

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, April 28, 2011, at 7:08 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 Warren Phelps - Chandler Christian Church

PLEDGE OF ALLEGIANCE: Councilmember Orlando

UNSCHEDULED PUBLIC APPEARANCES:

None.

CONSENT:

MOVED BY COUNCILMEMBER HEUMANN, SECONDED BY VICE-MAYOR DONOVAN, TO APPROVE THE CONSENT AGENDA AS PRESENTED.

COUNCILMEMBER ORLANDO abstained from voting on Item 34 (Sidelines) due to a conflict of interest.

MOTION CARRIED UNANIMOUSLY (7-0) WITH THE EXCEPTION NOTED.

1. MINUTES:

APPROVED, as presented, Minutes of the Chandler City Council Special Meetings of April 11 & 14, 2011, and the Regular Meeting of April 14, 2011.

2. EASEMENT: Southwest Gas Corporation

Ord. #4281

ADOPTED Ordinance No. 4281 granting a no-cost 6-foot wide easement to Southwest Gas Corporation (SGC) to relocate one of its gas lines located near the NEC of Alma School and Ray roads.

3. POWER DISTRIBUTION EASEMENT: Salt River Project Ord. #4282

ADOPTED Ordinance No. 4282 granting seven (7) no-cost power distribution easements to Salt River Project (SRP) to accommodate construction of the McQueen Road Improvement Project from Queen Creek Road to Ocotillo Road.

4. REZONING: RDR Solar Farm Ord. #4290

ADOPTED Ordinance No. 4290, DVR11-0001 RDR Solar Farm, rezoning from AG-1 to AG-1/PAD for the installation of a 150 KW solar photovoltaic system on approximately 0.5 acres located at the SWC of Pecos Road and Norman Way.

5. REZONING: 1800 NAZA, LLC Ord. #4291

ADOPTED Ordinance No. 4291, DVR10-0026 1800 Naza, LLC, rezoning from Ag-1 to PAD for sales, display, warehouse and service uses for site improvements on approximately 2.7 acres located south of the SWC of Arizona Avenue and Warner Road.

6. POWER DISTRIBUTION/AERIAL EASEMENT: Salt River Project Ord. #4292

ADOPTED Ordinance No. 4292 granting a no-cost power distribution easement and aerial easement to Salt River Project (SRP) at the Gilbert and Queen Creek road intersection to accommodate construction of the Gilbert Road Improvement project from Germann Road to Queen Creek Road.

7. REZONING: Westech Corporate Center (Epicenter) Ord. #4294

ADOPTED Ordinance No. 4294, DVR10-0028 Westech Corporate Center (Epicenter), rezoning from PAD to PAD amended to allow a place of worship/church within Lot 34 of Westech Corporate Center located at the SEC of Arizona Avenue and Palomino Drive, north of Warner Road.

8. CITY CODE AMENDMENT: Chapter 51 Ord. #4238

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4238 amending Chapter 51, Section 51-24 of the Chandler City Code by adopting the 2011 Wastewater Pretreatment Program.

This ordinance will update the existing Wastewater Pretreatment Program adopted by Council in 1981 and updated in 1982, 1995 and 1999. Major revisions to the program include: updating the local limit discharge concentrations, addition of new definitions, a new provision relating to treatment plant operations, hazardous waste notification, compliance schedules, provisions specifying what must be included in permits issued by the City, adding specificity regarding sampling protocol, modifying the potential penalty for a violation, streamlining administrative provisions in relation to program administration and enforcement, the use of headings and index inclusion, the addition of new trigger level language for Biochemical Oxygen Demand (BOD) and

Total Suspended Solids (TSS) permitting and updating the surcharge limits for conventional pollutants.

The City's Wastewater Pretreatment Program is consistent with requirements set forth in the Federal Clean Water Act and Arizona Department of Environmental Quality (ADEQ) rules. The Pretreatment Program prevents the introduction of pollutants that puts the community or environment at a health or safety risk, or impacts the sewer collection or treatment system in an adverse way.

The City needs to develop and periodically review local limits. These limits control pollutants that could impact the operations of the City's facilities. Previous local limits for the City were established in 1995. A new analysis recommended the 1995 limits be modified by limiting new pollutants, deleting some pollutants and further restricting existing pollutants.

Changes to definitions and additions of the provisions are based on an audit performed in March 2008 for the Arizona Department of Environmental Quality (ADEQ). The recommendations included applying new Federal regulations to bring the Program current. The addition of headings and an index created a document that is easier to use.

Surcharge fees are collected from industries that discharge a higher than normal level of waste products that are treatable by conventional methods. Additional funds are needed to cover the extra operational costs incurred from the excess loadings. The appropriate levels and associated fees were calculated in the local limits analysis conducted by the consultant. New limits are set in the revised program. The new fees will be adopted later this year either by another ordinance or by resolution.

Draft copies of the revised Pretreatment Program were sent to the City's Significant Industrial Users (SIUs), the Gila River Indian Community (GRIC), and ADEQ on May 10, 2010. The SIUs were invited to an open forum held on June 16, 2010. Further revisions made to the program incorporated all practical suggestions made by the SIUs. In October 2010, negotiations between the City and ADEQ resulted in new trigger levels for BOD and TSS permitting. The trigger levels monitor BOD and TSS loading allowing the City to plan additional treatment capacity.

Final draft copies were sent to ADEQ, the GRIC and the SIUs on January 14, 2011. From January 21 – February 10, 2011, one-on-one meetings with individual SIUs were held as well as a public forum open to all SIUs.

ADEQ completed its final review of the revised Pretreatment Program on January 18, 2011. The City published a Public Notice of Intent to Revise the Pretreatment Program in the East Valley section of the Arizona Republic on February 11, 2011. A 30-day comment period was allowed following the publication. The comment period concluded on March 11, 2011 and no comments were received.

9. AGREEMENT AMENDMENT: Zayo Group, LLC

Ord. # 4295

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4295 authorizing an amendment to the agreement with Zayo Group, LLC, for the use of facilities in the City's rights-of-way and public places to authorize Zayo Group, LLC, to be the successor to AGL Networks, LLC, in this agreement, to establish a Class 5 Communications System as applicable and to establish new fees.

AGL Networks, LLC (AGL) holds an agreement with the City, executed May 15, 2007, to install, operate and maintain an underground optical fiber-based communications network in the public right-of-way of the City with a Class 5 License (Fiber Optic Cable, Interstate Services and Other Communication Facilities excluded from the definition of "Telecommunications"). At the time the Agreement was executed, the company did not intend to offer telecommunication services, but it has now been acquired by another company, Zayo Group, LLC, and has obtained a Certificate of Convenience and Necessity (CC&N) from the State in order to provide such services that would require a Class 4 License ("Telecommunication Services") with the City. The Arizona State Statutes set parameters on how fees can be charged to companies depending on the type of communication services its facilities are used to deliver. This ordinance and amendment modifies the existing Agreement with the City to account for the change in ownership of the company, as well as setting terms for the company to operate under both a Class 4 and Class 5 License.

The City has received a \$3,000.00 application fee which should cover the City's cost for processing the application. The linear foot fees for the company to date have been met by Section 4.2.4 of the original Agreement which allowed an offset for fees in exchange for the installation of a conduit network for the City that was built in conjunction with AGL's original network. This network has a cost to AGL, and a value to the City, of \$862,310.00 and allows the City to bring full motion video from 29 additional traffic signals back to its Traffic Management Center. It is also used as part of the backbone high speed network infrastructure by the City's Information Technology Division to provide both voice and data communications to remote City facilities.

From this date forward, there will be a 2.75% privilege tax paid on any non-interstate telecommunication services. There will be an Annual Footage Fee of \$1.85 per linear foot of public property occupied for interstate telecommunication services and the leasing of dark fiber, with a CPI escalator clause applied each year. The Annual Footage Fee will amount to \$38,082.25 based on the current estimate of linear feet dedicated to Interstate Telecommunication Services and/or Dark Fiber Leasing. There will be an \$18,000.00 freeway crossing fee for the last year of the original Agreement. The company will also pay permit, inspection and pavement damage fees.

10. ANNEXATION: SEC of Cooper and Ocotillo Roads Ord. #4296

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4296 annexing approximately 1.62 acres located south of the SEC of Cooper and Ocotillo roads. (Applicant: Lowell Huggins, Owner.)

The subject site is located south of the SEC of Cooper and Ocotillo roads and is currently zoned R-43 within the County. The Chandler Land Use Element of the General Plan designates the area for Low Density (single-family) Residential. Furthermore, the subject site is located within the Southeast Chandler Area Plan and is designated as Rural/Agrarian allowing for the rural lifestyle to be maintained in the area. The Council held a public hearing on this item on March 24, 2011. Staff has received the signed petition from the property owner. The request has been processed in compliance with the State Statutes governing annexations.

Directly north and east of the site are vacant single-family home lots within the Vina Solana custom single-family residential subdivision. South are single-family homes in the Cooper Country Estates single-family residential subdivision. West is a landscaping business operating out of a single-family home; the home is located in the County and is not included in the annexation request.

Discussion:

COUNCILMEMBER HEUMANN he had received comments from citizens who wondered why the City would bring property into the City without impact fees. He knew that the property had paid water. He requested that a policy be looked into about annexations in order to protect the City. He stated he would be supporting the annexation due to it being under the old rule but he stated he would decline to vote for anything in the future that violated what was asked for in terms of impact fees from other citizens.

11. REZONING: ICAN Youth Facility

Ord. # 4298

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4298, DVR11-0003, ICAN Youth Facility, rezoning from PAD to PAD Amended to expand the list of permitted uses, with PDP, for the construction of a youth facility that includes recreational, educational, social programs and other youth services on approximately 2.77 acres located at the NEC of Hamilton and Morelos streets (approximately one-quarter mile north of the NEC of Pecos Road and Hamilton Street). (Applicant: Brennan Ray, Burch & Cracchiolo, P.A.)

The subject site is located at the NEC of Hamilton and Morelos streets, which is approximately ¼ mile north of the NEC of Pecos Road and Hamilton Street. The site is located within the approximately 50-acre Bogle Business Park. The site is bordered to the north by the City of Chandler Folley Memorial Park and Aquatic Center as well as Frye Elementary School. To the east are additional vacant lots within the Bogle Business Park zoned for office and light industrial uses. East of Bogle Park is the Monterey Vista single-family residential subdivision. Morelos Street abuts the site's south side with an existing County medical health facility located on the south side of Morelos Street. A City-owned retention basin abuts the site's west side.

ICAN, Improving Chandler Area Neighborhoods, is an Arizona nonprofit corporation that provides comprehensive out-of-school programs and services for Chandler's youth. Founded in 1991, ICAN serves over 2,000 youth and families at the existing facility located at 201 S. Washington Street. ICAN is relocating from this existing facility to accommodate the continued growth of their highly successful programs. The subject 2.77-acre site is currently owned by the City of Chandler and is being used as multi-purpose fields for soccer and football. ICAN, through a property exchange with the City, seeks to relocate to the subject site and develop a new campus that will meet the long-term needs of Chandler's youth and families. The subject site is effectively comprised of Lots 11, 12 and 13 of the original Bogle Business Park subdivision. The 1987 PAD and Master Plan broke the 50-acre business park into sub-areas that each contained different land use restrictions. The 2.77-acre site is located within sub-area C that permits light industrial I-1 uses as well as business uses such as office and support services. The request is to rezone the subject site to permit the construction of ICAN's new youth facility campus that includes recreational, educational, social programs and other youth services.

The campus has been thoughtfully designed to not only accommodate ICAN's present needs, but to provide future expansion opportunities as well. The building is placed within a landscaped setting along Morelos Street. Angled building orientation provides the opportunity for a curved 40-foot wide main entry drive that doubles as the van/parent drop-off pick-up lane. A large percentage of ICAN's youth either walk to the facility or are brought by an ICAN van. Pedestrian access is accommodated by sidewalks along Morelos Street and 2 sidewalks at the north connecting to the City park. The ICAN vans will be stored within a gated driveway along the site's east side, adjacent to an existing driveway that provides access from Morelos Street to the City

park and aquatic center. The site provides 31 parking spaces, with 57 spaces required per Code. The 31 spaces on-site will accommodate ICAN's day to day needs including the 15-20 staff and volunteers and parent drop-off/pick-up. The remaining 26 spaces are provided by the adjacent City parking lot along the north side.

The building is intentionally located at the site's southeast side to buffer the outdoor courtyards and areas from the balance of the Bogle Business Park. Additionally, this keeps the outdoor recreational areas adjacent to the existing City park and aquatic center. Outdoor amenities include a full basketball court, a small soccer field, a water splash pad, playground equipment with shade structures, a 1,500 square-foot ramada with snack bar and extensive turf areas for general play. The outdoor play areas are enclosed by one of two wall designs as noted on the wall plan in the Development Booklet.

The 22,118 square-foot building includes a 1,211 square-foot mezzanine. Future classroom and administrative area expansions bring an additional 6,200 square-feet of floor area. The building will include classrooms, learning centers, a library, teen center, administrative offices, a gymnasium and fitness center, kitchen, and associated storage areas. Architecturally, the building does a good job of striking the balance between the recreational nature and the adjacent business park. The well-articulated floor plan combined with the varying building masses serve to reduce the building's scale and provide architectural interest. The building's focal point is the 30-foot tall two-story element on the west side facing Hamilton Street. Solar shading devices are included on the south and west window openings.

The request includes a comprehensive sign package. Building mounted signage will occur on the southwest corner, one on the west side and one on the south. The building mounted signage includes a combination of non-illuminated reverse pan-channel lettering and logo, and flat cut out aluminum lettering. A single monument sign is proposed along Morelos Street. The 8-foot tall sign architecturally relates to the building through form and materials. The text and logo are flat cut out non-illuminated construction. The monument sign exceeds the Code's maximum height; however, Staff finds the extra height is warranted by the enhanced architectural design and quality.

Staff supports the requested rezoning and PDP. While the proposed youth facility land use might intuitively not be compatible with a business park, Bogle Business Park is not a traditional business park. With the heavier commercial office/medical office aspect, the adjacent City Park and aquatic center, the proposed land use provides a natural addition. The site design and building architecture not only compliment the adjacent business park and City facilities, they provide a safe, fun and educational amenity alternative for Chandler's youth.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on February 24, 2011. There were no neighboring property owners 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 conditions listed in the ordinance.

Discussion:

COUNCILMEMBER HEUMANN asked the applicant to discuss the project and how it would serve underprivileged youth of the City.

MS. CHRISTY MCLEANDON, ICAN President announced that ICAN was one of the leading prevention providers in Maricopa County and the State of Arizona. She explained that ICAN had expanded their programs to provide substance abuse and gang prevention programs throughout school days. She stated that ICAN was also working at a community level to change the norms that exist in Chandler's development area. Since 2006, ICAN's daily attendance has grown by 260% and was serving over 300 youth's every day. She explained that ICAN could not remain where they currently are due to the municipal growth in the area. She expressed gratitude to the City of Chandler and announced that ICAN would be relocating to a 2.5 acre site at Folley Park after entering a property exchange agreement with the City of Chandler. She explained that ICAN was looking at a board approved fund raising goal of \$4.5 million for the project, with \$1.9 million already committed to the project and an additional \$450,000.00 in outstanding requests. She stated that the facility would incorporate a courtyard and play area, learning center, computer lab, library, basketball court, kitchen and other elements.

12. PAD ZONING OVERLAY: Site 8 Parking

Ord. #4299

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4299, DVR11-0002, Site 8 Parking, City initiated PAD zoning overlay concerning parking requirements for land bounded by Chicago Street, Arizona Avenue, Frye Road and Oregon Street. (Applicant: City of Chandler.)

Site 8 is the block bounded by Chicago Street, Arizona Avenue, Frye Road and Oregon Street in Downtown Chandler. It contains a mix of retail, restaurant, office, auto service, single-family, and multi-family uses. Olde Towne Market Square (Wall Street shops) is part of Site 8. It also contains a parking lot and several vacant lots. All parcels on the block are zoned C-2 and are subject to strict enforcement of the Zoning Code's parking requirements, which apply to all building additions and use intensifications, but not to existing uses or new uses of the same intensity.

The proposal is to relax the parking requirements for Site 8 by adding a PAD overlay that gives discretion to Staff regarding the level of enforcement. More specifically, the following language would be applied to Site 8 properties:

Parking: Any building or use lawfully existing at the effective date of this ordinance, including any renovation or remodeling that does not expand the total gross floor area of an existing building, shall be exempt from the parking schedule set forth in Section 35-1804 of the City Code. However, any new construction of a building, or any new addition to an existing building subsequent to the effective date of this ordinance, shall be subject to said parking schedule, provided however, that the Zoning Administrator may exercise discretion in the strict enforcement of the number of parking spaces required, wherein the development submits a parking study demonstrating how such parking demand shall be handled by existing facilities and provisions.

The above language is borrowed directly from the City Center District (CCD) regulations applied to land surrounding A.J. Chandler Park. Currently, only CCD-zoned properties have such flexibility with regard to administrative reviews.

A recent use intensification at 250 S. Arizona Avenue (Cloud 9 Karaoke) and a planned building addition at 260 S. Arizona Avenue (Gangplank) would be the first beneficiaries of the proposed zoning overlay. Cloud 9 acquired temporary rights to off-site spaces to allow their occupancy, while Gangplank's forthcoming building permits will be issued contingent on either the overlay

being approved or some other off-site parking being acquired. Neither project has room on-site to provide additional parking – a common situation in Site 8 where most of the lots are rather small and already built up.

Notably, the zoning overlay does not automatically waive parking requirements. Rather, the authority to relax parking requirements would rest with the Zoning Administrator. It is anticipated that most or all affected development activity would receive waivers over the next few years. However, there may come a time in the future that existing parking in the area cannot handle additional demand, and Site 8 developments would then have to provide their own parking. Also, a major development may be proposed that, due to its size or intensity, warrants dedicated parking.

Within one block of Site 8, there are approximately 743 off-street public parking spaces available on nights and weekends. There are also on-street parking spaces available nearby. The vast majority of the off-street public spaces are located north of Site 8 and would be shared with CCD properties and other businesses, so the stated number somewhat exaggerates anticipated availability, but those facilities are rarely at capacity and could easily accommodate additional demand at this time.

The proposal is consistent with the South Arizona Avenue Corridor Area Plan (SAZACAP). The SAZACAP identifies all of Site 8 for the Cultural and Entertainment land use category, which calls for the most intense types of cultural, commercial, entertainment and office development, with a possibility of ancillary high-density residential uses. Land use is not affected by the proposed rezoning.

The SAZACAP calls for new development, generally, to integrate off-street parking into their plans. It also notes that each land use's parking needs have to be carefully evaluated in the context of surrounding land uses and shared parking potential. The proposed zoning overlay does not conflict with these provisions. The zoning overlay is intended to facilitate re-development of existing buildings and smaller new infill developments, not larger tear-down and build-up developments that are the primary focus of the area plan. The area plan recognizes that larger new developments would likely overburden existing parking provisions. However, the subject proposal would grant flexibility to allow more minor developments to occur without first pursuing individual PAD zonings.

The proposed zoning overlay would facilitate minor business expansions and intensifications on a unique mixed-use block with a hodgepodge of small, privately owned lots. The variety of owners involved and the current economic climate make it unlikely in the short-to medium-term that sufficient land could be assembled to pursue a larger development that provides its own parking. The proposed overlay recognizes sufficient area parking and does nothing to significantly impede future development that is in full accordance with the SAZACAP land use recommendations. The expansion and intensification of businesses in Site 8 is anticipated to be a benefit to the block and surrounding area. Additionally, a block-wide overlay such as proposed is much more efficient than individual rezoning requests with regard to time and effort expended.

This request was noticed in accordance with the requirements of the Chandler Zoning Code. A meeting for Site 8 property owners only was held on February 23, 2011. Nine citizens attended to ask general questions. All three single-family homeowners on the block attended the meeting. A neighborhood meeting for the broader neighborhood was held March 21, 2011. No neighbors outside of Site 8 attended. Three Site 8 property owners attended out of general interest. 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 conditions listed in the ordinance.

13. CITY CODE AMENDMENT: Chapter 31

Ord. #4300

Councilmember Heumann noted the hours would be changing to encourage additional passive use of the park.

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4300 amending the Chandler City Code by deleting Chapter 31 in its entirety and adopting a new Chapter 31 relating to Community Services, the Parks and Recreation Board, the Arts Commission and the Municipal Art Funds, the Museums Advisory Board, the Mayor's Committee for People with Disabilities, the Mayor's Committee for the Aging and the Mayor's Youth Commission.

As normal practice, Staff periodically reviews Chapter 31 of the City Code to ensure that its content and departmental operations are aligned. Since its last revision in 2004, several new facilities and programs have been added which requires updating the existing Chapter 31 verbiage.

A concentrated effort has been made to make the document more user-friendly, as is the case on page 2, Section 31-1. Definitions were created to give meaning to terms, phrases and their derivations used throughout Chapter 31. Other examples include consolidating and reorganizing current verbiage within the document such as Sections 31-5, 31-6 and 31-7.

Of prime interest to the City Council may be Section 31-21 and Section 31-25.D.2 that clearly defines that all fees for recreational services and use of facilities shall be approved and adopted by the City Council. The Parks and Recreation Board also recommends changing Section 31-4.A. Chandler parks are currently open to the public from 6 a.m. to 10:30 p.m. This change will allow individuals to use a park or open space between 5 a.m. and 6 a.m. for passive activities such as running, jogging, walking, bike riding or the attendance of fitness classes or camps. The Community Services Department has received numerous requests from citizens for the ability to use parks before 6 a.m.

Other changes, such as Sections 31-5.Q and 31-17 have been added at the recommendation of Chandler's Park Rangers. Still more changes are a result of Legal's recommendation to clarify wording, better define the intent of the ordinance language, more accurately reflect State Statute language and to limit liability. Examples of those changes include Sections 31-5.I, 31-5.N, 31-9.C.6, 31-9.C.8 and 31-9.C.9.

Changes proposed by Staff include the addition of Sections 31-10, 31-11, 31-13, 31-14 and 31-15 to give Park Rangers and Police authority to enforce rules related to Geocaching, the Skate Park, Bike Park, Aquatic Facilities and the Archery Range.

Also added under Section 31-25.D are items 10 and 11 that reflect other assigned responsibilities of the Parks and Recreation Board not previously stated in writing as a part of the Code.

Several recommended changes came from the Mayor's Youth Commission regarding Section 31-29. The Youth Commission recommends deleting the Commission's composition from fifteen (15) members with ten (10) alternates to nineteen (19) members with no alternates. Additional

recommendations from the Youth Commission include limiting appointments to high school students and changing the term of appointment from three (3) to two (2) years.

The proposed Chapter 31 revisions were presented to the Community Services Council Subcommittee on March 17 and to the Parks and Recreation Board at their April 5, 2011, meeting. The Parks and Recreation Board endorsed Staff's recommendations and unanimously voted to recommend City Council approval.

14. SUBMISSION OF PROJECTS: Arizona's 2012 Highway Safety Plan Res. #4496

ADOPTED Resolution No. 4496 authorizing the submission of projects for consideration in Arizona's 2012 Highway Safety Plan for conducting Child Car Seat Safety Clinics and authorizing the Fire Chief to conduct all negotiations and execute and submit all documents in connection with such grant.

The Fire Department has applied for a Highway Traffic Safety Grant in the amount of \$39,785.00. This grant is specific to the areas of Occupant Protection/Child Safety Seats. A requirement of this grant process is to have the City Council approve this resolution. Grant awards will be made after the 2012 Federal Budget is passed.

This is a reimbursable grant which does not require matching funds.

15. ASSESSMENTS: Downtown Chandler Enhanced Municipal Services District Res. #4499

ADOPTED Resolution No. 4499 authorizing modification of the assessment diagram; making a statement and estimate of expenses for the Downtown Chandler Enhanced Municipal Services District; completing the assessment; setting the date for the hearing on the assessment; and ordering the giving of notice of such hearing.

On May 25, 2006, the Mayor and Council approved Resolution No. 3971 creating the Downtown Chandler Enhanced Municipal Services District with the mission to provide marketing, promotion, enhanced security and district management. The City subsequently executed a master contract with the Downtown Chandler Community Partnership (DCCP) to perform such services for a period of 10 years. Fiscal Year 2011-12 represents the 6th year of this contract.

As part of the annual assessment procedures, each year the Assessment Diagram and Assessment Roll need to be updated due to changes in ownership, plats and land uses. Additionally, a public hearing must be held along with the opportunity for district property owners to file objections.

Resolution No. 4499 sets the public hearing to notify property owners of the intent to modify the assessments for property in the District, a required formal step. This resolution also authorizes the Mayor and City Council to make an estimate of the expenses for the District for 2011-12, to set the date for the hearing on the assessment and to give the public notice of the hearing date.

As a result of Resolution No. 4499, the hearing for the setting of the assessments will be held May 26, 2011, at 7 p.m. in the City Council Chambers. The District Staff will appropriately notify all property owners within the District boundary and the City will publish the notice of the hearing in a daily newspaper for five days as required by State Statute.

Assessments in the District will be based on three weighted factors including assessed value, building square footage, and land square footage. All properties will be assessed at the same rate with the exception of buildings along the Historic Square, which will be assessed double the building square footage rate.

In May, Staff will return with a resolution to approve the annual assessment roll, which will detail the amount assessed each parcel and property owner. In June, Staff will present the Chandler Enhanced Municipal Services Agreement with the Downtown Chandler Community Partnership for Fiscal Year 2011-12, which includes an Operating Plan and District Budget.

The assessments calculated by the DCCP total \$258,451.00 which is also the estimate for the operating budget for the District for 2011-12. This year, due to budget conditions, the City has elected to cap its voluntary contribution at the level contributed in the prior year. This means the City's maximum contribution is \$118,804.00, which represents 46% of the total budget. Funds to provide for the assessment are provided for in the Downtown Redevelopment budget request for Fiscal Year 2011-12.

16. AMENDMENT: City Fee Schedule

Res. #4504

ADOPTED Resolution 4504 amending the City Fee Schedule reflecting the addition of Class 9 Valet Parking Encroachment Permit Application Fee to Section 8, Subsection 8.1, of the City Fee Schedule.

City Council approved an ordinance amending the City Code to establish valet parking which provides for the issuance of a new class of encroachment permit, the Class 9 Valet Parking Encroachment Permit. The current fee schedule does not provide for a permit application base fee common to all classes of encroachment permits; instead, it identifies a specific fee for each individual class of encroachment permit. This will update the City Fee Schedule to reflect the new fee associated with Class 9 Valet Parking encroachment permit. The proposed changes are recommended to become effective May 1, 2011.

17. SPECIAL EVENT LIQUOR LICENSE: American Legion Post 35

APPROVED a Special Event Liquor License for the American Legion Post 35 for the Kickstands Up for K9 Charity Event to be held on May 7, 2011, at the American Legion, 2240 W. Chandler Boulevard. The event was originally scheduled for April 9, 2011, however rainy weather conditions made it necessary to cancel it. 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.

18. PRELIMINARY DEVELOPMENT PLAN: Layton Lakes Parcel 16

APPROVED Preliminary Development Plan PDP10-0018/PPT10-0007 Layton Lakes Parcel 16, for housing product and amendment to the subdivision layout with Preliminary Plat (PPT) on approximately 16 acres located at the NWC of Lindsay Road and Layton Lakes Boulevard. (Applicant: Jeff Gunderson, Lennar Layton, LLC.)

The approximate 832-acre Layton Lakes Master Planned development received PAD zoning in March 2001. Of the 832 acres, approximately 373 are within the City of Chandler with the majority of Phase I occurring in the Town of Gilbert. In December 2003, a PDP was approved for the 21.6-acre Community Recreation Center as the part of Phase I within the City of Chandler. In February 2004, Council approved a Preliminary Development Plan (PDP) and Preliminary Plat involving the subdivision layout and landscape plans for Phases 2, 3 and 4 of the master planned community. The subject Parcel 16 (originally 33 acres) was part of this PDP approval and included 107 residential units. Each of the 7 residential subdivisions within the Chandler portion of Layton Lakes would be required to process future PDPs for the housing product. Finally, in March 2007, Parcel 16 was rezoned to include a 5-acre church parcel with PDP approval for subdivision layout and housing product for the remaining 88 residential homes. Standard lot size for Parcel 16 was 10'x115'.

The subject Parcel 16 is bordered to the north by a future Commercial Town Center that includes a sizable portion of the lake system and open space. Adjacent, to the west, is a future residential townhouse parcel (Parcel 18), as well as a future City park (Parcel 19). Haley Elementary School abuts Parcel 16's southwest side. The 5-acre church parcel is located south of Parcel 16, with Layton Lakes Boulevard abutting the church's south side. Further south are rural residential properties within Maricopa County. Lindsay Road abuts the subject site's east side with additional residential subdivisions, as part of the Layton Lakes Master Plan within the Town of Gilbert, located east of Lindsay Road.

The request is for PDP and Preliminary Plat approval to amend the subdivision layout and standard lot size for Parcel 16. The request proposes two standard lot sizes in lieu of one. A total of 100 lots are proposed that includes 37 60'x110' lots and 63 50'x110' lots. Overall, the lot layout remains very similar to the original 88-lot layout; however, the new proposed layout provides improved traffic circulation as well as increased exposure and access to the extensive lake/open space system within Layton Lakes. Only 9 lots backup to Lindsay Road and the perimeter wall provides an off-set every third lot for those 9 lots. The lot setbacks are front yard minimum of 18 feet (15 feet to livable/side loaded garage), side yard minimum of 5 feet and 10 feet, rear yard minimum of 20 feet for a single-story home (25 feet along arterial) and 30 feet for a two-story home. The requests includes provisions for architectural projections, fireplaces, entertainment centers and such to project 3 feet into the setback for a maximum of 15 feet in width for a single story element and 6 feet in width for a two story element. However, in all cases, the projection must maintain a minimum of 3 feet to the property line. Overall, the subdivision layout complies with the 8 required and 12 optional elements as found within the Residential Development Standards.

Additionally, the request includes PDP approval for the housing product. Two separate housing product series are proposed, one for the 60-foot wide lots (45-foot wide product) and another for the 50-foot wide lots (35-foot wide product). Each series provides four different floor plans for a total of 8 individual floor plans for the 100 lots. Three distinct elevations are provided for each floor plan. The 60-foot wide (northern) lots' elevations include Spanish Colonial, California Ranch and Mediterranean. The 50-foot wide (southern) lots' elevations include Western Cottage, Spanish Colonial and Ranch Hacienda.

The housing product is in conformance with the Architectural Diversity Element of the Residential Development Standards. The 45-foot wide product includes 1 single-story floor plan and 3 two-story floor plans ranging in size from 1,794 square-feet to 2,767 square-feet. The two-story plan 45-6 provides a single-story element for the entire side of the house. Covered entries are provided on all plans with stone accent material provided on at least two elevations for each plan.

The 35-foot wide product includes 2 single-story floor plans and 2 two-story floor plans ranging in size from 1,400 square-feet to 2,567 square-feet. The two-story plans include extended width covered entry ways and the single-story plans include front walled-in courtyards that extend past face of the garage, as well as stone accent material on certain plan elevations. Both housing product series provide varied roof ridgelines, decorative windows, accent window shutters, wrought iron accents and decorative pipe vents, as well as decorative columns that provide a high level of quality and distinguish the various elevations from one another. Building massing has been broken up through the use of single-story elements, window pop-outs, extended roof overhangs and varied roof ridgelines.

Staff supports the request finding the proposed 2 different standard lot sizes to provide another layer of diversity to an already complete master planned development. Parcel 16 was always planned to develop with the smaller lots within Layton Lakes intended to provide affordable 'work-force' housing. The increase from 88 lots to 100 brings the lot-count closer to the original 107 lots approved in 2001. The inclusion of 2 cul-de-sac streets provides a much stronger exposure to the lake system, and the adjusted street layout is less circuitous. Parcel 16 will continue to remain in conformance with the February 2004 PDP approval for the greater Layton Lakes Master Plan in terms of subdivision diversity except as modified by this request. Staff supports the housing product finding the 8 different floor plans, with 3 elevations each, will provide a substantial level of diversity for the 100 lots. The homes provide architectural detail and interest while remaining consistent with the intent to provide affordable 'work-force' housing within Layton Lakes.

This request was noticed according to the provisions of the City of Chandler Zoning Code with a neighborhood meeting being held on February 1, 2011. There were no neighboring property owners 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. Development shall be in substantial conformance with the Development Booklet entitled "LAYTON LAKES PARCEL 16" kept on file in the City of Chandler Planning Services Division, in File No. PDP10-0018, except as modified by condition herein.
2. Compliance with the original stipulations adopted by City Council as Ordinance 3250, case DVR00-0025 LAYTON LAKES, except as modified by condition herein.
3. Compliance with the original stipulations adopted by the City Council as case PDP03-0038 LAYTON LAKES, except as modified by condition herein.
4. All homes built on corner lots within the residential subdivision shall be single-story.
5. The same elevation shall not be built side-by-side or directly across the street from one another.
6. For lots adjacent to an arterial street, two-story homes are limited to every third lot.

The Planning Commission and Staff recommend approval of the Preliminary Plat subject to the following condition:

1. Approval by the City Engineer and Director of Transportation & Development with regard to the details of all submittals required by code or condition.
19. ZONING EXTENSION: Layton Lakes Parcel 18

APPROVED a three-year Zoning Extension for DVR11-0006 Layton Lakes Parcel 18 for a medium-density detached single-family residential subdivision located on approximately 12 acres within the Layton Lakes Master Plan at the SWC of Lindsay and Queen Creek roads. (Applicant: Burch & Cracchiolo, P.A., Brennan Ray.)

In November 2007, City Council approved rezoning the subject site from Planned Area Development (PAD) for attached town homes to PAD for a medium-density detached single family residential subdivision in conjunction with Preliminary Development Plan (PDP) approval for subdivision layout and housing product. The PAD zoning was conditioned to start construction above foundation walls within three (3) years of the ordinance effective date, which expired on January 9, 2011. The proposed three-year extension would be in effect until January 9, 2014, as the time limit is calculated from the previous zoning approval's expiration. This is the first zoning time extension requested for the property.

Parcel 18 includes 102 detached residential 'Green Court Units' with lots ranging in size from 2,278 square feet (34 x 67) to 3,280 square feet (41 x 80). The homes are arranged as an 'alley-loaded' type product with the homes fronting a pedestrian paseo. This non-traditional orientation places the open front yards and patio spaces directly adjacent to the common paseo open space. This design provides a breakdown of the traditional barriers thereby integrating the private and public open space design. Front doors and neighbors are engaged directly into the common open space. The highlight of this type of residential product is the strong passive pedestrian pathway system that leads to a centralized linear park featuring amenities such as a pool, recreation building and picnic/Ramada areas, as well as direct pedestrian access to the extensive Layton Lakes stream and lake system.

The approval included three floor plans that range in size from 1,507 square feet to 1,897 square feet. Three distinct elevations, Spanish, Santa Barbara and Tuscan, are provided for each floor plan. While the housing product is entirely two-story, the overall building massing has been broken up through the use of architectural projections, porches, single-story elements and decorative window treatments. Additionally, 'enhanced elevations' are provided for each floor plan in the event the home sides up to Layton Lakes Boulevard, the internal local residential street, or any common open space. The enhanced elevations provide additional side elevation diversity through additional plan changes, window treatments and decorative window mullions.

Staff is in support of the zoning time extension request for an additional three years which extends the PAD zoning until January 9, 2014. Staff is of the opinion that the medium-density detached single-family residential land use remains appropriate for this site adding a valuable alternative housing product to the 373-acre Layton Lakes Master Plan.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on March 2, 2011. There were no neighboring property owners 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 extend the timing condition for three (3) years with all of the conditions in the original approval remaining in effect.

20. AGREEMENT: Voss Lighting and Brown Wholesale Electric

APPROVED Agreement #CM1-285-2979 with Voss Lighting and Wesco Distribution dba Brown Wholesale Electric for building lighting retrofitting in an amount not to exceed \$390,777.42.

The City of Chandler was awarded an Energy Efficiency and Conservation Block Grant (EECBG) from the Department of Energy as a part of the American Recovery and Reinvestment Act (ARRA). The Department of Energy approved a number of the City's energy efficiency projects, one of which is to upgrade the existing lighting in the various City buildings with new energy efficient fixtures. Based on both cost and payback, 26 City buildings were selected to receive interior lighting upgrades as a part of this grant project.

This agreement is for the purchase of the lighting equipment only. The design work was previously completed by Wright Engineering and specifications were provided for bidders. Installation of the energy efficient fixtures will be done by in-house electricians.

21. AGREEMENT: HVAC Repairs

APPROVED an Agreement with Frontier Mechanical, Inc., dba FMI Heating & Cooling, Inc., Trane, Inc. and Chandler Air, Inc., for HVAC repairs, maintenance and service in a total amount not to exceed \$300,000.00 for one year with provisions to extend for four (4) additional one-year periods.

22. AGREEMENT AMENDMENT: AmeriNational Community Services, Inc.

APPROVED Agreement #HO6-946-2323, Amendment No. 4, with AmeriNational Community Services, Inc., for the Lender for Housing Rehabilitation Loan Program. This is the fourth of eight one-year extensions.

The City of Chandler has operated the Housing Rehabilitation Loan Program since 1994. During the past 16 years, 140 homes have been rehabilitated. AmeriNational Community Services, Inc. services the loans on behalf of the City. AmeriNational will continue to service Housing Rehabilitation Loans through collection of monthly payments, remittance of payments to the City, loan document preparation for amortized loans and other duties typical of a lending institution.

In July 2010, the City amended the agreement with AmeriNational to provide additional services including home insurance monitoring, correspondence with the homeowner regarding delinquent payments, delinquency/default letters, credit reporting and confirmation of continue ownership. These additional services assist the City in insuring that Housing Rehabilitation Loan Program participants maintain compliance with program guidelines and that their required payments are being remitted to the City.

23. AGREEMENT: Desierto Verde, Inc.

APPROVED Agreement #TD1-988-2957 with Desierto Verde, Inc. for re-vegetation of City-owned areas in an amount not to exceed \$563,530.00 for one year with options to renew for four (4) additional one-year periods.

This agreement allows City Staff to replace plants as well as landscape material and provides maintenance for the landscape areas within the City streets as well as providing the Parks Division and Water Distribution with a method of replacing plants and shrubbery as needed.

24. RENEW AND RATIFY CONTRACT: Legal Services

RENEWED AND RATIFIED a Contract for Legal Services between the City of Chandler and the law firm of Mariscal, Weeks, McIntyre, Friedlander, P.A. to provide legal services related to development agreements, construction litigation, and advice on related issues for the period February 12, 2011, through February 11, 2013.

The City of Chandler has used this law firm over the past several years to represent the City and wishes to continue having the option to employ this law firm should the need arise.

Payment will come from funds budgeted or allotted for the associated issues/projects that arise.

25. RENEW AND RATIFY CONTRACT: Legal Services

RENEWED AND RATIFIED a Contract for Legal Services between the City of Chandler and the law firm of Gust Rosenfeld to provide legal services related to bond issues, litigation and advice on related issues for the period August 1, 2010, through August 1, 2012.

The City of Chandler has used this law firm over the past several years to represent the City and wishes to continue having the option to employ this law firm should the need arise.

Payment will come from funds budgeted or allotted for the associated issues/projects that arise.

26. RATIFY CONTRACT: Legal Services

RATIFIED a Contract for Legal Services between the City of Chandler and the law firm of Jones, Skelton & Hochuli, P.L.C. to provide legal services related to litigation matters and advice on related issues for the period April 25, 2010, through April 24, 2012.

The City of Chandler has used this law firm over the past several years to represent the City and wishes to continue having the option to employ this law firm should the need arise.

Payment will come from funds budgeted or allotted for the associated issues/projects that arise.

27. RATIFY CONTRACT: Legal Services

RATIFIED a Contract for Legal Services between the City of Chandler and the Cohen Law Firm to provide legal services related to litigation matters and advice on related issues for the period April 17, 2010, through April 16, 2012.

The City of Chandler entered into a contract for legal services with the Cohen Law Firm for the two year period April 17, 2010, through April 16, 2012. Staff requests that the City Council ratify this contract in order for this law firm to continue to represent the City.

Payment for services rendered came from funds budgeted or allotted for the associated issues/projects and will continue to be paid through such issues/projects.

28. RATIFY CONTRACT: Legal Services

RATIFIED a Contract for Legal Services between the City of Chandler and the Grasso Law Firm, P.C. to provide legal services related to litigation matters and advice on related issues for the period March 31, 2010, through March 30, 2012.

The City of Chandler entered into a contract for legal services with the Grasso Law Firm, P.C., for the two year period March 31, 2010, through March 30, 2012. Staff requests that the City Council ratify this contract in order for this law firm to continue to represent the City.

Payment for services rendered came from funds budgeted or allotted for the associated issues/projects and will continue to be paid through such issues/projects.

29. RATIFY CONTRACT AMENDMENT: Legal Services

RATIFIED the First Amendment to a Contract for Legal Services between the City of Chandler and the Kutak Rock, LLP Law Firm to provide legal services related to self-funded health care insurance and benefits and advice on related issues for the period July 3, 2009, through December 31, 2011.

The City of Chandler entered into a First Amendment to the contract for legal services with the Kutak Rock Law Firm for the period July 3, 2009, through December 31, 2011. Staff requests that the City Council ratify this First Amendment in order for this law firm to continue to represent the City.

Payment for services rendered came from funds budgeted or allotted for the associated issues/projects and will continue to be paid through such issues/projects.

30. CONTRACT: City Wide Contracting

APPROVED Contract #WW0509-401 with City Wide Contracting for Reclaimed Water Transmission Main In-Fill in an amount not to exceed \$1,370,481.00.

The 2008 Water, Wastewater and Reclaimed Water System Master Plan supports using reclaimed water from the City's water reclamation facilities. The reclaimed water will irrigate turf areas developers construct as well as provide water deliveries to the Gila River Indian Community. Developers are required to use reclaimed water for irrigation as it becomes available. The Southeast Chandler Area Plan identifies turf areas and landscaping in the right-of-way to be irrigated from the reclaimed water distribution system.

31. CONTRACT: Carollo Engineers

APPROVED Contract #WW1004-201 with Carollo Engineers for the Pecos SWTP Flocculator System Assessment and Rehabilitation Design in an amount not to exceed \$324,150.00.

The Pecos Surface Water Treatment Plant (SWTP) was built in 1989 with production capacity of 30 million gallons per day (mgd). The plant expanded to 45 mgd in 1997 and again in 2008 with capacity to produce 60 mgd. Prior to the 2008 plant expansion, an extensive evaluation of the plant's facilities identified the aging paddle wheel flocculation and chemical feed system, built as part of the original plant, as a potential weak link in the treatment process. The evaluation recommended the flocculation system be updated when funds became available. This system is critical to the water treatment process because flocculation causes solids in raw water to coagulate and drop out of the water prior to the plant's finishing filters. Rehabilitation of this subsystem will improve water quality, reduce chemical costs, and sludge volume generated during the treatment process.

32. PURCHASE: Smiths Detection

APPROVED the Purchase of portable chemical analyzers from Smiths Detection, sole source, in an amount not to exceed \$78,404.00.

The City of Chandler has established a Fire/Police Rapid Response Team with federal funding from the State Homeland Security Grant program. This program helps to ensure that Fire/Police personnel are prepared and equipped to respond to large scale emergencies, terrorist events, and natural and/or man-made disasters. The Fire Department received 2010 Urban Areas Security Initiative (UASI) funding to purchase equipment to enhance Chandler's Rapid Response Team. This equipment includes the HazMatID 360 and Responder RCI Partnership Pac. The HazMatID 360 is a rugged, portable chemical analyzer that can identify a broad range of chemicals including unknown powers, WMDs, explosives and toxic industrial chemicals. The Responder RCI is a rugged, portable solid and liquid chemical threat detector and can be configured to perform broad-range identification of over 15,000 substances. These analyzers will be used to identify unknown substances and hazardous materials which will help to properly treat those who may have been exposed.

33. PURCHASE: Tires

APPROVED the Purchase of tires from various vendors, utilizing the State of Arizona contract, in an amount not to exceed \$280,000.00.

34. USE PERMIT: Sidelines Grill and Tavern

COUNCILMEMBER ORLANDO declared a conflict of interest on this item as this is his neighborhood and stated he would not be participating in discussions.

APPROVED (6-0) Use Permit LUP11-0002, Sidelines Grill and Tavern, Series 12, to allow the addition of live music on an outdoor patio at an existing restaurant located at 2980 S. Alma School Road, Suite 2. (Applicant: Sidelines Tavern and Grill Corporation/Arizona Liquor Industry Consultants.)

The restaurant is located west of the northwest corner of Alma School and Queen Creek roads within the Ocotillo Plaza shopping center that contains a Target and a vacant Basha's grocery store. The restaurant occupies the southern end of a pad building along Queen Creek Road. The existing Use Permit, most recently approved in 2009 without a time limit, does not allow for any live music either indoors or outdoors. This request is to add live music on the outdoor patio.

The restaurant has an estimated seating of 202 persons, including 60 seats on a 1,150-square foot outdoor patio along its southeastern wall. The patio is enclosed with a 36-inch tall decorative railing and includes a fireplace and six televisions. The restaurant has been in operation since 2002 (always under a Series 12 Restaurant License) and is open Sunday and Monday from 11 a.m. to 11 p.m., Tuesday through Thursday from 11 a.m. to 12 a.m. and 11 a.m. to 1 a.m. on Fridays and Saturdays.

The application requests live music on the outdoor patio from 7 to 10 p.m. on Thursdays and weekends, though with the flexibility to occasionally change the days and times. The music has been occurring in late 2010 and early 2011 in violation of the existing Use Permit until neighbor complaints led City Staff to take enforcement action. The music has reportedly stopped since the subject application was filed in mid-February. The application lists three musical acts as

anticipated performers, each with only one or two persons. The musicians use a pair of 110-watt, 12" speakers for amplification that are pointed toward the building.

The restaurant first received a Use Permit in 2002. It received a new Use Permit in 2009 to accommodate a patio expansion.

The Planning Commission and Staff recommend approval of the request with a time limit of one (1) year to allow for re-evaluation and with conditions that limit the noise level, including that music shall not exceed the ambient (most likely traffic) noise level as measured at the property line. The outdoor music that has been played previously would not satisfy these conditions because it was heard plainly above the ambient noise level across Queen Creek Road to the south. In order to satisfy the recommended conditions, the restaurant will have to decrease speaker volume at a minimum (compared to the noisier nights that led to complaints) and perhaps change to unamplified acoustic music. Also, the restaurant shall maintain a liaison program so that residents may reach a responsible person at any time about noise concerns, leading to a quick resolution of the problem (turn the volume down, etc.)

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on March 30, 2011. There were approximately 15 neighbors in attendance. One neighbor was opposed, three concerned or there for information and the rest in favor. One of the musicians who has played at the restaurant also attended testifying that his music is about 80 decibels according to his phone app (about the same level as a car from 25 feet away). The restaurant owner gave a presentation explaining the desire to have one-and two-man bands a few nights a month on the patio or inside (space permitting), but with no dance floor. She expressed a desire to maintain a family atmosphere and increase business despite the retail center's struggles. No security guards are needed or desired.

Neighbors debated the level of music during previous performances. One person who lives about 700 feet away, reports never hearing the music. Two people who live about 870 feet away, report hearing the music outdoors but not indoors on a few occasions. One person who lives about 1,300 feet away, reports hearing the music indoors on three occasions, but not every time it played. Several others who also live more than 1,000 feet away, report never hearing the music. Some neighbors expressed support for the restaurant because it is a positive local business that is good for the area. A couple of neighbors expressed a desire that the music "not happen all the time".

The Police Department has been informed of the application and has not responded with any issues or concerns.

Staff has been contacted by three residents in opposition to outdoor music. The residents all live south of Queen Creek Road in the Stillwater Cove at Ocotillo neighborhood. A petition was circulated by one of these three residents and was signed by 30 persons. The petition opposes outdoor music for reasons including loss of "quiet, peace and serenity", lack of buildings between the patio and the neighborhood, and the anticipated negative effect on property values.

The Ocotillo Community Association's Board of Directors has written a letter in support of the opposing neighbors' efforts and concerns.

The applicants have provided a petition of support signed by approximately 110 neighbors and restaurant patrons. One neighbor also wrote a letter of support. A survey of 19 neighbors was

provided by a supporting neighbor that indicates 17 neighbors have heard no music on their properties and 2 neighbors heard music, but it was not “bothersome”.

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 12 license only and any change of license shall require reapplication and new Use Permit approval.
2. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.
3. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication of the Use Permit.
4. Expansion or modification beyond the approved exhibits (Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
5. The Use Permit is non-transferable to any other store location.
6. The patio and area adjacent to the restaurant entrance shall be maintained in a clean and orderly manner.
7. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.
8. Outdoor music shall not utilize bass speakers or sub-woofers.
9. The maximum diameter of speakers used in conjunction with outdoor music shall be 12”.
10. Music shall not be played after 10 p.m. on Thursdays and Sundays nor after 11:30 p.m. on Fridays and Saturdays. Music shall not be played before 9 a.m. on any day.
11. Music shall be limited to Thursday through Sunday.
12. Music shall be controlled so as to not unreasonably disturb area residences and shall not exceed the ambient noise level as measured at the commercial property line.
13. The restaurant shall provide contact information for a responsible person (restaurant owner and/or manager) to interested neighbors that allows music complaints to be resolved quickly and directly.

VICE-MAYOR DONOVAN stated that she had been disappointed in what she had heard about the opposing sides of the case. She stated that people’s jobs and integrity were questioned with the case. She stated that anonymous letter was received in regards to the case. She expressed hope that other neighborhoods and businesses could bring cases forward with civility. She announced that there would be a phone line in place that people could call if they did have noise problems with the particular restaurant.

MAYOR TIBSHRAENY asked if neighbors had dropped their opposition.

City Planner BILL DERMODY stated that it appeared that those that were opposed were okay with the conditions that were being recommended.

COUNCILMEMBER WENINGER questioned how far the restaurant was from a neighborhood.

MR. DERMODY replied that the closest houses were 600 ft. away from the restaurant.

35. WITHDREW USE PERMIT: Arizona Organix (Nevada Street)

WITHDREW, as requested by the Applicant, Use Permit MUP11-0001, Arizona Organix (Nevada Street), to allow a medical marijuana cultivation site within Planned Industrial District (I-1) with a PAD overlay, I-1/PAD zoning located at 3265 N. Nevada Street, Suite, east of Arizona Avenue and north of Elliot Road.

36. WITHDREW USE PERMIT: Arizona Organix (Chicago Street)

WITHDREW, as requested by the Applicant, Use Permit MUP11-0003 Arizona Organix (Chicago Street) to allow a medical marijuana cultivation site within I-2 (General Industrial District) zoning located at 6730 W. Chicago Street, Suites 1 and 3, south of Chandler Boulevard and east of 56th Street.

37. SPECIAL EVENT LIQUOR LICENSE: Valley Unitarian Universalist Congregation

APPROVED a Special Event Liquor License for the Valley Unitarian Universalist Congregation for a Heart and Hand Fundraiser Auction to be held on May 21, 2011, at 6400 W. Del Rio Street. 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.

38. BINGO LICENSES: Solera Ladies Club

APPROVED Class A Bingo Licenses with Marsha Downs as Manager and a Class A Bingo License with Linda Peiffer as Manager for the Solera Ladies Club, 6360 S. Mountain Boulevard. As advised by the State, the club is applying for two (2) separate licenses distinguished by the managers, Marsha Downs and Linda Peiffer. Bingo game sessions will be conducted every Sunday evening. For a Class A or Small Bingo Game License, the City does not issue the license; however, State Code requires that the applicants receive City approval as part of the licensing process. The Police Department, Transportation and Development Department and Fire Department reviewed the applications and indicated no objections. .

39. BOARD AND COMMISSION APPOINTMENTS

Councilmember Hartke thanked all who volunteered to serve on these commissions.

APPROVED the following Board and Commission Appointments and Reappointments:

Airport Commission:

David Hurst (Reappointment)
Frank Nechvatal (Reappointment)
Richard Parker (Reappointment)

Architectural Excellence Awards Committee:

Maria Cadavid (Reappointment)
Matthew Pridemore (P&Z Rep)
Patti Bruno (ARC Rep)

Architectural Review Committee:

Matthew Pridemore (P&Z Rep)

Arts Commission:

Ethel Ross (Reappointment)
Mary Lasure (Reappointment)
Jana Knapp

Board of Adjustment:

James Ugalde (Reappointment)

Board of Appeals:

Roger Stage (Reappointment)

Bill Vasquez (Reappointment)
Kathleen McAlpine

Lynn Bourne (Reappointment)

Chandler Cultural Foundation Management Board:

Barbara Meyerson (Reappointment)
Steena Murray (Reappointment)
David Woodruff (Reappointment)
Anne DeRose (Reappointment)
Richard Fraizer (Reappointment)

Chandler Health Care Benefits Trust Board:

Valencia Stephens (Reappointment)

Citizens' Panel for Review of Police Complaints and Use of Force:

Terry Roe
Sandra Woods
Randy Hansen (Reappointment)
Frank Keough (Reappointment)
Robert Burnett (Reappointment)

Domestic Violence Commission:

Karyn Lathan (Reappointment)
Yvonne Taylor (Reappointment)
Ruth Lim (Reappointment)
Nicole Bruno

Economic Development Advisory Board:

Gary Hays (Reappointment)
Ward Andrews (Reappointment)
Scott Taylor
Mike Flanders

Housing and Human Services Commission:

Justin Lisonbee (Reappointment)
Francisco Heredia (Reappointment)
Scott Powell (Reappointment)
Natalie Krebs (Reappointment)
Kris Kylo

Human Relations Commission:

Cynthia Hardy (Reappointment)
Norma Garcia-Torres (Reappointment)
Treva Free-Kimbrough

Library Board:

Lisa Blyler (Reappointment)
Sara Sellards

Mayor's Committee for the Aging:

John McNelis
Ira Hutchinson

Mayor's Committee for People with Disabilities:

Joan Barron (Reappointment)
Michael Williams (Reappointment)
Amanda Frisard

Mayor's Youth Commission:

Sharae DeWitt (Reappointment)
Judy Nguyen*
Kevin Walberg*
Allison Fassinger:
Ilesha Sevak*
Jonathan Chien
Saager Buch
Varun Ramesh

Arjun Karpur*
Bastien Andruet*
Ude Iheduru*
Sanjay Srinivasan*
Atharva Dhole
Caitlin Kniery
Shruti Dharmaraj
Rushi Shah

*Current Alternate Members appointed to Primary due to change in Commission structure.

Merit System Board:

Daniel Pote (Reappointment)
Clessene Heil (Reappointment)
David Burks (Reappointment)
Bill Crawford

Bill Dahlberg (Alternate, Reappointment)
Joe McAuliffe (Alternate, Reappointment)
Darrell Guynes (Alternate, Reappointment)

Museum Advisory Board:

Andres Szabo (Reappointment)
Jean Makin (Reappointment)

Neighborhood Advisory Committee:

George Urish (Reappointment)
Larry Arthington

Parks and Recreation Board:

Linda Peterson Price (Reappointment)

Planning and Zoning Commission:

Stephen Veitch (Reappointment)
Matthew Pridemore (Reappointment)

Transportation Commission:

Terry Nash (Reappointment)
Ben Schwatken
Tim Morrison

40. CLAIMS REPORT

APPROVED the claims report for the Accounts Payable checks for the quarter-ended March 31, 2011.

ACTION:

41. USE PERMIT: Dobson Center (Med-Assist)

DENIED (7-0) Use Permit MUP11-0002 Dobson Center (Med-Assist) to allow a medical marijuana facility within PAD zoning allowing C-2 commercial retail and medical office uses located at 2095 W. Frye Road, Suite 1, at the SWC of Dobson and Frye roads. (Applicant: Anita McClintock, McNatt LLC.)

The subject site is located at the southwest corner of Dobson and Frye roads in the newly developed Dobson Center. Dobson Center was zoned PAD with a Preliminary Development Plan (PDP) in February 2008. The development includes three buildings and a vacant pad planned for a bank. The development currently has three tenants; Sonora Quest Laboratories, Quiznos sandwich shop and Life Uniform. The property is zoned to allow C-2 type commercial retail and medical office uses. The proposed medical marijuana facility, which serves as a medical marijuana dispensary, intends to locate in the most western inline shops building fronting Frye Road in Suite 1, which is the most eastern suite in this building. There are currently no tenants in this building.

The application requests approval for Med-Assist, a not-for-profit, to operate a medical marijuana facility on this property in accordance with the recently adopted Ordinance No. 4278 amending the Zoning Code with regulations for medical marijuana. A medical marijuana facility is defined as "The physical location from which a medical marijuana dispensary operates to acquire,

possess, supply, sell or dispense in any manner or form medical marijuana or related supplies and educational materials to cardholders, as that term is defined in A.R.S. §36-2801. A medical marijuana facility cannot serve as a medical marijuana cultivation site”.

One of the key criteria for locating a medical marijuana facility includes separation requirements for protected uses as specified in the Ordinance. The separation requirements are 1 mile (5,280 feet) from another medical marijuana use and a ¼ mile (1,320 feet) from protected uses or use classifications including public or private day care center, public or private park, place of worship, charter schools, public schools or private schools, residential zoning district boundary, public library and public or private hospitals. Measurements shall be made in a straight line in any direction from the closest exterior wall of the medical marijuana facility or medical marijuana cultivation site to the nearest property line of any parcel containing uses identified in the Ordinance. No separation is required when a medical marijuana facility or a medical marijuana cultivation site is separated from another such facility or site by a freeway. As part of the Use Permit review process, the City Council may allow minor deviations to the separation requirements if Council finds that, under the particular circumstances, the subject premises is so located as to satisfy the intent of the separation requirements.

Med-Assist’s proposed site does not meet the separation requirements as set forth in the Ordinance for surrounding zoning and uses within City of Chandler’s boundaries. The proposed tenant space is located approximately 521 feet from a public hospital to the east, 191 feet from a residential zoning district boundary to the north (a single-family residential subdivision), and 210 feet from a residential zoning district boundary to the west Symphony Apartments (formerly Stonegate Condominiums) multi-family residential. Chandler Health Care and Chandler Regional Medical Center medical office developments exist south of the subject site.

The proposed facility meets the City’s Ordinance criteria for locating in a permanent building, is no larger than 2,500 gross square feet, and has secure storage not exceeding 500 square feet. The facility shall operate in accordance with State Statutes including registration and approval requirements, and City Ordinance requirements. The proposed tenant space is approximately 1,500 gross square feet and includes a secured storage area approximately 144 square feet.

The facility’s operating hours for public access are limited by Ordinance to no earlier than 9 a.m. and no later than 7 p.m. However, the application conveys the facility will operate Monday through Friday 9 a.m. to 6 p.m. and Saturday 9 a.m. to 1 p.m. The facility’s employees are not limited to these hours. By Ordinance, a facility cannot provide off-site deliveries of medical marijuana to a cardholder, cannot sell merchandise other than medical marijuana and related supplies, cannot have or operate drive-through facilities or take-out windows, cannot allow consumption of medical marijuana on the premises and cannot permit outdoor seating anywhere on the premises.

Storefront windows on the north side adjacent to the secured lobby area will not be blacked out from public view. The windows on the tenant space’s east and south sides will be blacked-out. Interior security walls and a security system will be installed. The main entrance for the public is on the building’s north side. Parking spaces are located on all sides of the building.

A Use Permit issued under Ordinance No. 4278 shall be valid for one (1) year from the date of City Council approval. A Use Permit issued by City Council shall be deemed void and to have automatically expired if the permitted use is not commenced by the permit holder or substantial construction has not taken place within nine (9) months after the date of City Council approval. The Use Permit is further conditioned upon the permit holder and the permitted premises being at

all times in compliance with applicable City building codes, development standards and other land use regulations stated in the Zoning Code or any other Ordinance or Code adopted by the City of Chandler.

A Use Permit issued under the Ordinance is not transferable to any other location or premises, nor is it valid for any other use or business associated with a medical marijuana dispensary that is not specifically identified in the Use Permit.

Planning Staff, finding the proposed medical marijuana facility to not meet the minimum separation requirements from protected uses including a public hospital and residential zoning district boundaries, recommends denial of this request. The Ordinance provides specific criteria in which to site medical marijuana uses in relation to protected uses. The Ordinance does include a provision for City Council to allow minor deviations to the separation requirements if Council finds that, under the particular circumstances, the subject premises is so located as to satisfy the intent of the separation requirements. The proposed medical marijuana facility is requesting more than a minor deviation from the separation requirements; however, the medical marijuana facility is medical in nature and adjacent to and surrounded by medical office complexes to the south, northeast, east and southeast. The immediate area is part of the Gateway Area Plan which includes medical uses and support services. The Dobson Center development was zoned in conformance with the Area Plan's land use designation of Specialty Commercial Hospital Related uses allowing for C-2 uses including a pharmacy, bank, hospital related retail and medical offices.

The request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on March 29, 2011. A representative from the Symphony Apartments multi-family development to the west attended in support. Staff has received three telephone calls from residents who reside in the single-family subdivision immediately north of the proposed facility. All persons called to convey they are very much opposed to the dispensing of medical marijuana this close to their neighborhood and their homes. One person conveyed dispensing should occur at the hospital by a doctor and not a separate facility. Another person conveyed that this Use Permit should not be approved as it does not meet the distance requirements, it is very bad for property values, dangerous causing robberies and will have drivers high on marijuana in an area where there are children.

Upon finding the Use Permit request to be consistent with the General Plan and PAD zoning, recommends approval of the proposed Use Permit subject to the following conditions:

1. This Use Permit is for a medical marijuana facility only and is not transferable to any other location or premises, nor is it valid for any other use or business associated with a medical marijuana dispensary that is not specifically identified in the Use Permit.
2. Any expansion or modification beyond the approved Site Plan and Floor Plan shall void the Use Permit and require a new Use Permit application and approval by City Council.
3. The Use Permit is effective for a period of one (1) year from the date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City Council.
4. The property's landscaping shall be maintained at a level consistent with or better than at the time of planting.
5. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or homeowners' association.
6. The site shall be maintained in a clean and orderly manner.

Upon finding the Use Permit request to be inconsistent with the General Plan and PAD zoning, Staff recommends denial of the Use Permit.

Discussion:

Senior City Planner JODIE NOVAK stated that the request was to locate within an existing commercial development that is zoned to allow commercial, retail and office uses. She said that the building was vacant and that the applicant was looking to locate in the most eastern tenant space off of Frye Road. She explained that the development had been zoned in 2008 and was intended to have uses for a large medical area. She stated that Planning Staff looked at the request to see if it met the criteria of the ordinance. She said that the request did meet most of the criteria including the size of the tenant space, amount of storage, type of use, how it is exhibiting, security measures, dispensary location, etc. She said that the one of the key criteria that was looked at location in terms of separation. She explained that the Ordinance did clarify separation requirements for protected uses that included public/private day care centers, private/public parks, place of worships, charter schools, private/public schools, residential zoning district boundary lines, public libraries, and private/public hospitals. She noted that the location did not meet the distant requirements as the site was near the hospital and residential boundaries.

Ms. Novak explained that planning staff had come forward with a recommendation of denial because it did not meet those criteria. She noted that a neighborhood meeting had taken place and that staff had received 3 phone calls from residents near the area who expressed concerns.

MAYOR TIBSHRAENY asked if the main reason for the opposition was due to the setbacks from the hospital. MS. NOVAK concurred.

MAYOR TIBSHRAENY confirmed the P&Z Commission had approved the recommendation subject to stipulations. MS. NOVAK concurred.

COUNCILMEMBER ORLANDO noted that even if hospitals were included in the original plan there would still be issues with multi-family and single family residences. Ms. Novak concurred.

COUNCILMEMBER HEUMANN asked if the representative of the apartment complex in the area was for or against the dispensary. MS. NOVAK replied that a representative from the management company that owns the complex attended the meeting to inquire about what was being proposed. She stated that they were supportive and had no concerns about the dispensary going near their development.

MS. ANITA MCCLINTOCK addressed the Council regarding the Use Permit. She stated that she, along with her partners, met to look for a site that would fit the medical need, meet the City's setback requirements and a landlord that was willing to lease. She believed that the site was perfect due to the site being near medical facilities and also due to having a willing landlord.

Ms. McClintock stated that she had spoken to a Commander at the Desert Breeze Precinct to discuss security issues. She stated that the Commander liked the security plan in place and the transparency of the business. She told the Council that DHS would be accepting applications starting in June 1 to June 30. She said that a letter of approval from the landlord and a letter of approval from the City Council stating that zoning requirements have been met are needed to be

sent along with the application. She stated that they would need special approval since the applicant did not meet two of their separation requirements.

MAYOR TIBSHRAENY asked how long the State's approval process was projected to be. MS. McCLINTOCK believed that the State would determine by the middle of August. She indicated that the State had been divided into community health analysis areas. She believed there were 2 locations in Chandler, one being on the northwest and another in the southeast. She indicated that applicants would go to a lottery and be randomly chosen if there were multiple applications for a community health area that met the State's criteria.

MAYOR TIBSHRAENY asked if Ms. McClintock would require approval from the City or some sort of documentation from the City or documentation indicating the location was approved. Ms. McClintock concurred and added that a letter from the landlord was also needed. She further told MAYOR TIBSHRAENY and the Council that the area was 1500 square feet.

COUNCILMEMBER HEUMANN questioned what would happen to the districts in Chandler if nobody applied before June 30th. He questioned if the districts would sit empty.

MS. McCLINTOCK explained that it had been her understanding that if nobody applied within the area, then the State would assign somebody to the area who had applied in a different area where multiple applications had been received. She indicated that this would occur the following year.

COUNCILMEMBER HEUMANN noted that the applicant would still need to receive approval from the City. He questioned if Ms. McClintock had approached other landlords in other areas. MS. McCLINTOCK responded that they had not been turned down but reiterated that the group's main focus had been Chandler. She stated that a lot of the other Cities were pushing to put the dispensaries to be in undesirable areas such as industrial areas. She stated that the group did not find any other areas who met their criteria as business owners.

COUNCILMEMBER HEUMANN believed that there were some areas in West Chandler that fit their criteria. MS. McCLINTOCK believed the Chandler Mall was an area but she stated that the area was not leasing.

MS. NOVAK showed a map to the Council which showcased existing areas that would not meet the 1320 foot separation from protected uses. She stated that there were three areas of existing retail in Chandler. She then noted the areas and explained that most areas were not willing to lease.

In response to a question from COUNCILMEMBER DONOVAN, Ms. Novak went over the different areas throughout the City where cultivation sites or infusion food locations would be acceptable. She indicated that West Chandler had the largest number of I-1 and I-2 industrial parks. She added that there were other areas throughout the City; however she noted that they were areas of vacant land.

MR. CHARLES D. CORDNER, 294 S. 95TH Place told the Council that he lived the closest to the proposed site of the dispensary and voiced his opposition of the proposed location. He believed that the proposed dispensary would make neighborhoods unsafe and dangerous and would lower property values. Mr. Cordner stated that he had researched other Cities and believed that the proposed location would be the closest to a neighborhood with the exception of one site which was at a distance of 500 feet.

At the request of MAYOR TIBSHRAENY, Mr. Cordner identified his home on the map that was being shown by staff.

COUNCILMEMBER HARTKE asked what distances in other Cities had been. MR. CORDNER responded that in Scottsdale the distance from a school or residential area had to be 500 feet.

COUNCILMEMBER HARTKE asked if there had been a dispensary that had been suggested in place. MR. CORDNER stated that he had gotten his information from the news and that it was the only information that he had.

COUNCILMEMBER HARTKE questioned if information he shared was the Ordinance from Scottsdale rather than the actual site. MR. CORDNER concurred.

MAYOR TIBSHRAENY questioned if the proximity of the facility or of the size of the facility. MR. CORDNER responded that he believed the size was 1500 square feet. He questioned if the size would grow and if there would be armed security. He believed that the facility would be burglarized and robbed. He expressed concern over violence.

MAYOR TIBSHRAENY asked if Mr. Cordner had attended a neighborhood meeting. MR. CORDNER indicated that there were renters around the area who also opposed the site.

MAYOR TIBSHRAENY asked Mr. Cordner if the applicant had met or attempted to meet with him. MR. CORDNER stated that the applicant had not requested to meet with him and further indicated that he did not believe it would have helped to discuss the issue.

MR. BRAD HARPER, 7452 E. WEATHERSFIELD RD, SCOTTSDALE addressed the Council in support of the use permit. He told the Council that his wife had developed breast cancer eleven years ago. She ultimately developed visual problems and could not swallow, speak or breathe. He told the Council that the only relief she had was from the dispensary.

MR. BILL KOSTRIVAS, 6991 E. CAMELBACK RD., SCOTTSDALE told the Council that he was one of the owners of the building as well as a landlord. He stated that they had numerous inquiries about the property at his site. He told the Council that he felt comfortable after meeting with the applicant and felt that they would be a good use to what is already in the property. He noted that a medical research group would be moving into the site and did not have any problems with the site being a potential location for a dispensary. He added that adjacent to the potential site was a medical use group that planned on expanding and also did not have any problems with the potential use in the facility.

COUNCILMEMBER WENINGER asked Mr. Kostrivas if he owned any other buildings in Chandler outside of the area. MR. KOSTRIVAS responded that his company was more medically oriented and stayed near hospitals. Mr. Kostrivas told the Council that he and his partners had invested a significant amount of money on the property and would not be considering the project on their property if they felt it would have a negative impact or detour from their property.

In response to a question from COUNCILMEMBER HEUMANN, Mr. Kostrivas indicated that the property was a mixed use property. He explained that they were aware that the retail could have medical uses such as chiropractic or hospital supplies due to people wanting direct access.

COUNCILMEMBER ORLANDO questioned what would become of the planning and zoning process down the road due to minor deviations, if the Council were to approve the case.

City Attorney MARY WADE explained that there would be concerns in regards to the separation requirement of 1320 feet. She stated that there could be issues determining what a minor deviation was with other applicants.

In response to a question from COUNCILMEMBER ORLANDO, City Attorney Wade stated that there would be a concern on behalf of the City due to the particular ordinance.

MAYOR TIBSHRAENY asked what the rules were for self-growing if there was not a facility. He believed there was a mileage requirement on location of facilities.

MS. NOVAK responded that the State Department of Health Services was currently not issuing anyone final approval for a retail dispensary. She stated that as of yet nobody had been allowed to apply. She stated that as of April 14, people were able to apply for caregiver cards and qualify patient cards to make use of medical marijuana. She explained that there would be a window to at least mid-August or September for those people who applied would be able to grow marijuana in their own house. She explained that this was due to there not being any dispensaries in the State. She said that the State was estimating that in September they would be releasing the list of final approvals for the dispensaries. It was her understanding that that a person would not be able to grow marijuana at their home if they lived within a 25 miles of dispensary locations.

In response to a question from MAYOR TIBSHRAENY, Ms. Novak stated that Tempe did not require a use permit. She explained that the State was now requiring a form to be signed by local jurisdictions that would state if zoning regulations had been met. She indicated that the City of Tempe had signed off on three forms stating that their local zoning regulations were met. She added that those individuals would still need to apply with the State. She indicated that the Town of Gilbert had 2 applications. She explained that their zoning cases only go to their Planning and Zoning Commission and that their staff was recommending approval at retail locations that met all of their zoning requirements.

In response to a question from COUNCILMEMBER HEUMANN, Ms. Novak indicated that she did not know where the Tempe sites were located. She reiterated that individuals would need to complete a form that would require signature from the local jurisdiction indicating if they were in compliance with the jurisdiction's zoning requirements.

At the request of COUNCILMEMBER HEUMANN, Ms. Novak showed a map of where the projected sites in Gilbert would be located. He further asked what the criterion for spacing was. MS. NOVAK believed that the criteria was 500, but was unsure. She stated that the nearest application was south of the Western Canal, north of Elliott and West of McQueen. She indicated that there were industrial parks near the area.

COUNCILMEMBER HEUMANN questioned if the entire 25 miles of the City would be covered if the application were to be approved.

MS. NOVAK concurred. She further stated that the other location was near McQueen and Baseline roads. She said that the area was an employment commerce park.

COUNCILMEMBER HEUMANN asked if that location would also cover the City of Chandler due to the 25 mile rule. MS. NOVAK concurred.

In response to a question from COUNCILMEMBER HARTKE, MS. NOVAK stated that there was language in the State Standard that indicated that once a card was received, it would be good for one year. However, she did not know if there would be any changes or updates done by the State that would change that. She stated that the way the Standard was currently written indicated that a person would have the right to grow marijuana for a year even a dispensary was to open up near an individual.

At the request of COUNCILMEMBER HARTKE, Police Chief SHERRY KIYLER stated it had been her understanding that the card would be good for one year. She further echoed Ms. Novak's statements and was unsure if the standards would be changed.

COUNCILMEMBER ORLANDO recalled previously speaking about the location of dispensaries for hospital uses and permits within an area in subcommittees and public hearings. He was willing to look at those issues in the long term. He noted that there would be neighborhoods that would be impacted in the area. He expressed concern over the possibility of setting a precedent. He believed that future applicants would ask the Council to deviate from their standards if they approved the use permit.

MOVED BY COUNCILMEMBER ORLANDO, SECONDED BY VICE-MAYOR DONOVAN TO DENY USE PERMIT, MUP11-0002 DOBSON CENTER (MED-ASSIST), FOR A MEDICAL MARIJUANA FACILITY.

VICE-MAYOR DONOVAN echoed Councilmember Orlando's statements. She stated she was open to looking at how close a medical marijuana facility could be to a hospital. She however, expressed concern over the facility being less than 200 feet from residents.

COUNCILMEMBER WENINGER noted that he had met with the applicant. He believed that the applicant would run a facility in a professional manner. He believed that the applicant would do a good job; however, he did not believe that the location was a correct location. He stated that the Council could further discuss the proximities to hospitals; however he also felt that there was an issue with the proximity to homes.

COUNCILMEMBER SELLERS liked the idea of putting a dispensary at a medical complex. He disagreed with having a distance requirement away from a hospital. He expressed concern over the precedent that would be set for the distance from residents.

COUNCILMEMBER HARTKE noted that he had looked at the facility prior to the meeting. He did not believe he would be comfortable moving the facility closer to the hospital due to the distance from the residents across the street

WHEN THE VOTE WAS CALLED, THE MOTION TO DENY CARRIED UNANIMOUSLY (7-0).

PUBLIC HEARINGS:

PH1. Community Development Block Grant (CDBG) 2011-2012 Annual Action Plan

Background:

The Department of Housing and Urban Development (HUD) requires that all local governments receiving Community Development Block Grant (CDBG) funding submit an Annual Acton Plan that will guide HUD-funded housing, homeless and community development activities in the City

of Chandler for the period beginning July 1, 2011, through June 30, 2012. To comply with the City of Chandler's Public Participation Plan, the City is holding a public comment period that began Monday, April 4, 2011, and will remain open for 30 days. In addition, a Public Hearing on the Annual Plan was held Wednesday, April 6, 2011, at the Housing and Human Services Commission meeting and is requested to be held at the April 28, 2011, City council meeting to ensure opportunities for input from the community.

The City's FY 2011-12 Annual Action Plan serves as the formal application for the use of entitlement funds that are received by the City of Chandler. The Action Plan defines the one-year activities in relationship to the five-year goals and objectives of the Consolidated Plan covering Fiscal Years 2010-2014. It provides a description of the programs and projects of the City of Chandler in FY 2011-12, as well as funding decisions for the City's CDBG program.

Non-profit organizations applying for FY 2011-12 CDBG funding submitted applications in January 2011. A total of 17 applications were received, requesting a total of \$1,597,404. The Housing and Human Services Commission (HHSC) reviewed and evaluated the applications and made initial CDBG funding recommendations to the City Council for approval. Initial CDBG funding recommendations were made by HHSC on Wednesday, March 23, 2011.

Staff anticipates a ten percent (10%) reduction in FY 2011-12 CDBG entitlement funds compared to the amount received in FY 2010-11 and instructed HHSC to make initial CDBG funding recommendations to include a 10% reduction. The HHSC also developed a contingency CDBG allocation recommendation (totaling 10%) in the event that the City receives more funding from HUD than anticipated. The HHSC's funding recommendation requests that any additional public service funds awarded by HUD above the contingency amount be allocated to the City of Chandler Housing – Youth Program application, up to the amount requested. The Draft FY 2011-12 Annual Plan includes both the 10% reduction and contingency amounts. Staff is also requesting authorization to make minor adjustments to the allocation amounts proportional to the final allocation amount received from HUD.

After the close of the 30-day public comment period, the FY 2011-12 Annual Action Plan, including the CDBG funding allocation recommendations, will be brought back to the Mayor and Council for approval on May 12, 2011. HUD requires submittal of the Plan by May 13, 2011.

MAYOR TIBSHRAENY OPENED THE PUBLIC HEARING AT 8:04 P.M.

Neighborhood Resources Director JENNIFER MORRISON told the Council that the City had received over \$1 million dollars in CDBG funds for a number of years. She stated that the dollars provided an improved living environment for the City's low and moderate income residents. She stated that an annual plan had to be prepared and submitted to the Department of Housing and Urban Development (HUD). She stated that HUD required a public hearing and liked when the City sought out comment from those citizens that were assisted. She stated that surveys were done by those citizens. She announced that the City was currently under the 30 day public comment period and that the City would be accepting public comment until May 6, 2011. She stated that at the close of the public comment period, staff would return before the Council at the May 12, 2011 Council meeting for final action on the plan.

Ms. Morrison explained to the Council the allocation process and stated that this year's allocation process included subcommittees to review funding applications and a separate CDBG funding panel that reviewed and recommended funding for the funds. She pointed out to the Council that there were talks at the Federal level and in Congress about potential cuts to CDBG. As a result,

staff development a recommendation for the funding panel for a 10% reduction from last year's award of \$1.5 million dollars. She stated that staff was advised by HUD that the draft estimate of cuts would be 16.5% instead of 10%. As a result, staff's recommendation includes the additional 6.5% reduction which she said roughly equaled \$99,000.00.

Ms. Morrison then reviewed a PowerPoint presentation which showcased the actual CDBG funding for FY 2010/11, estimated funding for FY 2011/12 and the revised estimate funding for FY 2011/12. She stated that there were three major categories that the HUD established which were public service, administrative and available for capital entitlement. She stated that public service was operating funds for nonprofits which was capped at 15%. She noted that the City always capped the public service funds at 14.5%. The administrative cap was 20%; however, she noted that the City capped that at 19%. She stated that the remaining balance was used for capital improvements.

Ms. Morrison then reviewed what staff believed was the last amount of cuts to the nonprofits while taking into consideration the City's needs. Staff recommended the public service cap to be increased to 14.9% and the admin cap to 19.9%. She further reviewed what agencies were provided in 2010-11, what the HHSC recommended at 14.5% and what the public service allocation would be at 14.9%. She stated that an equal cut of 4.73% was done to the public service section and that an across the board cut of 7.29% was done to the capital applications.

Ms. Morrison told the Council that HUD referred to the estimate as a "Final Draft Estimate". She told the Council that if there were additional changes to the number then staff would ask the Council to allow staff to submit to HUD numbers that were based on equitable cuts.

In response to a question from MAYOR TIBSHRAENY, Ms. Morrison clarified that the carry forward amounts were from prior years that was unspent.

MAYOR TIBSHRAENY stated that the City had become aware of cuts and noted that he along with the Vice-Mayor had sent a letters detailing how CDBG funds are used in the City.

MS. MORRISON concurred. She did not believe that HUD would not have released the figures that they released unless they thought they were on target.

COUNCILMEMBER ORLANDO commended Ms. Morrison and Community Resources & Diversity Manager LEAH POWELL for their work in putting the plan together. He noted that a lot of work goes into putting the plans and allocations together. He thanked the committees for the work that they have done.

COUNCILMEMBER HEUMANN echoed Councilmember Orlando's statements and further thanked Ms. Morrison and Ms. Powell for their work. He stated that they had further enhanced the processes that had been in place. He also commended the members of the Housing and Human Services Commission.

COUNCILMEMBER HARTKE asked what the worst case scenario would be if the numbers were to be modified.

MS. MORRISON responded that she did not anticipate anything greater than 5%. She was fairly confident that the figures were on target. Ms. Morrison added that if the Council was comfortable with the methodology it would set the path for staff to change the numbers if the need were to arise.

MAYOR TIBSHRAENY CLOSED THE PUBLIC HEARING AT 8:17 P.M.

PH2. Fiscal Year 2011-2012 HOME Allocations

Background:

The City of Chandler receives Federal HOME Investment Partnership funds annually through the Maricopa HOME Consortium. Chandler will receive an estimated \$436,453.00 for FY 2011-1012. HOME Investment Partnership funds are administered by the U.S. Department of Housing and Urban Development (HUD). Eligible activities utilizing HOME funds include: homeowner rehabilitation, homebuyer activities, rental housing and tenant-based rental assistance.

Staff announced the availability of HOME funding to area housing nonprofit organizations. No applications were received for City HOME funds. The Housing and Human Service Commission has reviewed and recommended Council approve the Staff request to utilize 2011-2012 HOME funds for the City's Housing Rehabilitation Program.

Since 1982, the City of Chandler has operated a Housing Rehabilitation Program. Staff recommends that the entire FY 2011-12 funding amount be allocated to this program to provide rehabilitation loans to low and moderate-income families in owner-occupied homes in targeted and other neighborhoods within Chandler.

Applications are currently being accepted for the Housing Rehabilitation Program. A waiting list for future applications may be established for the program, depending on the number of rehabilitation applications received, the estimated cost to complete the rehabilitation projects and the availability of funding.

Eligible work items under the Housing Rehabilitation Program include, but are not limited to, replacement and/or repair of: windows, doors, plumbing, electrical, HVAC systems, roofs, structural repair, mitigation/abatement of lead-based paint hazards and removal and/or repair of any code violations. The City provides up to \$50,000.00 in deferred loan assistance for these repairs. The City secures its investment with a lien (Deed of Trust) equal to the value of the loan, which is repaid in monthly installments by the homeowner over the period of approved loan terms, or paid in full upon sale, transfer or alienation of the property. The loan may be partially or entirely forgiven based on the applicant's income eligibility.

MAYOR TIBSHRAENY OPENED THE PUBLIC HEARING AT 8:17 P.M.

CDBG Program Supervisor CARL MORGAN told the Council that they City needed to have a public hearing in place for the 2011-2012 Home Investment Partnership funding. He explained that the allocation was needed to comply with HUD. He stated that staff had an estimate on the HOME Funds that the City would receive which was \$384,000.00. He explained that the amount was 12% less than what was received for the current year. He stated that the HHSC reviewed and recommended that the entire 2011-2012 HOME allocation be allocated to the City of Chandler Housing Rehabilitation Program. He reiterated that the City of Chandler was currently in a 30 day public comment period, with the comment period lasting until May 6, 2011. He announced that the HOME funding would return to the Council for final action at their May 26, 2011 meeting.

COUNCILMEMBER ORLANDO commended Mr. Morgan for his work.

VICE-MAYOR DONOVAN questioned why nonprofits had not applied for the HOME funds.

MR. MORGAN replied that HOME Investment Partnership funds were a little more difficult to administer than the CDBG funds. He explained that the CDBG funds could be used for a variety of things, while the HOME Investment funds could only be used to create or maintain affordable housing. In addition, he told the Council that the HOME Investment funds also required 25% non-federal matching funds.

VICE-MAYOR DONOVAN thanked City staff for their in being able to utilize funds for residents even when nonprofits don't have the capacity to do so.

MAYOR TIBSHRAENY CLOSED THE PUBLIC HEARING AT 8:21 P.M.

CURRENT EVENTS:

A. Mayor's Announcements

Mayor Tibshraeny announced that the City Council would hold a Budget Briefing on May 6, 2011 to review the proposed 2011-2012 Budget and Capital Improvement Program. He also announced that all three bond rating agencies affirmed the City's AAA Bond rating.

In addition, he stated that the City of Chandler had been challenged by the Town of Gilbert to raise food for the hungry during the month of May. He stated there would be donation boxes throughout City Hall, Libraries and City offices. The food will be distributed to the United Food Bank, Chandler Christian Community Center and St. Matthews Food Bank. Mayor Tibshraeny stated that the Council for the losing City would have to wear a t-shirt that would have the other City's name on it at a Council meeting.

Mayor Tibshraeny also announced that the City's Cinco de Mayo event would take place on May 7 at the Chandler Public Library Courtyard.

Mayor Tibshraeny congratulated Si Se Puede for being honored for an award of excellence at the Arizona School of Public Relations Association Superintendent luncheon at the Chandler Center for the Arts.

Mayor Tibshraeny also acknowledged Vice-Mayor Donovan's upcoming wedding.

B. Councilmembers' Announcements

COUNCILMEMBER HEUMANN sent his thoughts and prayers to those in the Country who were victims of the tornados. He also congratulated his daughter for completing her PHD.

COUNCILMEMBER HARTKE announced a For Our City Breakfast event taking place May 4, 2011. He also announced that during May 6-15, the City of Chandler would hold a "Let's Pull Together" week, where residents would be encouraged to organize weed pulling efforts to assist neighbors. He thanked those involved in For Our City for making the initiative possible.

