation needed and the standard approval timelines involved, these requirements are a source of considerable complaint from vendors and event sponsors. Furthermore, extensive Staff time is expended tracking down and licensing all of the vendors for privilege tax and peddler licenses, while generating very little revenue.

The intent of these changes is to make the process easier for most vendors and event sponsors, and focusing Staff efforts on critical licensing and tax collection efforts while not effecting City revenue collections.

These changes will replace the requirement that all Special event vendors must have a Privilege Tax License with a simplified registration process for the vast majority of small vendors that participate (defined as those that would owe less than $100 in taxes and fees). Larger vendors, such as food and carnival operators, as well as those that have a City tax obligation outside of the Special Event, will continue to require a Privilege Tax License.

The changes will apply if the Special Event vendor is only making sales within the parameters of a Special Event, the Special Event is less than 30 days, the Special Event vendor makes less than $5,000 in Chandler taxable sales in a calendar year and the vendor is not required to have a Privilege Tax License for any other reason.

Changes to the related Peddler Code sections provide equity for vendors participating in a "commercial event" (a Temporary Sales Promotional Event), and those participating in a "civic event" (a Special Event). Currently, vendors that operate entirely within a civic event are excluded from the requirements for Peddler Licenses, while the same vendor participating in a commercial event would be required to get a Peddler License. Under the proposed changes, any vendor participating in either type of event would be excluded from the application process and background checks required for Peddler Licenses. Privilege Tax Licenses may still be required based on the Special Event vendor criteria noted above.

10. IRRIGATION EASEMENT: SRP Ord. #4277

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4277 granting a no-cost, non-exclusive irrigation easement to Salt River Project (SRP) to relocate irrigation facilities in Commonwealth Avenue between Hamilton Street and McQueen Road.

The Commonwealth Avenue Improvement Project, ST-0717, required the undergrounding and piping of an open irrigation ditch by SRP. This work has been completed and the City of Chandler has now finalized the condemnation process to acquire the balance of the roadway between Hamilton Street and McQueen Road. In consideration of SRP undergrounding and piping the irrigation ditch, the City agreed to provide a non-exclusive irrigation easement to replace the existing SRP easement.

The easement is located within the Commonwealth Avenue right-of-way consisting of a long narrow rectangular shaped easement approximately 2,638 feet by 20 feet in size containing a total of 52,747 square feet or approximately 1.2109 acres.

11. CITY CODE AMENDMENT: Chapter 35, Zoning Code Ord. #4280

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4280, ZCA10-0008, City of Chandler/Outdoor Patios, amending Chapter 35, Sections 35-200, 35-1708, and 35-3203 of the Chandler City Code pertaining to outdoor patios in conjunction with liquor use permits. (Applicant: City of Chandler.)

The Planning Commission and Staff recommend amending the City Code in several ways with the primary intent of increasing flexibility in the design of outdoor patios used in conjunction with liquor use permits that encroach into the right-of-way in Downtown Chandler, as well as to more closely align the CCD and Planned Area Development (PAD) regulations while maintaining aesthetic integrity and pedestrian functionality. The proposed code amendment would make several changes including allowing patio barriers to consist of materials other than wrought iron, allowing barriers to be less than 42" high, allowing patios to be detached from the building in

portions of the CCD and modifying the amount of required pedestrian clearance depending on business location (along arterial streets, along smaller streets, or under the colonnade) rather than simply its zoning district (PAD vs. CCD). The code amendment is prompted by recent requests from Downtown businesses for outdoor patios that do not fully meet existing regulations with the anticipation that other similar requests will follow in the future.

Since 2007, the City Code has allowed properties zoned CCD, generally located on the historic downtown square, to extend their premises to serve liquor in the adjacent public right-of-way through a use permit approved by City Council. In May 2010, the City Code was amended to similarly allow for certain properties zoned PAD to extend their liquor-serving premises into the adjacent public right-of-way. The PAD properties eligible for such extensions of premises must be located within the boundaries of an approved area plan that "expressly encourages outdoor dining within the public sidewalk to create or maintain pedestrian activity and aid in the revitalization of the area". Currently, the only approved area plan that meets this criterion is the South Arizona Avenue Corridor Plan.

In the interest of refining existing code and aligning PAD and CCD language, the proposed amendments would essentially create three categories of outdoor patios, whether in the specified PAD areas or in CCD: (1) along an arterial street (e.g. Arizona Avenue); (2) along other rights-of-way, but not under the City-owned colonnade; and (3) under the colonnade. The amendments refine oversimplifications in the existing code language that treat all CCD properties with potential outdoor patios as if their frontages were under the colonnade and all PAD properties with potential patios as if they fronted on Arizona Avenue. In reality, there are CCD properties that front on Arizona Avenue (e.g. Coach & Willie's, Latitude Eight) and others that front on West Boston beyond where the colonnade ends – these properties are in a significantly different situation that merits a different set of rules not customized for the colonnade. Likewise, there are many potential PAD properties in the South Arizona Avenue Corridor Plan that do not front on Arizona Avenue. In the Corridor Plan, Arizona Avenue sidewalks are to maintain a pedestrian clearance of 8' while east-west paseos have clearances of only 6' – no such distinction is made in the existing code, which specifies an 8' sidewalk clearance in all places.

The reduction in minimum barrier height is considerable due to changes in the State of Arizona's implementation of its liquor policy. Existing City Code language, both in PAD and CCD, specifies that outdoor patio encroachments into the right-of-way be enclosed by a 42" high wrought iron fence. This language mirrored Staff's understanding of State of Arizona liquor regulations. However, State of Arizona policy has changed in this regard and now allows for barriers established by objects such as pots or couches, with no minimum height, at the discretion of state inspectors. Though the state has in practice allowed patio barriers as low as 28" in other communities, Staff recommends establishing a minimum height of at least 32" (regardless of barrier material), finding that lower heights present a safety problem for pedestrians.

The proposed amendment is prompted by recent requests by businesses in the CCD to build creative and lively outdoor patio designs not allowed by current code. In each case, all parties involved – the proprietor, Staff, Planning Commissioners, Downtown stakeholders – generally agreed that the creative designs would be an improvement over current code and would benefit the broader area. The code amendment allows for such flexibility without compromising aesthetics or pedestrian functionality. The amendment also refines existing language and improves consistency between PAD and CCD regulations, which are both anticipated to affect businesses (often neighboring businesses in similar circumstances) in Downtown Chandler and the South Arizona Avenue Corridor. The additional flexibility will allow for more diverse and creative outdoor patio designs that add to the vibrancy of Downtown Chandler.

A previous concern aired with regard to using nontraditional patio barriers formed by couches or other furniture is that the furniture should not be easily moved by passersby, lest the furniture encroach too far into the pedestrian realm or that the liquor service area not be sufficiently demarcated. This concern is addressed by existing code language and emphasized further by the proposed amendment. Existing code specifies in both CCD and PAD that patios be enclosed by barriers that "cannot be removed, relocated, or otherwise altered by a patron or passerby". The code amendment adds the requirement that "the method of affixing the enclosure to the ground" be specified and approved by the City through the encroachment permit process.

As required by the Arizona Revised Statutes, hearing dates for the Planning Commission and City Council, as well as the complete text of the draft Code amendment have been published in the newspaper at least fifteen days prior to the first public hearing for the Planning Commission. Although not required by Code, Staff has also sent courtesy notices of the Commission and Council hearing dates as well as a summary of the proposed amendment to all property owners and restaurant proprietors in the CCD and its immediate surrounding area. Additionally, Staff has contacted several Downtown Chandler stakeholders directly for input.

A stakeholder expressed concern that the term "commensurate" relates to size more so than quality. Another stakeholder believed that the regulations should be less restrictive with regard to the amount of right-of-way encroachment in order to allow for case-by-case solutions. This input has not yet been incorporated into the draft language. Both stakeholders are generally supportive of the proposed changes.

A third stakeholder expressed concern that patios under the colonnade are too large already and, whatever changes are made, they should certainly not be allowed to become any larger. The amendment as currently drafted would not affect patio size under the colonnade.

A fourth person wrote a letter of support for the proposed amendment.

Planning Commissioners made several suggestions to clarify or modify the proposed amendment, though they did not make any specific changes. One suggestion is that the proposed phrase in 35-1706(D), "(t) the quality and design of the barrier's materials shall be commensurate to that of the building" not be interpreted to disallow creative modern fence designs adjacent to older buildings. Staff agrees with this comment, expressing that the intent is to have a certain level of aesthetic design quality, not necessarily in the same style of the building. Another suggestion is that bicycles not be allowed to be locked to any patio fence in the ROW so that they encroach upon the pedestrian path. The City Code addresses bicycle parking in Chapter 13, allowing such parking in the ROW only in specified manners not including against a patio fence.

One Commissioner suggested that a separate code amendment be brought forward that allows similar patio encroachments into the ROW in "hard" zoning districts within Downtown, such as C-2 or C-3. The current proposed code amendment addresses only PAD and CCD zoning.

Upon finding consistency with the General Plan, the Planning Commission and Staff recommend approval.

12. <u>CITY CODE AMENDMENT</u>: Chapter 46 Ord. #4285

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4285 amending Chapter 46, Division I and adding a new Division VIII of the Chandler City Code relating to the establishment of an encroachment permit policy and process for valet parking and providing penalties for the violation of the ordinance.

The desire for valet parking to be available in the Downtown area has been an ongoing topic of discussion between City Staff and Downtown merchants and property owners. Currently, there is no way under current code to offer valet except as a part of a larger special event permit application. Some merchants would like to be able to bring in a private valet company to serve their clientele, while others worried that it would take up too many valuable parking spaces in front or near their establishment. Given that the majority of buildings sit on the right-of-way line, there are no viable locations on private property that would be successful. For this reason, discussions continued on how to utilize the existing roads and parking spaces to accommodate the need.

Recently, a compromise was reached between the merchants, property owners and DCCP that City Staff supports. Following the model currently used in another Valley city, valet will be allowed if the following conditions are met:

1. The valet service is hired by a Downtown business,
2. The valet station is located in one of a handful of mutually agreed upon locations,
3. The valet company has provided all insurance and other requirements called out in the code and obtained the appropriate permit, and
4. The location in which cars are parked by the valet service is defined as part of the permit process and shall not take up key parking spots in front of neighboring businesses.

The agreed upon locations will be memorialized in a map kept on file in Transportation and Development and can be modified administratively as changes are needed. The permit type is a unique encroachment permit to be used only for this purpose.

There is no financial impact to the City. Permit fees are to be paid by the applicant to the City. A new type of fee for Encroachment Permit Class 9 will be introduced separately for Council consideration. Staff will recommend that the new fee mirror those for existing encroachment permit fee types which are currently $97 each.

13. <u>REZONING</u>: The Landing at Reid's Ranch Ord. #4286

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4286, DVR10-0027, The Landing at Reid's Ranch, rezoning from PAD to PAD amended to eliminate a zoning condition requiring copper supply plumbing for residential homes for specific lots within a subdivision located one-quarter mile east of the NEC of Chandler Heights and Gilbert roads. (Applicant: Pat Adler, T.W. Lewis.)

The Landing at Reid's Ranch is surrounded by single-family residential subdivisions. North is the Brooks Ranch Single-family residential neighborhood; west, adjacent to the site, is Reid's Ranch; east, Old Stone Ranch and south, across Chandler Heights Road, is the Valencia II single-family residential community.

The Landing at Reid's Ranch custom single-family residential subdivision was approved in 2004 as part of a master-planned community that includes the Reid's Ranch and Amberwood Heights single-family subdivisions. As part of the conditions of approval, a condition was added that

required all water lines under pressure to be copper. The Reid's Ranch subdivision has been developed; seven of the 32 lots in The Landing at Reid's Ranch have been developed; Amberwood Heights has yet to be developed. In 2010, T.W. Lewis bought 18 of the vacant lots in The Landing at Reid's Ranch subdivision and has submitted plans to develop the lots and would like the option to use pex piping. The 18 lots included in this request are lots 1-4, 8-10, 13-15, 17-20, 25, 26, 28 and 30. Lots 6, 12, 16, 22-24 and 29 are currently developed; the remaining undeveloped seven lots are owned individually.

In late 2008, Council adopted the 2006 International Code (I-Code). Pex piping is specifically addressed in the I-Code and is a permitted material. Even though pex piping is an approved material, it may not be used in a subdivision where copper plumbing has already been conditioned without the developer returning to Council to have the zoning condition removed. Every national plumbing code now permits the installation of pex as an approved hot and cold-water distribution system. Pex may be used in future subdivisions if the copper stipulation is not in place.

There are many positives that arise from the use of pex plumbing over copper plumbing. Pex plumbing is more flexible allowing for easier maneuverability and installation. Pex plumbing is freeze resistant and can withstand temperatures up to 180 degrees for plumbing uses. Pex plumbing is corrosive resistant and non-toxic.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on January 5, 2011. There were no neighbors in attendance. Staff has received no correspondence in opposition to this request.

Upon finding consistency with the General Plan, the Planning Commission and Staff recommend approval to eliminate zoning condition no. 11 of Ordinance No. 3602 requiring copper plumbing for lines under water pressure.

14. <u>ZONING EXTENSION</u>: AZ 202

APPROVED a 3-year zoning extension for DVR10-0020 AZ 202, on the existing PAD zoning which includes a mid-rise overlay and allows for office, retail and hotel uses on approximately 45 acres located at the NWC of Arizona Avenue and the Loop 202 Santan Freeway. (Applicant: Withey Morris PLC.)

The Planned Area Development (PAD) zoning approval was granted for a period of three (3) years, which expired on August 23, 2010. The three-year extension will be calculated to begin from the previous approval's expiration date, resulting in an extension to August 2013.

The subject site is currently vacant and used for agricultural purposes. The site is the last undeveloped quadrant of the Loop 202/Arizona Avenue interchange and occupies all of the agricultural land bounded by Arizona Avenue, Pecos Road, the Loop 202 San Tan Freeway and the existing Stonebridge Ranch Apartment Complex. The other three interchange quadrants have been developed as retail power centers anchored by Wal-Mart, Sam's Club and Kohl's. To the north, across Pecos Road, is an apartment complex along Arizona Avenue with single family homes to the west of it. The northeast corner of Arizona Avenue and Pecos is occupied by the Pecos Lounge bar.

The subject site received PAD zoning for office, retail and hotel uses in 1987 as part of a larger master plan that included the adjacent Stonebridge Ranch Apartment Complex. The zoning was

extended in 1989 and was vested when the apartments were constructed in 2000. The site's zoning was amended in 2007 to allow a mid-rise overlay with heights up to 120' – no changes to the uses were requested. The question at hand in the subject application is whether to extend the 2007 PAD zoning, eliminate the timing condition, or revert to the 1987 PAD zoning that did not include the mid-rise overlay.

No changes are requested to the development plans that were approved by Council in 2007. The development's approved Preliminary Development Plan (PDP) calls for two office buildings (four and six stories in height) totaling approximately 360,000 square feet to be located in the site's interior, plus approximately 80,000 square feet of retail/restaurant/bank uses located mostly around the perimeter. The project is to be constructed in three phases.

The application requests an extension of zoning approval for a mid-rise overlay to construct buildings over 45 feet in height. The previously approved four and six-story office buildings are 50 and 87 feet high and future buildings could be up to 120 feet high (subject to separate PDP approval). Mechanical equipment and architectural embellishments do not count toward the overall building height.

Under the Mid-Rise Development Policy, the site is eligible for mid-rise consideration given its adjacency to the Loop 202 Santan freeway and lack of planned or existing single-family residential development within 300 feet on the south side of Pecos Road.

As in 2007, the Planning Commission and Staff continue to believe that allowing mid-rise buildings at the subject location enhances the sustainability of this infill site and surrounding area by facilitating a cohesive, mixed-use employment center at a key freeway interchange near the redeveloping downtown. The high-quality office and mix of retail services proposed in this application are made possible by the density and height requested, as is the abundance of pedestrian-oriented open space. Furthermore, the buildings are designed so as to minimize the visual impact of their heights through substantial horizontal and vertical variation, curved walls, and creative massing of forms constructed of various building materials – they are not vertically-oriented monoliths. The mid-rise buildings help to create a positive identity for the project and for a key freeway interchange.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on December 1, 2010. There were no citizens in attendance. As allowed by the Zoning Code, the Zoning Administrator waived the usual Mid-Rise Development Policy requirement for a second neighborhood meeting due to the routine nature of the application and lack of neighborhood interest. Staff has received no correspondence in opposition to this request.

Upon finding consistency with the General Plan, the Planning Commission and Staff recommend approval of a three (3) year extension with all of the conditions in the original approval remaining in effect.

15. <u>CELEBRATION PLAZA HONOREES</u>

APPROVED the Chandler Parks and Recreation Board recommendation to recognize the following 2010 Celebration Plaza Honorees at Tumbleweed Park:

- **Patti Bruno** – Ms. Bruno's commitment to Chandler and the many community organizations operating within it is extensive. She has raised hundreds of thousands of

dollars for Chandler and its citizens and continues to do so while changing lives every day through the many organizations that she supports. Further, Patti served eight years on the City Council and was highly regarded as a fair and practical representative.

- **Marty Wright** – Mr. Wright was an engaged and dedicated Chandler citizen who gave his all for his community for over 30 years. After moving to Chandler in 1978, Marty quickly became involved in his newly adopted city through his active participation in the Lions Club, Faith Community Church and various Chandler youth sports programs. Marty became an integral part of the community supporting community activities both monetarily and through personal involvement.
- **Officer Carlos Ledesma** – On July 28, 2010, Chandler Police Officer Carlos Ledesma lost his life in the line of duty. Officer Ledesma was serving as a member of the department's Narcotics Unit when he was shot and killed during a narcotics operation in Phoenix. Carlos was dedicated to the community and lost his life serving it proudly.
- **Dave McDowell** – Mr. McDowell is an excellent example of an individual who strongly believes in serving his community. Dave dedicated 25 years of service to the Chandler Community Services Department where he oversaw the design, construction and operation of many of Chandler's parks and recreational facilities. In addition to, and outside of his long career and exceptional contributions to the City of Chandler, Dave has provided community service through various groups and activities. Dave has served as an active member of the Ojo Rojo Lions Club in Chandler since 1986. He has held every leadership position in the club and in 2000, he received the Melvin Jones Fellowship in honor of his community service.
- **Lowell Huggins** – Whether in his barbershop or in his office, Mr. Huggins has been known as a constant advocate for the community. A longtime member of this community, Lowell first came to Chandler in 1956. In 1965, he began his career in law enforcement as a Chandler Police Officer and served in that capacity until 1985. Lowell's reputation of being an advocate for the citizens of Chandler grew over the years as his barbershop was known as Chandler City Hall "Two". Anyone could walk into his barbershop to seek assistance or advice regarding City government. This past September, the Office of the Governor of Arizona commended Lowell for his 35 years of dedicated service to the City of Chandler and the State of Arizona.

Each year the City of Chandler accepts nominations from the public for inductees into Celebration Plaza, a permanent monument at Tumbleweed Park.

Constructed in 2006, Celebration Plaza features a fountain and a decorative wall used to display brass plaques honoring a select group of Chandler residents, living or deceased, who have displayed outstanding civic commitment, leadership, innovation, public outreach and service to the City. Individuals holding an elected City of Chandler office or serving on the Parks and Recreation Board are not eligible for nomination.

Staff received nominations for seven individuals during this year's nomination process. These nominations were forwarded to the Celebration Plaza Nomination subcommittee for evaluation and recommendation. The subcommittee met and analyzed the nominees, then formulated their recommendations. The subcommittee based its evaluation on the following criteria:

- Community leader(s) whose outstanding personal service has resulted in significant and enduring contributions to the community;
- An individual or individuals who have made exceptional contributions to the City of Chandler;

- An individual or individuals who have added to the quality of life for Chandler residents through their involvement or financial contribution to short or long-term City projects or activities;
- An individual who has demonstrated leadership, innovation and creativity, which have made Chandler a better place to live and work;
- City of Chandler employees killed in the line of duty and local heroes.

The subcommittee recommendations were presented to the Parks and Recreation Board at their February 1, 2011, meeting. The Board endorsed the recommendations and unanimously voted to forward them on to the City Council for approval.

The nominees selected for the 2010 induction will be honored at an induction ceremony this spring. Past inductees into Celebration Plaza include:

- 2007 – Lenford C. Calley, Officer Robert J. Nielsen, Henry Salinas
- 2008 – Chandler Service Club
- 2009 - Eddie Basha

16. AGREEMENT AMENDMENT: Engineering and Environmental Consultants, Inc.

APPROVED Agreement #WW0813-201, Amendment No. 7, with Engineering and Environmental Consultants, Inc., (EEC) for the Ocotillo Water Reclamation Facility (OWRF) Maintenance and Operations Improvements, pursuant to annual contract #EN0719-101, in an amount not to exceed $139,760.00.

17. AGREEMENT: Dibble and Associates Consulting Engineers, Inc.

APPROVED Agreement #WA0819-202 with Dibble and Associates Consulting Engineers, Inc., for water main replacement on Hamilton Street (Frye Road to Galveston Street), in an amount not to exceed $121,956.00.

18. AGREEMENT AMENDMENT: Banner Occupational Health Services

APPROVED Agreement Amendment No. 4 with Banner Occupational Health Services for occupational health care provider services for City employees and volunteers for one year in an amount not to exceed $50,000.00.

19. CONTRACT: C.S. Construction

APPROVED Contract #ST0607-401 to C.S. Construction for construction for Chandler Dynamic Message Signs in an amount not to exceed $78,286.00.

A Dynamic Message Sign (DMS) is a large electronic display screen that can be installed near the roadway for the purpose of informing motorists about traffic conditions along their route. In particular, a DMS can be utilized to warn motorists of traffic accidents or freeway congestion, providing an opportunity for commuters to choose an alternate route in advance. This contract will provide for construction of the poles and installation of two previously purchased DMS signs at the following locations:

1. Northbound Arizona Avenue south of the Loop 202
2. Northbound Price Road south of the Loop 202

These locations were selected based on traffic volumes and access to freeways. The City is currently working to obtain real time arterial roadway information to post on the DMS, in addition to freeway travel time information from ADOT.

20. PURCHASE: Morpho Trak

APPROVED the Purchase of an Automated Fingerprint Identification System (AFIS) from Morpho Trak, utilizing the State of Arizona Department of Public Safety (DPS) contract, in an amount not to exceed $75,782.55.

The Chandler Police Department's (CPD) Forensic Services Section analyzes all information obtained at either of the Livescan locations, all 10-print cards and all latent fingerprints recovered from crime scenes prior to being uploaded to the State's AFIS. The City's lab currently has only one AFIS workstation and due to increased volume of 10-print cards and latent prints being analyzed, an additional workstation is necessary to process the workload. The new workstation would be used primarily by the Latent Examiners in their latent print processing duties.

21. USE PERMIT EXTENSION: Spiral Volleyball

APPROVED a Use Permit extension for ZUP10-0046, Spiral Volleyball, to allow an athletic training facility with occasional tournaments, within a Planned Industrial (I-1) zoned district located at 400 N. 56th Street. (Applicant: Reggie Fowler, Owner.)

The subject site received Use Permit approval in 2009 for one year and the application requests an extension. The subject site is located approximately ¼ mile north of the northwest corner of Chandler Boulevard and 56th Street. Surrounding the site on all sides are industrially zoned properties. Directly north of the site is a nutritional supplement processing facility. East, adjacent to the site, is 56th Street with an automotive salvage yard east of 56th Street. South, across Erie Street, is a specialized paper processing facility and computer wafer manufacturing company. West is an aircraft parts manufacturing facility. The subject site is located within a larger industrially zoned area extending west from 56th Street to 54th Street and north from Erie Street to Galveston Street.

The site is adjacent to 56th Street and provides two access points directly onto 56th Street. Vehicular connections to Erie Street and surrounding users are not provided. The subject site is a single building of concrete-tilt construction and is currently vacant. The approved I-1 zoning designation allows for various mechanical, manufacturing and processing and storage type uses, all of which have the potential to store hazardous materials by-right; with the Fire and Building Codes governing their storage and use.

The subject building is approximately 31,750 square feet and sits on an approximately 2 3/4 – acre site. With the previous approval, approximately 20,000 square feet of the building was utilized for athletic training and associated restrooms, fitness area and office space, with the remaining 11,750 square feet housing office equipment. The applicant has removed all of the office equipment and would like to provide two additional courts in addition to the existing four volleyball courts.
Forty-eight parking stalls are provided on the site's east side, with an additional 45 parking stalls provided on the gated west side for a total of 93 stalls. Public assembly uses require a ratio of one stall per 200 square feet. In order to meet code requirements for parking, the site would need approximately 159 parking spaces. A number of the athletes carpool to the site and, on

average, there will be 20-30 athletes during any one session, with an average of ten cars in the parking lot. However, in the event that parking is an issue, the applicant has indicated that the property owner to the southwest will allow overflow parking. Staff is unaware of any parking issues occurring over the past year.

The current request is to extend the Use Permit, as well as to allow for occasional tournaments at the facility. Tournaments, at most, would be six times a year and would occur on weekends. It is anticipated that the maximum number of attendees would not exceed 300. Planning Staff, along with the Chief Building Inspector, visited the site to ensure compliance with building codes with the potential for an increase in occupancy. The Chief Building Inspector did not have any concerns from a building safety standpoint with allowing tournaments and the potential for 300 attendants. The application has secured a letter from the property owner directly south of the site allowing for overflow parking for tournaments in the event that additional parking is needed.

Staff has a concern with pedestrian access from the overflow parking area since there are no sidewalks along Erie Street. To have safe pedestrian access, attendees parking in the overflow parking area will need to walk through the parking lot east to 56th Street and take the sidewalk north across Erie Street to the site.

In addition to the tournaments, the applicant would like to add two additional courts for practices located where the office equipment was stored. Although adding two additional courts is a 50% increase, the number of athletes will not increase. The two additional courts have a softer, more forgiving flooring material and will only be used for practices. Additionally, the flooring of the two courts does not meet tournament regulations.

Staff is supportive of the request citing the potential increase in traffic will be generated during off-peak business hours; the site has segregated access points from the surrounding industrial uses; the use has operated successfully without issue for the past year; and parking concerns are addressed through the additional overflow parking area to the south.

The request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on December 20, 2010. There were no neighbors in attendance. Staff has received no correspondence in opposition to this request.

Upon finding consistency with the General Plan, the Planning Commission and Staff recommend approval subject to the following conditions:

1. The Use Permit shall remain in effect for three (3) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
2. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to another location.
4. Use Permit approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Use Permit shall apply.
5. The parking lot located in the rear of the site shall be striped to accommodate additional parking stalls as represented by the site plan.

22. <u>USE PERMIT</u>: La New Familia Market

APPROVED a five-year renewal for Use Permit LUP10-0019, La New Familia Market, Series 10, for off-premise consumption only, at a convenience store located at 545 N. Arizona Avenue. (Applicant: P.D. LLC, Ghazala Mushtaq.)

The business is located along Arizona Avenue on property zoned C-3 (Regional Commercial District). Alcohol has been sold at this location under a Series 10 License since December 2004, first under the business name "Breaktimers" and later as "La Familia".

The store is intended to serve the surrounding neighborhood and sells typical convenience store items such as drinks, snack foods, cigarettes and phone cards in addition to beer and wine. Alcohol is stored in the cooler. The business is open from 8 a.m. to 10 p.m. Sunday through Thursday and 8 a.m. to 11 p.m. on Friday and Saturday. The store had previously been open only until 10 p.m. every day of the week under the previous Use Permit approvals.

There is ample parking on the property's north side to handle demand generated by the use. The store's only street access is from Arizona Avenue. The adjacent single family neighborhood to the east is separated by an alley.

Though there have been no issues reported over the past three (3) years, the Planning Commission and Staff recommend a time limit of five (5) years rather than an indefinite Use Permit due to the market's close proximity to the residential neighborhood behind it and to monitor its continued compatibility.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held December 6, 2010. There were no citizens in attendance. The Police Department has been informed of the application and has not responded with any issues or concerns. Staff has received no correspondence in opposition to the request.

Upon finding consistency with the General Plan, the Planning Commission and Staff recommend approval subject to the following conditions:

1. The Use Permit granted is for a Series 10 license only and any change of license shall require re-application and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion beyond the approved floor plan shall void the Use Permit and require new Use Permit application and approval.
4. Changes to the hours of operation shall require new Use Permit application and approval.
5. The Use Permit shall remain in effect for five (5) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
6. The site shall be maintained in a clean and orderly manner.

23. <u>USE PERMIT</u>: Ironwood Commercial/Arco AM-PM

APPROVED Use Permit LUP10-0042, Ironwood Commercial/Arco AM-PM, Series 10, for off-premise consumption only at a planned convenience store to be located at the SWC of Chandler Heights Road and Arizona Avenue. (Applicant: Al-Hage, Inc./Burch & Cracchiolo; Owner: Three Js Arizona Avenue & Chandler Heights, LLC.)

The currently vacant site is located at the southwest corner of Chandler Heights Road and Arizona Avenue. In May 2010, the site received zoning approval for the fuel station use along with Preliminary Development Plan (PDP) approval for Phase I site layout, architecture, and landscaping. Phase I construction, anticipated later this year, involves the fuel station and convenience store to be located on the northern half of the approximately 3.8-acre vacant site as well as perimeter landscaping for the entire site.

The site is currently vacant and is bordered to the west by a post office. To the south is the Ironwood Vistas gated single-family home subdivision. To the north, across Chandler Heights Road, is the Fulton Ranch Marketplace retail and office development. The southeast corner of the intersection, across Arizona Avenue, is zoned conceptually for commercial uses, not including a fuel station, with an overlay on its eastern portion for potential multi-family uses. The intersection's northeast corner is approved for the Shops at Chandler Heights retail development that is stalled in the construction phase and includes a planned fuel station and car wash.

The 3,000 square foot convenience store will be open 24 hours per day every day, though alcohol sales will only occur during the hours permitted by the State of Arizona (currently 6 a.m. to 2 a.m.). Alcohol will be stored in the coolers.

There are two other Liquor Use Permit approvals active at this intersection: a Series 9 (Liquor Store License – all spirituous liquor) at CVS Pharmacy and a Series 10 (Wine & Beer Store License) at Fresh & Easy. Both approvals are for stores on the northwest corner of the intersection and for off-premises consumption.

The Planning Commission and Staff recommend the standard condition regarding maintaining the site in a "clean and orderly manner" to ensure that no littering occurs on the vacant southern portion of the site.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on January 6, 2011. One neighbor attended in opposition for several reasons including the existing and potential liquor-selling establishments at this intersection and the proximity of Hamilton High School approximately 1.2 miles to the north. Staff has received no further correspondence in opposition.

The Planning Commission deleted a condition initially recommended by Staff that would have limited the Use Permit approval to two (2) years, finding that the other conditions and existing City laws adequately address potential concerns regarding litter and loitering. The general lack of neighborhood concern was also cited.

Upon finding consistency with the General Plan, the Planning Commission and Staff recommend approval subject to the following conditions:

1. The Use Permit granted is for a Series 10 License only and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion beyond the approved Floor Plan and Narrative shall void the Use Permit and require new Use Permit application and approval.
4. The site shall be maintained in a clean and orderly manner.

24. <u>USE PERMIT</u>: The Boatzhouse Restaurant

APPROVED Use Permit LUP10-0043, The Boatzhouse Restaurant, Series 12, extension for on-premise consumption only within an existing restaurant and outdoor patio located at 5070 S. Gilbert Road, Suite #400. (Applicant: Robert Tomfohr, Owner.)

The subject site is located at the southwest corner of Gilbert and Chandler Heights Roads within the Shoppes at Riggs Ranch commercial shopping center. The site is located in a suite within an inline shops space in the rear southwest corner of the shopping center. An M&I Bank, CVS Pharmacy and Auto Zone are located north and east of the subject site. Surrounding the commercial center to the west and south is the Riggs Ranch Meadows single-family residential neighborhood.

The subject site is an approximately 2,300 square foot suite within a larger 6,000 square foot inline shops building. The dining area is approximately 950 square feet and can accommodate approximately 60 patrons. The bar area is approximately 160 square feet and can accommodate 14 patrons. The kitchen area is approximately 581 square feet. An outdoor patio is provided and is approximately 408 square feet and seats 12. The outdoor patio is located in a breezeway between two shop spaces. The breezeway is approximately 33-feet wide; the outdoor patio will encroach 12 feet into the breezeway leaving a 21-foot wide unencumbered area. The restaurant is open seven days a week; Monday from 4 p.m. to 9 p.m., Tuesday through Thursday 11 a.m. to 9 p.m., Friday and Saturday 11 a.m. to 10 p.m. and on Sunday 12 p.m. to 8 p.m.

When the initial Use Permit request came through in late 2009, there was a concern expressed by a nearby resident regarding a pedestrian gate connecting the surrounding residential subdivision with the commercial center and maintenance of the fence. The Planning Commission decided to add a one-year timing condition to determine if there was in fact an issue. Staff is unaware of any issues in association with the pedestrian connection, and as such, is recommending approval without a time condition.

This request was noticed in accordance wit the requirements of the Chandler Zoning Code with a neighborhood meeting being held on December 23, 2010. There were no neighbors in attendance. Staff has received no correspondence in opposition to this request.

Upon finding consistency with the General Plan, the Planning Commission and Staff recommend approval subject to the following conditions:

1. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
2. The Use Permit is non-transferable to other store locations.
3. Use Permit approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Use Permit shall apply.
4. The site shall be maintained in a clean and orderly manner.
5. The Use Permit is granted for a Series 12 license only and any change of license shall require re-application and new Use Permit approval.

25. <u>CONTINUED USE PERMIT</u>: San Marcos Golf Resort

CONTINUED TO MAY 12, 2011, Use Permit ZUP10-0032, San Marcos Golf Resort, to continue a golf cart storage and maintenance yard use on San Marcos Golf Course property near the SWC of Chandler Boulevard and Dakota Street, approximately one-quarter mile west of Arizona

Avenue. Continuation is requested to allow for an anticipated trustee sale to be completed and to allow further work with the neighbors under new resort ownership.

26. CONTINUED USE PERMIT: United Methodist Church Wireless Facility

CONTINUED TO APRIL 14, 2011, Use Permit ZUP10-0037 United Methodist Church Wireless Facility, to install a wireless communication facility on the campus of the United Methodist Church, 450 E. Chandler Heights Road to allow the applicant to further pursue locating on the Bear Creek Golf Course site south of Chandler Heights Road. Issues involving a deed restriction have arisen that require additional time for the applicant. .

27. USE PERMIT: Kiley's Grill

APPROVED Use Permit LU10-0024 Kiley's Grill, Series 12, for on-premise consumption only within an outdoor patio located at 2394 N. Alma School Road. (Applicant: Mike Vachon, Manager.)

The subject is located approximately ½ mile north of the northwest corner of Alma School and Warner roads and occupies the old vacated Garcia's Restaurant. The subject site is part of a larger commercial shopping center and is surrounded by commercial businesses to the west and south. North, across Mesquite Street, is a realty office. East, across Alma School Road, is the Mastercraft East single-family subdivision.

The subject site received Use Permit approval to serve alcohol in conjunction with a Series 12 liquor license in 2009; however, the Use Permit only allowed the serving of alcohol within the restaurant. Since the approval in 2009, the restaurant has built an outdoor patio and would like to serve alcohol on the patio.

The patio is approximately 1,560 square feet and provides seating for 75-100 patrons. The applicant would also like the ability to provide live entertainment indoors; live entertainment would not be provided outdoors. Speakers for background music will be provided on the patio.

The building is approximately 8,052 square feet and can accommodate up to 252 patrons. The bar area is approximately 300 square feet, the dining areas are approximately 3,193 square feet, and the kitchen preparation area is approximately 2,000 square feet. The restaurant will be open Sunday through Wednesday from 7 a.m. to 12 a.m. and Thursday through Saturday from 7 a.m. to 2 a.m. The restaurant employs approximately 32 people.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on October 12, 2010. There were no neighbors in attendance. Staff has received one telephone call from a nearby resident that was concerned with noise. The concern was general in nature, but Staff is aware that there have been some concerns with noise levels during outdoor special events. The special events were approved through the City's Special Event Permit process and were not a violation of zoning. A condition was added to address the noise concern.

Upon finding consistency with the General Plan, the Planning Commission and Staff recommend approval subject to the following conditions:

1. The Use Permit is granted for a Series 12 license only and any change of license shall require re-application and new Use Permit approval.

2. The Use Permit shall remain in effect for one (1) year from the date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. The Use Permit is non-transferable to other store locations.
5. The site shall be maintained in a clean and orderly manner.
6. No noise shall be emitted from outdoor speakers on the patios or from music occurring indoors that exceeds the general level of noise emitted by uses outside the premises of the business and further will not disturb adjacent businesses and residential areas.

28. PERMANENT EXTENSION OF PREMISES: Kiley's Grill

APPROVED a Permanent Extension of Premises for a Series 12 Restaurant Liquor License (Chandler #125462 L12) held by Chem-Tech CA Corp., dba Kiley's Grill, 2394 N. Alma School Road. A recommendation for approval of a Permanent Extension of Premises for State Liquor License #12077699 will be forwarded to the State Department of Liquor Licenses and Control. Chem-Tech CA Corp., dba Kiley's Grill has been in business at this location since July 2009 and was approved for a Series 12 Restaurant Liquor License and would like to expand their alcohol serving area to include outside seating. The Police Department has no objections to the permanent extension of premises. All fees have been paid and the business is in compliance with the City's Sales and Use Tax Code.

29. LIQUOR LICENSE: Roy's Hawaiian Fusion

APPROVED a Series 12 Restaurant Liquor License (Chandler #132859 L12) for Roy's/Outback Joint Venture, dba Roy's Hawaiian Fusion 2303, 7151 W. Ray Road. A recommendation for approval of State Liquor License #12078621 will be forwarded to the State Department of Liquor Licenses and Control. As this application reflects a change in ownership, Transportation and Development advises that a new Use Permit is not required since this will be a continuation of the location's previous use as Roy's Restaurant. The Police Department reports no objections to the issuance of the license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code.

30. LIQUOR LICENSE: Carrabba's Italian Grill

APPROVED a Series 12 Restaurant Liquor License (Chandler #132845 L12) for Carrabba's Italian Grill LLC, dba Carrabba's Italian Grill 5303, 1060 N. 54th Street. A recommendation for approval of State Liquor License #12078610 will be forwarded to the State Department of Liquor Licenses and Control. As this application reflects a change in ownership, Transportation and Development advises that a new Use Permit is not required since this will be a continuation of the location's previous use as Carrabba's Italian Grill. The Police Department reports no objections to the issuance of the license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code.

31. LIQUOR LICENSE: Fleming's Prime Steakhouse

APPROVED a Series 12 Restaurant Liquor License (Chandler #132939 L12) for OSI/Fleming's LLC, dba Fleming's Prime Steakhouse 1302, 905 N. 54th Street. A recommendation for approval of State Liquor License #12078626 will be forwarded to the State Department of Liquor Licenses

and Control. As this application reflects a change in ownership, Transportation and Development advises that a new Use Permit is not required since this will be a continuation of the location's previous use as Fleming's Prime Steakhouse. The Police Department reports no objections to the issuance of the license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code.

32. TEMPORARY EXTENSION OF PREMISES: Murphy's Law

APPROVED a Temporary Extension of Premises for a Series 12 Liquor License (Chandler #120887 L12) held by Murphy's Law 58 LLC, dba Murphy's Law, 58 S. San Marcos Place for their St. Patty's Day Party to be held March 17, 2011, 8 a.m. until 2 a.m. A recommendation for approval of a temporary extension of premises for State Liquor License #12077699 will be forwarded to the State Department of Liquor Licenses and Control. The Police Department has no objections to this extension and the applicant has applied for a Temporary Sales and Promotional Event Permit through Neighborhood Services.

33. SPECIAL EVENT LIQUOR LICENSE: CHW Foundation East Valley

APPROVED a Special Event Liquor License for the CHW Foundation East Valley for a Dancing With the Docs Event, April 9, 2011, at the Chandler Center for the Arts, 250 N. Arizona Avenue. A recommendation for approval will be forwarded to the State Department of Liquor Licenses and Control. With a Special Event Liquor License, the organization can sell all alcoholic beverages within the confines of the event during the designated event periods. The Police Department reports no objections to the issuance of this license. As this applicant is a non-profit organization, no sales tax license is required; however, the special event liquor fee has been paid.

34. SPECIAL EVENT LIQUOR LICENSE: Chandler Sunbird Lions Club

APPROVED a Special Event Liquor License for the Chandler Sunbird Lions Club for their Wine & Cheese Charity Event, March 12, 2011, at the Sunbird Golf Resort, 6250 S. Sunbird Boulevard. A recommendation for approval will be forwarded to the State Department of Liquor Licenses and Control. With a Special Event Liquor License, the organization can sell all alcoholic beverages within the confines of the event during the designated event periods. The Police Department reports no objections to the issuance of this license. As this applicant is a non-profit organization, no sales tax license is required; however, the special event liquor fee has been paid.

ACTION:

35. CITY CODE AMENDMENT: Zoning Code Ord. #4278

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4278, Zoning Code Amendment, ZCA10-0007, City of Chandler / Medical Marijuana, amending Chapter 35 (Zoning Code), Sections 35-200, 35-305 and 35-2100 of the Chandler City Code, by establishing definitions and Use Permit requirements relating to Medical Marijuana Facilities and Cultivation Sites and Infusion Food Establishments.

A voter initiative (proposition) established a governing process for the dispensing of marijuana for medical purposes as defined by the initiative and administered by the State Department of Health Services. The proposition did not preempt a jurisdiction's authority to enact reasonable zoning regulations that limit the use of land for medical marijuana dispensaries.

On December 6, 2010, the Mayor and Council directed Staff to initiate a Zoning Code amendment addressing local zoning regulations for medical marijuana dispensing. The Council's Transportation and Development Subcommittee met on December 16, 2010, to provide general policy direction to Staff upon which this proposed ordinance is based. This item was reviewed by the Planning Commission on January 19, 2011, for their recommendation to amend the Zoning Code establishing definitions and Use Permit requirements relating to medical marijuana facilities, cultivation sites and infusion food establishments and procedures by which these uses may be considered to be located in Chandler.

The proposed ordinance, in the form of a Zoning Code amendment, establishes the following:

1. It creates definitions for *Edible Food Product, Infusion* or *Infuse, Infusion Food Establishment, Medical Marijuana, Medical Marijuana Dispensary, Medical Marijuana Facility, Medical Marijuana Cultivation Site* and *Related Supplies*. These terms are used within the proposed ordinance and will be a definition with the Zoning Code.
2. The proposed ordinance establishes that Medical Marijuana Facilities (retail dispensing) would be allowed only in C-2 and C-3 zoning districts or in PAD zoning districts where C-2 and C-3 uses are allowed and only upon obtaining a Use Permit. The proposed ordinance establishes that Medical Marijuana Cultivation sites (growing operations) or Infusion Food Establishments (combining medical marijuana into edible food products) would be allowed only in I-1 or I-2 zoning districts or in PAD zoning districts where I-1 and I-2 uses are allowed and only upon obtaining a Use Permit.
3. The proposed ordinance establishes the requirements of an application process specifying certain information needed to evaluate a Use Permit application such as a security plan and other criteria that would be a requirement of the use.
4. The proposed ordinance establishes separation requirements from protected uses (another Medical Marijuana Facility or Cultivation Sites or Infusion Food Establishment, Day Care Center, Public or Private Park, Place of Worship, School, Residential Zoning District Boundary, Public Library, Public or Private Hospital) that exceed that separation required by the state law.
5. The proposed ordinance establishes that a Use Permit would be valid for one year, is non-transferable to another location and creates renewal procedures.

The proposed ordinance section that affects the facility locations to the greatest degree are the separation requirements and the inclusion of which particular uses should be considered as protected uses requiring separation from dispensaries. Due to the ordinance adoption process requirements, the Subcommittee directed Staff to include a quarter-mile spacing (1320 feet) from protected uses in order to be consistent unless it was determined that the separation distance would eliminate all locations within the City. Staff was to undertake a map analysis studying the results of quarter-mile spacing as applied to the City before making a final determination of which uses should be included as a protected use and how the separation spacing would impact available locations.

It is expected that the Department of Health Services will have completed their rule-making process and begin to issue dispensary licenses by the end of March 2011 or soon thereafter. Thus, if Chandler were to enact further reasonable zoning regulations, it is imperative that the ordinance adoption process be completed prior to the end of March.

Staff has reviewed the separation requirements discussed by the Subcommittee and prepared study maps that analyze the impact upon possible locations within the City. The study maps point out that the separation requirements will result in providing eligible locations within the City

where Use Permits could be considered, however, when including the separation requirement of 1320 feet from a RESIDENTIAL ZONING DISTRICT BOUNDARY, the locations are limited. Based upon Chandler's land use pattern, commercially zoned property is almost always near or adjacent to residentially zoned property. The Planning Commission and Staff would recommend that the final ordinance delete the separation requirement between dispensaries and RESIDENTIAL ZONING DISTRICT BOUNDARIES.

The list of protected uses includes HOSPITALS, PUBLIC OR PRIVATE, and the applicable separation requirement. Inherently, it would seem that separating Medical Marijuana Facilities from hospitals where associated medical treatment is received would be inconsistent with the purpose of the use. The Planning Commission and Staff would recommend that HOSPITALS, PUBLIC OR PRIVATE, be deleted from the protected use list.

The list of protected uses includes PUBLIC OR PRIVATE PARK and the applicable separation requirement. A PRIVATE PARK is an ambiguous term that could be construed in many forms such as a subdivision's private greenbelt, more clearly a private park, or a smaller tract of landscaping adjacent to a street. The Planning Commission and Staff would recommend that PRIVATE PARK be deleted from the protected use list yet still include PUBLIC PARK which is easily and clearly identifiable as a protected use.

The ordinance identifies one of the Use Permit criterion (j) would be that the operating hours would be no earlier than 9:00 a.m. and not later than 7:00 p.m. The Planning Commission and Staff are recommending that the p.m. hours be changed to 9:00 p.m. to better distribute patient visit times during the "after-work" time frames.

During the Planning Commission hearing, questions were raised regarding where patients could use medical marijuana. This action is to consider the locational aspects of where dispensaries should be located in the community rather than where patients use the medicine. As a follow up to the questions, Staff advised that the Medical Marijuana Act identified certain specific restrictions on card holder's lawful use such as prohibitions of use in public transportation vehicles (bus) and more general prohibitions, while not specifically defined, such as public places.

DISCUSSION:

Planning Administrator JEFF KURTZ told the Council that the item was a zoning code amendment in response to the recent passage of Proposition 203 by voters. He explained that the Proposition authorized the State to begin a Use Permit process and licensing process for the medical marijuana distribution for card holders and patients.

Mr. Kurtz explained that the proposed Ordinance would establish definitions that would be part of the zoning code. The Ordinance would also implement where medical marijuana dispensaries could be located in the community. He noted there were different definitions that were in the zoning code amendment. Retail dispensaries would be allowed only in commercial districts, specifically C-2 and C-3 districts, or in a PAD Zoning District where C-2 and C-3 uses were allowed. Medical Marijuana Cultivation sites (growing operations) and Infusion (creation of food products made with marijuana) would only be allowed in industrial districts, specifically, the I-1 or I-2 Zoning Districts and also in PAD Zoning Districts where I-1 and I-2 uses were allowed. The Ordinance also establishes that the uses be considered through a use permit process. Each individual location being proposed in the community would go through a public process, Planning Commission hearing and ultimately, City Council consideration through a Use Permit. He further noted that the Ordinance created separation distances between dispensaries, protected land

uses and establishes certain separation requirements that would be key to the evaluation of where the dispensaries would be located in the community. Lastly, he explained that the ordinance created a Use Permit process that would allow the use permit to be valid for one-year and would create renewal procedures.

Mr. Kurtz noted that the process began with the City Council Subcommittee. He stated that it was a desire to establish a zoning permissiveness before the end of March due to that being the time that the State will issue licenses. He indicated that staff received direction from the subcommittee to create the ordinance in the form that it is in, including restricting separation requirements. He stated staff was to study the separation requirements on how the separation requirements would affect the geography of Chandler. Mr. Kurtz indicated that one thing that was affected was the separation distance between dispensaries and residential zoning districts. He stated that the separation requirement would be 1320 feet spacing between the dispensaries. He stated that there were some areas in the City where the location of the facilities could be considered through a Use Permit. He added that that the recommendation from staff and Planning Commission was to not include a separation distance requirement for hospitals. He told the Council that in regards to parks, the term “Private Park” was hard to define. He stressed that Public Parks were clearly definable. He indicated that the recommendation from staff and Planning Commission was to not include a separation distance around “Private Parks”. He told the Council if it was Council’s decision to keep that in the ordinance, staff would come up with a definition that would be appropriate.

Mr. Kurtz told the Council they could introduce the ordinance that was before them tonight. He stated if the Council chose to adopt the Planning Commission recommendations or make further modifications, the item would need to be continued to the February 24, 2011 Council meeting. The ordinance would need to be re-published and then be brought back for Introduction at the February 24, 2011 City Council meeting.

MAYOR TIBSHRAENY asked for clarification regarding the approval of the ordinance.

MS. KURTZ responded that the ordinance would need to be re-published in the form that the Council directed. If Council chose to adopt the ordinance with the recommendations from staff and Planning Commission then the item would need to be continued to February 24, 2011. He added that the ordinance could be introduced and would not need to be continued if the Council chose to adopt the ordinance in the form without Planning Commission and staff recommendations.

COUNCILMEMBER HARTKE questioned how many dispensaries could be in Chandler.

MR. KURTZ responded that the State was looking to reporting districts as ways to fairly distribute the licenses throughout the State. He stated there were 2 reporting districts in Chandler. He added that the State had also indicated that there would be some reporting districts that would not have any licenses. The State would then go through a process to distribute additional licenses throughout the State. He reiterated that there could be 2 or more in Chandler.

In response to a question from COUNCILMEMBER HARTKE, Mr. Kurtz explained that a registered card holder would be permitted to home grow if there was not a dispensary located within 25 miles of their residence. He added that it was based in the City’s Ordinance and that it was the desire of the State to allocate the licenses to minimize home growth.

COUNCILMEMBER HARTKE asked what the regulation or process would be for someone to get a card. MR. KURTZ clarified that it had been staff's focus to concentrate on the ordinance which focuses on the location of the dispensaries not how the State would issue cards.

COUNCILMEMBER ORLANDO questioned if County islands would count as distance if the current Code was kept with a ¼ mile of separation from a residence.

MR. KURTZ stated County islands would not be included. Staff would only evaluate separation requirements from property that is within the City. He stated some buffer zones could stretch out to County lands but would not be included to determine if it met a separation requirement.

In response to a question from COUNCILMEMBER ORLANDO, Mr. Kurtz stated that there were certain areas in the community where a dispensary could be located under the current ordinance.

COUNCILMEMBER ORLANDO questioned if an individual could go before the Council asking for a variance if they couldn't work with a land owner under the current the amendments with no changes.

MR. KURTZ explained that there was a footnote to the separation requirements. He stated that if the Council determined that a proposed site was a good site and met many qualifications, but perhaps did not meet the spacing to an exact footage, the Council could use the Use Permit process to evaluate each particular location.

COUNCILMEMBER ORLANDO believed then that other locations could be open to have the dispensaries.

MR. KURTZ concurred.

COUNCILMEMBER ORLANDO stated that the Council could be petitioned through a variance.

MR. KURTZ stated that the ordinance specifically recognized flexibility that might be appropriate in each individual application.

COUNCILMEMBER ORLANDO believed it was important for the Council to have flexibility and work with groups to be able to place things in proper areas while taking advantage of the public safety and residential aspects in addition to privacy that residents had been asking about.

COUNCILMEMBER WENINGER noted that the ordinance stated that there would not be dust or odor omitted to the environment. He asked if there would be a requirement for a hood or ventilation system.

MR. KURTZ explained that the statement was a "classic nuisance" statement in the ordinance. He stated any use should not be a nuisance to adjacent areas. The idea was to make sure that steps be taken to contain any smells. He reiterated that the idea was to plant a thought process to make sure that no nuisances occur.

VICE-MAYOR DONOVAN asked what the process would be if the Council chose to expand the locations.

MR. KURTZ stated that the ordinance was established through a zoning code amendment. He stated it was a more advisable approach in having a restrictive ordinance with the chance of

having it be less restrictive later. He stated that it might be a more advisable approach with potential Proposition 207 issues where certain permissiveness was granted but might be taken away. He stated that it would be more advisable to be more restrictive and then coming back to make things less restrictive.

VICE-MAYOR DONOVAN asked if the Council would have the flexibility to amend whatever the Council approved if it was found that it was not working for the City.

MR. KURTZ replied that the Council could direct staff to do a second amendment.

VICE-MAYOR DONOVAN confirmed that the Council could look at things on a case by case basis through the Use Permit process, if someone thought that a location was good but did not meet requirements.

MR. KURTZ replied that there was authority to do that in the Ordinance.

COUNCILMEMBER HEUMANN noted that the ordinance had been posted in a certain way. He asked if the ordinance would have to be re-posted if the Council did not approve it in the same exact form.

MR. KURTZ concurred. He explained that the case was different than other cases the Council deals with because it was a zoning code amendment as opposed to a zoning case. He stated there were stricter procedural requirements that require the ordinance to be considered in the form that it was advertised in the paper. He reiterated that if the Council chose to make changes, staff would re-publish the ordinance and bring the item before the Council at their next meeting for Introduction in the modified form.

In response to a question from COUNCILMEMBER HEUMANN, Mr. Kurtz stated that a zoning code amendment made the distinction of when staff establishes and publishes an ordinance for consideration. He stated that it was to ensure that things were still in good procedural standing if the ordinance was made less restrictive from a public hearing standpoint. He stated that the City would not be adverse from the way that it was originally advertised from a public hearing standpoint if the ordinance was made less restrictive. However, he emphasized that due to how the ordinance was published, the ordinance would need to be re-published and be brought back before the Council.

COUNCILMEMBER HEUMMAN clarified if the first adoption was done on February 24th, the final adoption would occur in March.

MR. KURTZ stated that in order to get the ordinance in effect by the end of March, a special meeting would be needed on March 1.

COUNCILMEMBER HEUMANN asked what the Council could control or not control of what is sold at the dispensaries besides medical marijuana.

MR. KURTZ responded that the wording was typical among valley Cities and State law. He stated it was more of a way to characterize the type of uses. He stated that the idea was to contain the uses to the intended purpose.

COUNCILMEMBER HEUMANN asked if pipes or papers would be able to be sold.

MR. KURTZ replied that those items would be able to be sold since they were related supplies.

COUNCILMEMBER HEUMANN asked if staff would determine administratively what would be sold as a related supply.

MR. KURTZ replied they would.

In response to a question from COUNCILMEMBER HEUMANN, Mr. Kurtz stated that the County adopted certain regulations that apply to County land. He stated there were separation requirements that were similar to the ones that were being discussed by the Council. He noted though that the County was tying dispensaries to commercial locations and separating dispensaries from schools. He noted that there would also be different regulations in Gilbert and Mesa.

COUNCILMEMBER HEUMANN asked if there were specific County Island spots in Chandler that could be considered.

MR. KURTZ replied that there were spots in Chandler that could be considered, and pointed out Arizona Avenue and Germann as being a potential site. He stated that there was commercially zoned land in the area. He added that the County would go through a Use Permit process and would up to the Board of Supervisors if it went at that location.

MAYOR TIBSHRAENY asked if the ordinance had been posted in its most restrictive form or in the form that was approved by P&Z that was less restrictive.

MR. KURTZ replied that it had been posted in the most restrictive form.

MAYOR TIBSHRAENY stated that only if the Council adopted the less restrictive or a combination of the less restrictive would it require it two more votes.

COUNCILMEMBER ORLANDO questioned the time framing of the Use Permit process and the timing of the DHS licensing.

MR. KURTZ replied that staff could accommodate any Use Permit applications that were to get filed by the time that DHS issues the licenses. He noted that staff could not control that process. He stated that something might happen during the process. He stated that staff could accommodate the schedule whether the Council adopted the ordinance in the current form if it was amended.

COUNCILMEMBER ORLANDO asked if the application processes could start immediately or if it would have to start after the ordinance takes effect.

MR. KURTZ responded that applications would be accepted the day after the ordinance was approved for final adoption. He stated applications would be available on-line in the following week and staff would be ready to accept applications the day after whenever the final adoption occurred.

MS. DIANE WOODS told the Council that the second hand smoke caused her migraines and nausea. She stated that there were many private parks in her HOA. She expressed concern over taxing marijuana. She believed it would be awful to tax the marijuana if it were helpful to

someone. She noted reading things in the paper about people making seven figures on marijuana. She believed that the sales should be non-profit.

COUNCILMEMBER ORLANDO asked what someone would do if they were in their backyard and smelled marijuana. He asked what they could do from a legal standpoint.

Police Chief SHERRY KIYLER told the Council that the Police Department was working on getting some answers to those questions and noted that the Department was working with AZ Post. She stated that the Police Department could be contacted if a person smelled marijuana coming from a neighbor's yard. She stated it would be up to the Police Department to determine if there was a medical use/need at the residence. She stated it would be an illegal use if there was not any documentation.

COUNCILMEMBER WENINGER commended the Police Department for a recent marijuana bust.

CHIEF KIYLER noted that it was based on observations that were done by the Officer.

MR. CAMERON CARTER, ROSE LAW GROUP, 6613 N. SCOTTSDALE ROAD stated he was representing Today's Health Care, a non-profit corporation. He stated the corporation owned and operated a dispensary in Colorado. He asked the Council to support the recommendations from the Planning and Zoning Commission. He believed there would be very few options available under the more restrictive option. He believed that the Planning and Zoning Commission recommendation was reasonable. He expressed concern over the timing of the Use Permit process should the more restrictive restrictions be in place. He stated that there were significant investments in preparation for the Use Permit process and the DHS application process. He expressed concern over obtaining the Use Permit in time to apply for DHS license if a new location would have to be found. He did believe the Use Permit process was doable and asked the Council to approve the recommendations from the Planning and Zoning Commission.

MR. AARON SMITH, a representative from the Arizona Medical Marijuana Association, urged the Council to adopt the Planning and Zoning recommendations. He stated that if the Council were to adopt the most restrictive ordinance it would not be in accordance with the intent of the voters. He believed medical marijuana dispensaries should be treated like small independent pharmacies. He stated that the law was set out to make Arizona's Medical Marijuana law the most effective and best in the nation. He believed it should be seen as a benefit to the community and not a nuisance. He noted that he had seen different dispensaries in Colorado and California that gave back to their community. He believed that the dispensaries that were pushed off to the back corners of industrial zones in California were nuisances. He believed that having a good land use policy would help create a good service to the community.

COUNCILMEMBER ORLANDO asked Mr. Smith if he had been reaching out to sections of the City to be able to put a dispensary in the City.

MR. SMITH stated he was not representing a single applicant but believed there may have been some people who were looking at locations within the City.

COUNCILMEMBER ORLANDO did not believe it would an undue burden if the ordinance was most restrictive. He stated that there were at least 12, 13, or 14 areas where a dispensary could be. He believed that an applicant would know if they had to engage in a variance.

MR. SMITH asked that the Council look at the dispensary as a pharmacy and not as a nuisance.

VICE-MAYOR DONOVAN asked for clarification as to what types of facilities should be in industrial and commercial zones.

MR. KURTZ responded that the ordinance segregated aspects of the business from the retail store front, directing to commercial areas, as well as the cultivation and infusion aspects of the business and regulating those to industrial areas. He stated that the through process was that retail areas need visibility versus the industrial side which would be the growing and food creation activities that would occur. He noted that the ordinance did segregate the types of the business and locate them in appropriate locations for their characteristics.

VICE-MAYOR DONOVAN stated that those located in the industrial areas would not be sites that the public would frequent. She stated that the retail locations would be commercial zones and not in back corners of the City.

MR. KURTZ concurred.

COUNCILMEMBER HEUMANN asked what the difference was between private parks and residential zoning districts. He asked if private parks fell under the residential districts.

MR. KURTZ replied that there was a distinguishing fact throughout ordinances in the valley. He agreed that private parks could be part of a residential area if there was a separation requirement. He believed that if there was a separation requirement for residential, there would likely be a separation from a private park or residential. He indicated that the idea was that if there was a distinction to not have a residential separation but still have a park separation where land uses could be looked at differently.

In response to a question from COUNCILMEMBER HEUMANN, Mr. Kurtz stated that March 1 would be the earliest day that the Council could meet to adopt the Ordinance should the Council make modifications.

MOVED BY COUNCILMEMBER ORLANDO, SECONDED BY COUNCILMEMBER WENINGER TO INTRODUCE AND TENTATIVELY ADOPT ORDINANCE NO. 4278 AMENDING CHANDLER ZONING CODE, ZCA10-0007 CITY OF CHANDLER/MEDICAL MARIJUANA.

COUNCILMEMBER ORLANDO stated that the motion was to approve the ordinance with no changes.

COUNCILMEMBER HEUMANN asked if the motion would leave in the restriction about a dispensary being ¼ mile away from a hospital.

COUNCILMEMBER ORLANDO replied the motion would be for the most restrictive ordinance.

WHEN THE VOTE WAS CALLED, THE MOTION CARRIED BY MAJORITY (5-2) WITH COUNCILMEMBER HEUMANN AND COUNCILMEMBER SELLERS VOTING NAY.

CURRENT EVENTS:

A. Mayor's Announcements

MAYOR TIBSHRAENY announced that low or moderate income families could receive Volunteer Income Tax Assistance at three Chandler locations through the City's VITA Program at the

Chandler Care Center, First Credit Union and Community Services of Arizona.

MAYOR TIBSHRAENY announced that the Fire Department would hold an Open House on February 26, 2011 at Chandler Fire Headquarters. He further announced that the annual Chandler Classic Car Show would also take place in the Downtown area on February 26.

MAYOR TIBSHRAENY announced that there were two bills going before the State Legislature, SB1020 and SB1021 that would have devastating effects in every City and County in Arizona. He noted that the bills would be heard in the Senate's Finance Committee in the following week and asked those that there interested in the bills, to email the Chairs of the Finance Committee.

B. Councilmembers' Announcements

None.

C. City Manager's Announcements

None.

Adjournment: The meeting was adjourned at approximately 8:09 p.m.

ATTEST: _____ _____
City Clerk Mayor

Approved: February 24, 2011

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the City Council of Chandler, Arizona, held on the 10th day of February 2011. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this _____ day of February 2011.

_____
City Clerk