

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, June 9, 2011, at 7:00 p.m.

THE MEETING WAS CALLED TO ORDER BY MAYOR JAY TIBSHRAENY.

The following members answered roll call:

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| 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 | City Manager |
| Pat McDermott | Assistant City Manager |
| Mary Wade | City Attorney |
| Marla Paddock | City Clerk |

INVOCATION: Councilmember Hartke

PLEDGE OF ALLEGIANCE: Vice-Mayor Donovan

UNSCHEDULED PUBLIC APPEARANCES:

None.

CONSENT:

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

VICE-MAYOR DONOVAN noted she would not be voting on Item No. 14 (Res. #4515) and Item No. 15 (Res. #4518) due to a conflict of interest.

COUNCILMEMBER HEUMANN noted he would be voting nay on Item No. 33 (Contract #ST0704 to Salt River Project).

VICE-MAYOR DONOVAN highlighted Item No. 6 (Ord. 4302 – Zoning Code Amendment – Solar Energy Systems) and expressed excitement over the change to the zoning code to include solar energy systems. She also noted Item No. 18 (M.O.U. w/International Association of Fire Fighters (Chandler Local 493)), Item No. 19 (M.O.U. w/CLEA) and Item No. 20 (M.O.U. w/CLASA). She thanked members from the employee unions and staff on brining the employee contracts forward.

COUNCILMEMBER SELLERS noted Item No. 23 (Agreement w/Greater Phoenix Economic Council) and acknowledged Mr. Barry Broome from the Greater Phoenix Economic Council who was in attendance.

MAYOR TIBSHRAENY thanked Mr. Broome on his work on behalf of the region and Economic Development Director Chris Mackay for her work on behalf of the City of Chandler.

WHEN THE VOTE WAS CALLED, THE MOTION CARRIED UNANIMOUSLY (7-0) WITH THE EXCEPTIONS NOTED.

1. MINUTES:

APPROVED, as presented, Minutes of the City Council Special Meeting (Tentative Budget) of May 23, 2011 and the Regular Meeting of May 26, 2011.

2. ZONING OVERLAY: Site 8 Parking Ord. #4299

DENIED 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 due to an error in the legal description attached to the ordinance.

3. CITY CODE AMENDMENT: Chapter 44 Ord. # 4305
ADOPTED Ordinance No. 4305 amending Chapter 44, Subsection 44-5.4 of the Chandler City Code regarding time for placement of containers for collection provided by the City of Chandler.

4. POWER DISTRIBUTION EASEMENT: Salt River Project Ord. #4306

ADOPTED Ordinance No. 4306 granting a no-cost power distribution easement to Salt River Project (SRP) at the McQueen Road and Balsam Drive intersection as part of the McQueen Road from Queen Creek to Riggs Road Improvement project.

5. ZONING CODE AMENDMENT: Chapter 39 Ord. #4288

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4288, Zoning Code Amendment, ZCA11-0001, City of Chandler/Temporary Signage, Chapter 39 Section 39-10 of the City Code amending/adding language within this section pertaining to certain types of temporary signage. (Applicant: City of Chandler.)

City Council formally adopted Ordinance No. 4182 on October 19, 2009, temporarily amending Chapter 39, Section 10 (Temporary Signs) of the Chandler City Code by adding and/or amending language within said section pertaining to certain types of temporary signage. This Code amendment was intended to provide temporary relief from the Sign Code in an effort to assist Chandler's residents and businesses during the difficult economic times. The Code amendment was not intended to be permanent and included a sunset date of June 20, 2010, at which point the City would evaluate the market conditions in consideration of an extension. Council ultimately adopted Ordinance No. 4218 in April 2010, extending the amendments for an additional year.

Approved Ordinances 4182 and 4218 Summary: Sections 2 (model home signs), 3 (open house signs) and 4 (real estate signs) of each adopted ordinance pertained to existing sub-sections within the Sign Code, increased the maximum size and/or maximum number of signs permitted within their respective sections. Section 5 (significant event signs) created a new sub-section for

the Code by regulating Significant Event Signs for uses other than residential. This new sub-section was intended to provide a temporary path to legality for businesses seeking to gain additional client exposure through various types of temporary signage such as banners or wind-driven spinners. Section 6 included the sunset date.

The proposed ordinance contains six sections for consideration:

- *Section 1 (39-10. Temporary Signs)* expands the language within the introductory paragraph to more clearly identify the types of temporary signs that are prohibited by Code unless authorized by further sub-sections, now including Bandit signs as prohibited and striking the word “written” from the owner’s approval.
- *Section 2, regarding sub-section 39-10.6 model home signs*, increases the maximum permitted sign size from four (4) square feet to six (6) square feet, requires the sign to be constructed of a solid non-flexible material, prohibits ‘A’-frame signs and clarifies that a sign permit is not required.
- *Section 3, regarding sub-section 39-10.7 open house signs*, increases the maximum permitted sign size from four (4) square feet to six (6) square feet, increases the maximum number of signs from three (3) to four (4), requires the sign be constructed of a solid non-flexible material, clarifies that ‘A’-frame open house signs are permitted as well as clarifies that a sign permit is not required.
- *Section 4, regarding sub-section 39-10.9 real estate signs*, increases the maximum permitted sign height for residential real estate signs from five (5) feet to six (6) feet and increases the maximum sign size from ten (10) square feet to sixteen (16) square feet. For property zoned for commercial or industrial uses, the maximum size for a real estate sign is increased from ten (10) square feet to sixteen (16) square feet for parcels containing two acres or less. The maximum real estate sign size permitted for parcels containing more than two acres will remain unchanged. Section 4 also clarifies a sign permit is not required for residential real estate signs; however, a permit is required for property zoned for commercial or industrial uses.
- *Section 5, regarding sub-section 39.10.10 significant event signs*, identifies, defines and regulates Significant Event Signs for uses other than residential. Chandler’s Sign Code only permits Grant Opening signs and does not permit signs for events such as a special sale, an anniversary, change in management or the like. This sub-section identifies example-significant events, regulates the size, location and duration of use (maximum 21 cumulative days within a six (6) month period), as well as the required administrative fee for the signs. Tear-Drop Banner has been added to the type considerable signs. The administrative fee amount has been removed to be placed in the City’s City-Wide Fee Schedule. Section 39-10.10.B.6 was added that clarifies off-premises, portable signs or ‘A’-frame signs are prohibited. It is important to note that many of Chandler’s neighboring cities have provisions for these types of signs within their respective sign codes.
- *Section 6*, previously addressing the sunset date, has been stricken. The new Section 6 regarding a proposed sub-section 39.10.11 titled “Open During Construction Signs” is intended to provide relief to properties zoned for any use other than a single-family residence that is affected by a City funded or designated construction project. The new sub-section will help existing businesses and/or institutional uses call attention to themselves while their property/business is impacted by the eligible construction project. The new –sub-section clarifies that no sign permit is required and establishes the type-size and time-of-removal for said sign.

The proposed ordinance does not include a sunset date. Staff evaluated other cities in the valley and found the proposed changes will bring Chandler's Sign Code on-par. Staff proposes the Significant Event Sign Permit to be permanently codified as every other city in the valley permits this type of signage in some form or another. Finally, Staff is forwarding the proposed 'Open During Construction Signs' section having received input from various property owners and business owners that have been affected by City designated construction projects. The new section is intentionally limited to certain types and sizes of signs so as to not 'litter' a street scene with additional signage while creating an opportunity for these types of business/property owners to capture disrupted attention during a City construction project.

As required by the Arizona Revised Statutes, hearing dates for the Planning Commission and City Council, as well as the complete text of the draft Code amendment, have been published in the newspaper at least fifteen (15) days prior to the first public hearing for the Planning Commission.

A Planning Commissioner opposed the Sign Code amendment stating a preference for the various changes to remain temporary and continue with a sunset date. The Commissioner expressed concern over the allowance of additional signage (mainly the Significant Event section) when the City is currently 'over-run' with multiple types of banners, A-frames, tear-drop signs and more, though it was acknowledged that the majority of signs stated are more than likely illegally placed. The Commissioner felt that the violations should be addressed prior to creating a path to legality.

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

6. ZONING CODE AMENDMENT: Chapter 35

Ord. #4302

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4302, Zoning Code Amendment, ZCA11-0002 City of Chandler/Solar Energy Systems, amending Chapter 35 of the City Code, by adding Section 35-2210 establishing definitions and standards for solar energy systems. (Applicant: City of Chandler.)

One of the stated objectives in the Energy Element of the Chandler General Plan is to encourage the use of renewable energy in residential, commercial and industrial applications. The proposed Code amendment would implement this objective by recognizing solar systems in the Zoning Code and adopting standards that are less restrictive than how they are currently treated. At the same time, the proposed Code amendment seeks to protect residential properties from any negative impacts potentially created by solar systems.

Currently, the Zoning Code does not recognize or provide standards specifically for solar energy systems. This silence in the Zoning Code has allowed rooftop solar installations to occur without any zoning related issues. It is important to note that all solar systems require building permits and are inspected by Staff to ensure compliance with applicable building codes, regardless of Zoning Code requirements.

The issue that Staff has encountered has been with freestanding solar systems in residential areas. Within the last year, Staff has received a handful of requests to install freestanding solar systems in the rear yards of single-family zoned properties. Although the Zoning Code is silent regarding solar energy systems, freestanding solar systems meet the Zoning Code's definition of a structure, which, according to the Zoning Code, are to be considered the same as buildings.

Consequently, freestanding solar systems are required to comply with building setbacks, height and lot coverage restrictions. In addition, single-family districts permit only 1 accessory building per lot, so a property that already contains an accessory building would not be permitted to install a freestanding solar system and vice versa.

To address this issue, the proposed code amendment excludes freestanding solar systems in residential zoning districts from building setbacks and lot coverage limits if they are completely screened from public view and adjoining properties. The idea being, if you can't see them, then there is no impact on adjacent properties and therefore it doesn't really matter where in the rear yard they are located. Freestanding solar energy systems that are taller than the surrounding walls would be required to comply with the aforementioned standards in order to continue the intent of preserving and protecting the residential character of the area.

The proposed code amendment would also exclude freestanding solar systems as being counted as the one accessory building allowed on the property regardless of whether the system is below or above the height of the property wall. This would allow residential properties to have a detached garage in the rear yard in addition to the freestanding solar system.

To encourage solar systems in commercial and industrial zoning districts, the proposed code amendment excludes freestanding solar systems from lot coverage limits and building setbacks are also excluded if the solar system is not visible from the ground floor of a dwelling unit. Freestanding solar systems that are higher than the surrounding property wall and adjacent to residential would be required to comply with the same setbacks that are applicable to any commercial or industrial building.

Roof-mounted solar systems on commercial or industrial buildings would not be required to be screened from view as the Zoning Code requires of all mechanical equipment, except when located within 600 feet of a residential property, the solar systems would be required to be screened so that they are not visible from the ground floor of the dwelling unit(s).

The final section of the proposed code amendment introduces standards for utility scale solar energy systems, those that are intended to provide energy primarily for off-site consumption. These standards address issues that were raised by the Planning Commission during their review of the first utility scale solar energy system approved in Chandler, the RDR Solar Farm, near the intersection of Gilbert and Pecos roads. Utility scale solar systems would be required to be screened from the ground floor of any dwelling unit. The remaining standards address landscape and property maintenance and property security and safety.

Staff has extensively researched other cities in Arizona and across the country and found that most municipal zoning codes are silent regarding solar systems. In addition, much like Chandler's current practice, most cities treat freestanding solar systems the same as accessory structures or buildings, which are required to meet setbacks and other applicable standards for accessory buildings.

In Arizona, Staff found only one jurisdiction, Pima County, that has different standards for freestanding solar systems that are below a certain height. Freestanding solar systems taller than 4-feet high in Pima County are treated as accessory buildings and are required to comply with building setbacks; those under 4-feet high are not required to meet setbacks. Across the nation, Staff found several examples of cities with similar provisions, but with different height thresholds. The City of Portland, Oregon, utilizes a 6-foot high threshold and Clay County, Missouri, utilizes an 8-foot high threshold.

The City of Chandler would be the first municipality in Arizona to adopt an ordinance addressing solar systems in the zoning code. The proposed ordinance would encourage the installation of solar systems by creating more flexible standards for solar systems while concurrently protecting residential properties from potential negative impacts.

As required by the Arizona Revised Statutes, a 1/8 page ad was published at least 15 days prior to the first public hearing. A copy of the draft ordinance and a brief summary was distributed to more than 100 members of the Arizona Solar Energy Industries Association (AriSEIA). Staff has received constructive comments from one AriSEIA member which led to some minor revisions to the code amendment. Staff has received no correspondence in opposition.

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

7. ZONING OVERLAY: Site 8 Parking

Ord. #4310

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4310, 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.)

The subject zoning overlay and associated ordinance were adopted by City Council on April 28, 2011. However, an error was discovered in the legal description that was attached to the ordinance requiring correction and re-introduction. Ordinance No. 4310 is being presented for proper introduction and tentative adoption. Besides the legal description, all other information presented below remains the same as presented on April 28.

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.

8. ZONING CODE AMENDMENT: Chapter 35

Ord. #4311

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4311, Zoning Code Amendment, ZCA11-0003, City of Chandler/Table of Permitted Uses, City-initiative amending Chapter 35, Section 35-2100 of the City Code pertaining to the table of permitted uses for nonresidential districts.

In early 2010, a report was generated by TechSolve in an effort to provide direction to the Transportation and Development Department in dealing with positive and negative aspects of the planning process within the City. The report was based upon interviews with various stakeholders in the planning and development industry and included City Councilmembers, small businesses, architects, developers, contractors, land use attorneys, homebuilders, and other groups related to the industry that had done planning related business in the City in the recent past. As a result of the TechSolve report, a comment was raised by a stakeholder group signifying the necessity to update the Table of Permitted Uses for Nonresidential Districts (Table). The comment reads:

"Zoning code has not undergone a comprehensive revision since 1980s. Therefore, the allowable "uses" in zoning code are out of date."

As a follow-up to the TechSolve report, Staff started to review the current Table to determine if new uses could be added, if similar uses could be combined and if antiquated uses could be re-categorized or eliminated. While reviewing the table for modifications, Staff had to be cognizant of the concerns associated with Proposition 207.

In 2006, Proposition 207 was passed by the voters providing a mechanism for property owners to receive monetary compensation from a municipality if it was determined that a land use action diminished the fair market value of the property in which the land use action had taken place. With this in mind, Staff had to remain mindful in looking at the table that if a proposed use was to be eliminated from the table, that Staff would be able to find a similar category in which the use could be located. Staff believes that the proposed update does not create any potential for future conflict.

Overall, there have been roughly 20 modifications including: further definition of particular uses, additional zoning designations a use may locate in, reclassification of uses, new uses that are not analogous to existing uses and deletions of uses. Most notable of the modifications include animal daycare, medical marijuana, mini-storage, solar and youth oriented recreational activities.

Largely, the Table has remained unchanged since the 1963 Zoning Code with minor modifications taking place throughout the years, primarily to further define uses. The most recent notable change has been the inclusion of large single-use retailers in 2001. While Staff cannot create a Table that is all encompassing, Staff believes the proposed Table is diverse enough to be able to find similarities between uses that may not be specifically provided for in the Table, which historically has been a practice of the Zoning Administrator.

Some of the more notable uses that have been added or further defined include the educational category which provides a breakdown between elementary grades, high school grades, higher education and alternative schools and trade/vocational schools. The current code has provisions for college, technical schools, dancing, kindergartens, and trade and vocational schools. A trend that has been occurring over the past few years and is anticipated to continue, includes privately funded schools (all grades), and colleges catered to professionals. The privately funded schools currently have no designation and historically have been few and far between. Colleges catered to professionals have historically been allowed in the C-2, C-3 designation, whereas the current proposal is to allow the use to be considered in the I-1 designation with a Use Permit; this is to allow flexibility to have these types of schools within close proximity to many of the business parks through the City such as in the airpark area.

Additionally, Staff is recommending additional uses be added to the "gymnasium" designation to provide further clarification as to where yoga, martial arts and small fitness type users could locate; historically, they have not had their own classification. Staff felt the general nature of these types of businesses do not always generate the amounts of traffic that a fully developed health club may provide, and expanded the areas that these users could locate by allowing them "by right" in C-1 districts. Similarly, Staff created a category to accommodate the youth oriented athletic activities including bounce gyms, cheerleading and dance schools, and other youth oriented activities. It is important to note that while a use may be considered in a new district, such as gymnasium, Staff still reviews the requests to ensure that there is compatibility with the overall site by way of looking at parking, setbacks, and other code requirements to prevent site constraints.

Another significant addition to the Table is the inclusion of the mini-warehousing/storage use. This use has historically been categorized in the "Storage and moving warehousing" category. The current proposed category further defines these types of uses to be intended for personal uses rather than business oriented and allows for ancillary storage of vehicles. Staff is recommending they be allowed "by-right" in C-3, I-1 and I-2 categories and considerable with a Use Permit in C-2 designations.

As required by the Arizona Revised Statutes, hearing dates for the Planning Commission and City Council, as well as the complete text of the draft Code amendments have been published in an 1/8 page newspaper ad at least fifteen (15) days prior to the first public hearing.

Upon finding the request to be consistent with the General Plan, the Planning Commission and Staff recommend approval.

9. REZONING: Red Rock Business Plaza

Ord. #4312

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4312, DVR11-0004 Red Rock Business Plaza, rezoning from PAD to PAD Amended to expand the list of permitted uses within a 14-acre business park located at the NEC of Wright Drive and Germann Road approximately ¼ mile east of the NEC of Cooper and Germann roads. (Applicant: Pat Jones, Mark IV Capital.)

The list of permitted uses was expanded once before in 2008 to accommodate “family recreational” uses (e.g. gymnastics and bounce facilities) in addition to the previously allowed industrial/office/showroom uses. The subject request would add a wide variety of uses in an attempt to best position this mostly vacant development for economic recovery.

The subject site is part of the 245-acre Chandler Airport Center master planned employment center that flanks both sides of Cooper Road south of the Santan Freeway (Loop 202). The Chandler Airport Center received conceptual zoning approval in 2005. The master plan originally established the subject site for office, showroom and light industrial uses. Adjacent to the north and northwest are vacant sites with that same zoning designation. To the east and west are projects also originally designated for office/industrial/showroom uses, but with additional uses such as family recreation and adult education added through subsequent rezonings. South, across Germann Road, is vacant land designated for office, light industrial and hangar uses.

A Preliminary Development Plan (PDP) was approved in April 2007 for the subject 14-acre site. The PDP identified three single-story flex office/industrial buildings totaling approximately 133,000 square feet. Sufficient parking is provided to accommodate a 50% office - 50% industrial build out. Additional striping behind suites that do not require loading docks could provide for potentially over 100 additional spaces and allow increased non-industrial occupancies, whether office, showroom or other. The subject request is for additional uses only and is not a request for relief from parking requirements. Available parking and applicable parking regulations will continue to guide the amount of allowable non-industrial uses in the project.

The application requests to add a variety of specified retail and service uses that might seek a quasi-industrial environment, with its lower traffic, higher ceilings, and roll-up service doors, rather than a traditional retail center setting. Many of the uses might also seek to locate adjacent to uses already existing in the development. Examples of requested uses include a paint store, pool supply, an art studio, church, automotive accessories, vehicle sales (indoor display only) and physical therapy.

The Planning Commission and Staff support the rezoning finding that the requested uses are compatible in the mixed-use business park and that many of the uses would have difficulty locating in a typical retail shopping center. Concerns aired during previous rezoning cases about hazardous materials and truck traffic potentially produced by industrial tenants are largely dissipated in this case by the existing public assembly uses, plus Building Code and Fire Code protections, which serve to control the industrial uses that might locate here. Some of the requested uses such as pool supply or bulk supplies, are similar in impact to uses already approved; arguably these new uses might already be allowed, though this rezoning increases certainty in that regard for both city and property owners. No shared parking consideration is being requested by the subject application and any tenant would have to meet the normal code requirements for parking provisions. Also, there are no changes to the approved PDP that would allow unscreened outdoor storage, external display or motor vehicles, or any other site plan changes that might be considered detrimental.

The Airport Commission reviewed the zoning request in accordance with the Airport Conflicts Evaluation Process. The Airport Manager has issued a conflicts evaluation report indicating that the Airport Commission found that no airport conflicts exist with this application.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on April 28, 2011. There were no citizens 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.

10. PASS-THROUGH GRANT: Catholic Healthcare West Foundation Res. #4511

ADOPTED Resolution No. 4511 authorizing the submittal of a \$171,280.00 Pass-Through Indian Gaming Grant Application from the Catholic Healthcare West Foundation – East Valley to the Gila River Indian Community. Funds are intended to be used to reduce the number of deaths due to breast cancer through education, early detection through screenings and testing and timely treatment.

11. PASS-THROUGH GRANT: Central Arizona Shelter Services Res #4512

ADOPTED Resolution No. 4512 authorizing the submittal of a \$30,000.00 Pass-Through Indian Gaming Grant application from the Central Arizona Shelter Services, Inc., to the Gila River Indian Community. Funds are intended to be used to support salaries related to shelter and supportive services operations. Additional grant requests to cover administrative costs are being made to the Pascua-Yaqui and Fort McDowell Indian communities.

12. PASS-THROUGH GRANT: ICAN Res. #4513

ADOPTED Resolution No. 4513 authorizing the submittal of a \$100,000.00 Pass-Through Indian Gaming Grant application from ICAN to the Gila River Indian Community. Funds are intended to be used by the Only ICAN Campaign for construction of ICAN's new center to help meet the growing demand for services to youth.

13. PASS-THROUGH GRANT: Chandler Unified School District Res. #4514

ADOPTED Resolution No. 4514 authorizing the submittal of a \$19,680.00 Pass-Through Indian Gaming Grant application from the Chandler Unified School District/Chandler Education Foundation to the Gila River Indian Community. Funds are intended to be used to provide the opportunity for junior high and high school Indian students to use loaner laptop computers or Notebooks during the year.

14. PASS-THROUGH GRANT: Harvest for Humanity Res. #4515

Vice-Mayor Donovan declared a conflict of interest on this item.

ADOPTED (6-0) Resolution No. 4515 authorizing the submittal of a \$93,070.00 Pass-Through Indian Gaming Grant application from Harvest for Humanity to the Gila River Indian Community. Funds are intended to be used to build a community garden on a City-owned lot in the downtown area and provide educational workshops to teach residents about nutrition and growing their own food.

15. GENERAL FUND ALLOCATION: FY 2011/2012 Res. #4518

Vice-Mayor Donovan declared a conflict of interest on this item.

ADOPTED (6-0) Resolution #4518 authorizing the allocation of FY 2011/2012 general fund dollars in the amount of \$1,140,952.00 in accordance with the recommendations of the Chandler Housing and Human Services Commission (HHSC) and City Staff and authorized the City Manager or designee to enter into the agreements pursuant to this resolution.

The City of Chandler annually allocates General Fund dollars to Social Services Funding (SSF), the Youth Enhancement Program (YEP), and the Veterans Transportation Services fund. A fourth fund is the Acts of Kindness (A-OK) program which is funded by utility bill donations. These funds are granted to qualifying non-profit agencies and programs for the purpose of providing human services to Chandler residents.

For FY 2011/2012, there is \$434,500.00 in on-going funding and \$7,500.00 in carry-forward for the SSF program. From these funds, 3% of the on-going funding is set aside for administrative costs, bringing the total available for non-profits under the SSF program to \$428,965.00.

In the past, \$648,960.00 was available annually for YEP funding. Last year, this fund experienced an on-going 10% reduction in the amount of \$64,900.00. For FY 2010/2011, the City Council covered this decrease by utilizing one-time Council Contingency funding. For FY 2011/2012, Staff has requested one-time funding to cover the reduction. There is \$584,060.00 in on-going funding and \$7,500.00 in carry-forward for YEP. From these funds, 3% of the on-going funding is set aside for administrative costs. With the approval of one time funding, the total YEP funds available for allocation are \$638,938.00.

Since 2006, the Mayor and Council have allocated \$10,000.00 for Veteran's Transportation Services to assist low-income Chandler veterans in visiting veteran service centers and the VA Hospital and clinics. For FY 2011/2012, these funds were included in the Human Services Funding Allocations process.

The A-OK program funding available this year is \$63,049.00. There are no administrative costs charged to this fund. Any change from previous years is strictly based on the amount of donations collected.

Funding from the General Fund was utilized to serve the following three groups: Families in Crisis, Special Populations and Youth. CDBG requests were funded separately.

For SSF, YEP, Veteran's Transportation and A-OK funding, the City received 50 applications totaling \$1,730,696.00. Every application received through the Human Services Funding Allocation process was assigned to a subcommittee review team. Each team met at least three times to review and discuss the applications. Comments were captured during these review sessions that will be sent to the agencies along with the applications scores at a later date.

Staff prepared a report card for each application received. The information in the report card includes a summary of the proposed program, financial information, information on past performance, Staff concerns, questions generated by the review team and the agency's answers to the questions.

Following the March 23 HHSC meeting, the initial funding recommendations from HHSC were sent to the non-profit organizations that applied for funding. These recommendations were then finalized by the HHSC at an April 6th Public Hearing.

After agencies were notified of the final funding recommendations, Marc Center – Advocates for the Disabled, notified Staff that due to decreased funding from other sources, they had to consolidate and in some cases eliminate programs. Due to the change to the Advocates for the Disabled Program, the Marc Center has amended their allocation request from \$7,500.00 to \$3,000.00. As a result, \$4,500.00 of the \$1,140,952.00 in FY 2011/2012 General Fund Human Services Funding is available for reallocation.

Staff has analyzed the percentage of funding received by each program, the number of residents served, and program performance in order to provide a recommendation for the remaining \$4,500.00. In reviewing the top five scoring programs for each of the General Fund population groups, it is evident that Matthew's Crossing Food Bank received the lowest percentage of funding, yet has one of the highest scores. This program first applied for funding from the City in FY 2010/2011 and received a small allocation due to the fact that it was a new program to the funding process. Staff conducted a site visit and monitoring of the program and was impressed with the results. In addition, the program has surpassed their target goal number of residents served. Staff is recommending that Matthew's Crossing Food Bank receive the remaining \$4,500.00.

All costs associated with the general fund human services allocations will be paid by the City of Chandler as part of the FY 2011/2012 Operating Budget and the City Manager or his designee is authorized to enter into the agreements pursuant to this resolution.

16. NON-EXCLUSIVE LICENSE EXTENSION: Chandler Air Service

AUTHORIZED an extension to the existing Non-Exclusive License with Chandler Air Service to conduct fueling operations at the Chandler Municipal Airport. This is the first of two optional six-year extensions and will continue until June 30, 2017.

The City of Chandler granted a non-exclusive license to Chandler Air Service to conduct fueling operations on the Chandler Municipal Airport on June 2, 2005. The license will expire June 14, 2011. This fueling operation provides an essential service to tenants and users of the airport and generates significant revenue to the airport.

There are no new financial responsibilities associated with extending the current fueling license. The airport will continue to receive fuel flowage fees on each gallon of fuel that is transferred. This resulted in revenues of approximately \$44,730.00 during FY 2009/2010 and projected revenue for FY 2010/2011 is approximately \$45,000.00.

17. RENEWAL: Commercial Insurance Coverage

RENEWED commercial insurance coverage and services with Starr Indemnity & Liability, St. Paul Surplus Lines, Travelers Indemnity, Safety National, Illinois Union, Chartis-National Union Fire Insurance Co. of Pittsburgh, PA, and ACE Property & Casualty for FY 2011/2012 in a total amount not to exceed \$852,805.00.

The City self-insures and carries excess coverage in the areas and at the levels indicated below. The total premium cost of recommended coverage through commercial carriers for FY 2011/2012 is \$852,805.00 compared to \$843,095.00 in FY 2010/2011.

- Excess liability coverage is carried at two levels:

\$10 million excess of \$2 million Self-Insured Retention – Insurance is carried through Starr Indemnity & Liability Premium for 2011-2012 is \$283,198.00. Premium last fiscal year was \$285,600.00.

\$20 million excess of \$12 million – Insurance is through St. Paul Surplus Lines. Premium for 2011-2012 is \$105,968.00. Premium for last fiscal year was \$150,000.00.

- Property Insurance is carried through Travelers Indemnity which provides broad coverage for buildings, contents, equipment, vehicles (valued in excess of \$50,000.00) as well as boilers and machinery. This policy has various deductibles including \$50,000.00 per occurrence for most losses, \$100,000.00 for earth movement and \$50,000.00 for flood. High value vehicles have a \$25,000.00 deductible. Premium for 2011-2012 is \$295,286.00. Premium for last fiscal year was \$272,644.00.
- Excess Workers' Compensation insurance is carried through Safety National. The City is self-insured for the first \$500,000.00 of loss for workers' compensation. Excess of the \$500,000.00 retention, the City purchases coverage to protect against catastrophic loss. Premium for 2011-2012 is \$128,018.00. Premium for the last fiscal year was \$91,680.00.
- Storage Tank Liability insurance is carried through Illinois Union. Policy limits remain at \$1,000,000.00 per tank with a \$25,000.00 per incident deductible. Coverage complies with the financial responsibility mandates of the Environmental Protection Agency. Premium for 2011-2012 is \$24,233.00. Premium for last fiscal year was \$23,037.00.
- Crime Insurance is carried through Chartis-National Union Fire Insurance Co. of Pittsburgh, PA. Coverage included state required bonds for Management Services Director and Accounting Manager. Further, this policy provides coverage for members of the City's board and commissions. Premium for 2011-2012 is \$4,630.00. Premium for last fiscal year was \$4,633.00.
- Airport Liability insurance is carried through ACE Property & Casualty. Airport Owners and Operators Liability policy provides \$50,000,000.00 in coverage per occurrence. Premium for 2011-2012 is \$11,471.00. Premium for last fiscal year was \$15,500.00.

The City has an existing contract with Willis of Arizona which acts as an Insurance Broker of Record for the City's casualty/liability, property and automobile insurance coverage. Willis of Arizona advises and coordinates with the City's Risk Manager/designee to obtain bids from insurers and negotiates the best terms and coverage for the various exposure areas.

18. MEMORANDUM OF UNDERSTANDING: Firefighters

APPROVED the Memorandum of Understanding with the International Association of Firefighters (Chandler Local 493) for FY 2011/2012.

The City and Fire have been engaged in negotiations since late February 2011. Through a collaborative effort, an agreement was reached on a one-year Memorandum of Understanding (MOU) that will be in effect July 1, 2011, through June 30, 2012.

Substantive changes to the MOU include:

- Increase City-paid deferred compensation for 1.66% to 2.0%.
- Award 4% on-going merit increase for merit-eligible employees.

- Tuition reimbursement.
- Increase sick leave payout to beneficiary of employees that die in the line of duty from 50% to 100%.
- Update MOU to include medical cost share of 82/18 on January 1, 2012; where 82% of the premium is paid by City and 18% is paid by employee.

19. MEMORANDUM OF UNDERSTANDING: CLEA

APPROVED the Memorandum of Understanding with the Chandler Law Enforcement Association (CLEA) for FY 2011/2012 through 2012/2013.

The City and CLEA have been engaged in negotiations since late February 2011. Through a collaborative effort, an agreement has been reached on a 2-year contract that will be in effect July 1, 2011, through June 30, 2013. Both parties agreed to reopen the contract in the second year of the MOU to discuss merit pay and 17/3 for sick leave.

Substantive changes to the MOU include:

- Up to a 5% merit increase for merit-eligible employees with a reopener to discuss in the second year of the contract.
- Tuition reimbursement.
- Pay holiday hours the same as employees' shifts.
- Eliminate compensatory time from being calculated as hours worked for the purposes of overtime.
- Add provision that salary range will not be decreased to maintain 4th position in market; implement two market surveys to eliminate need to adjust employees' pay retroactively.
- Add 17/3 benefit for vacation for FY 2011/2012; reopen to discuss 17/3 benefit for sick leave in FY 2012/2013.
- Increase sick leave payout to beneficiary of employees that die in the line of duty from 50% to 100%.
- Add fiscal crisis language to allow for Council to reopen negotiations under certain financial conditions in FY 2011/2012.
- Add reverse fiscal crisis language that provides one-time payout to union groups under certain financial conditions for FY 2011/12.
- Update MOU to include medical cost share of 82/18 effective January 1, 2012, where 82% of the premium is paid by City and 18% is paid by employee. On January 1, 2013, change cost share to 80/20 where 80% of the premium is paid by the City and 20% is paid by the employee.

In addition, CLEA has agreed to change the threshold used to calculate the pain and suffering payment and to include an adjustment factor for future years. This change will be reflected in the City's Personnel Rules.

20. MEMORANDUM OF UNDERSTANDING: CLASA

APPROVED the Memorandum of Understanding with the Chandler Lieutenants and Sergeants Association (CLASA) for FY 2011/2012 through 2012/2013.

The City and CLASA have been engaged in negotiations since late February 2011. Through a collaborative effort, an agreement has been reached on a 2-year Memorandum of Understanding

(MOU) that will be in effect July 1, 2011, through June 30, 2013. Both parties agreed to reopen the contract in the second year of the MOU to discuss merit pay.

Substantive changes to the MOU include:

- Up to a 5% on-going merit increase for merit-eligible employees with a reopener to discuss merit pay in the second year of the contract.
- Tuition reimbursement.
- Pay holiday hours the same as employees' shifts.
- Eliminate compensatory time from being calculated as hours worked for the purposes of overtime.
- Add provision that the salary range will not be decreased to maintain 4th position in market. Implement two market surveys to eliminate need to manually adjust employees' pay retroactively.
- Increase vacation accrual incrementally in FY 2011/2012 and again in FY 2012/2013.
- Change eligibility criteria for supervisory incentive pay.
- Increase current vacation buy back for 20 hours to 30 hours per fiscal year effective July 3, 2011.
- Increase sick leave payout to beneficiary of employees that die in the line of duty from 50% to 100%.
- Add fiscal crisis language to allow for Council to reopen negotiations under certain financial conditions in FY 2011/2012.
- Add reverse fiscal crisis language that provides one-time payout to union groups under certain financial conditions for FY 2011/2012.
- Update MOU to include medical cost share of 82/18 effective January 1, 2012, where 82% of the premium is paid by City and 18% is paid by employee. On January 1, 2013, change cost share to 80/20 where 80% of the premium is paid by the City and 20% is paid by the employee.

In addition, CLASA has agreed to change the threshold used to calculate the pain and suffering payment and to include an adjustment factor for future years. This change will be reflected in the City's Personnel Rules.

21. AGREEMENT AMENDMENT: Buck Consultants

APPROVED Agreement Amendment No. 1 with Buck Consultants for Human Resources and Employee Benefits Consulting Services in an amount not to exceed \$115,200.00. This is the first of four optional one-year options.

Buck Consultants began providing ongoing professional employee benefit consulting services in 2010. They assist the City with administrative vendor management of all group and voluntary insurance plans including Health, Dental, Vision, Life, Flexible Spending, Employee Assistance Program offered to employees and their dependents for both self-funded and fully insured plans respectively.

In addition to general benefits consulting, Buck assisted the City with the move from a fully insured to a self-funded medical plan as well as assisted Human Resources with the change in medical health plan providers. The change in vendors required a comprehensive evaluation of services, widespread communication, seamless implementation and subsequently successful enrollment of which Buck provided both counsel and services to the Human Resources Staff.

Buck's plan management process enables the City to define and continuously validate long-term benefit strategies that align its needs and those of the participants as demonstrated by the City's wellness initiative. In addition, they will assist the City with plan design review, claims/utilization analysis and review, plan performance and compliance adherence/opportunity as demonstrated by the reimbursement funds received by the City as part of the Early Retirement Reimbursement Program.

22. AGREEMENT: Habitat for Humanity

APPROVED an Agreement with Habitat for Humanity – Central Arizona authorizing a \$22,045.00 financial incentive for infill development as provided for by the Single-Family Infill Program to be paid upon completion of a LEED Certifiable single-family, owner-occupied residence located at 354 S. Dakota Street. (Applicant: Tana Nichols, Habitat for Humanity.)

The Single Family Infill Program was initially adopted by Council in December 2001 and subsequently amended in 2004 and 2009 to encourage new construction of owner-occupied single-family dwellings on small parcels located within the City's Infill Incentive District (the area bordered by Pecos Road, 101 Freeway and the City's northern and eastern limits).

The most recent amendment adopted by Council in February 2009, offers a 50% impact fee reimbursement (currently this would be approximately \$11,000.00) for the development of a new Energy Star Qualified home or a 100% impact fee reimbursement (approximately \$22,000.00) for the development of a LEED Certifiable home.

Two Infill Agreements have been approved by Council since the 2009 amendment. Agreements approved before 2009 awarded \$5,000.00 for each new home and an additional \$5,000.00 for the demolition of an existing substandard/unsafe home. Prior to 2006, the City issued \$2,500.00 awards for 85 dwelling units before the 2004 amendment.

This is the first Infill Agreement application for the current fiscal year. Council approved \$66,000.00 in funding for the Single Family Infill Program for the current fiscal year. In order to receive the financial incentive, all requests are subject to approval by Council through an agreement.

The requested financial incentive will be awarded to the applicant, Habitat for Humanity, upon completion of a 1,312 square foot, 3-bedroom, 2-bath, single-story home. The property currently contains an existing home that has been verified by the City Inspector to be unsafe. Habitat for Humanity plans to completely renovate the home and replace a section of the roof rafters. The home meets all of the qualification criteria and general requirements set forth in the Single Family Infill Program.

23. AGREEMENT: GPEC

APPROVED an Agreement with the Greater Phoenix Economic Council (GPEC) for FY 2011/2012 in an amount not to exceed \$78,384.00.

The City of Chandler and other communities in Maricopa County contract with GPEC on an annual basis to provide regional economic development services. The City of Chandler and other major cities have contracted with GPEC since 1989 to conduct marketing and business lead generation activities for the Greater Phoenix market.

City Economic Development Staff participates with GPEC on regional economic development activities, including formulating GPEC's Action Plan for FY 2011/2012. Staff participates on the Economic Development Director's Team (EDDT), made up of economic development professionals from each member organization (19 communities, Arizona State University, Maricopa Community College District, Arizona Department of Commerce, Arizona Public Service and Salt River Project).

The EDDT works with GPEC to market and attract new quality employers to the market and to develop and implement competitive strategies for the region. With input from the EDDT, GPEC's performance measures have evolved over the past several years to focus less on quantity and more on quality indicators, such as targeting companies that create higher average salary jobs and higher capital investment.

As part of the City's contract with GPEC, Chandler receives two GPEC Board of Director's appointments (Councilmember Weninger and Jason Bagley with Intel).

The annual contract amount for GPEC is determined by the 2010 Maricopa Association of Governments (MAG) population estimate multiplied by a fixed amount per capita of approximately \$.39 per capita. Chandler's proportionate share, based on the MAG 2010 population estimate is \$78,384.00 which represents a 15% rate reduction to the actual contract payment to assist all member cities with the challenging budget year faced again this year. This concession was offered by GPEC in the 2010/2011 contract year as well and was appreciated by all cities allowing for additional marketing efforts during the fiscal year on a local level.

GPEC and the City of Chandler have partnered on three locate projects this fiscal year (International Rectifiers, Safelite AutoGlass and eBay.PayPal) as well as fourteen more since 2002.

The FY 2011/2012 contract has identifiable and measurable performance targets for GPEC, with monthly and quarterly reporting mechanisms built in.

Staff has reviewed the contract and recommends continued support of GPEC's regional economic development efforts.

24. AGREEMENT: CH2M Hill, Inc.

APPROVED Agreement #WA1105-201 with CH2M Hill, Inc., for Arsenic Treatment Bypass, pursuant to Contract #EN1003-104, in an amount not to exceed \$59,070.00.

In 2006, the U.S. Environmental Protection Agency (EPA) reduced the Maximum Contaminant Level (MCL) for arsenic from 50 parts per billion (ppb) to 10 ppb in public water systems. Chandler identified eight groundwater wells with arsenic levels close to or above the new regulatory limit. Historical water quality testing of these wells showed some variability in arsenic levels and well treatment was recommended. Arsenic treatment was installed to maintain adequate water production capacity until design and construction of new surface water treatment capacity at both the Pecos and Santan Vista Water Treatment Plants was completed. Since installation of the arsenic treatment systems, bi-weekly water quality testing showed four wells consistently produce water below the arsenic MCL. After review, Staff believes recent water quality is more consistent than older historical information. Water quality variations are not expected in these wells in the foreseeable future. Another well has arsenic levels slightly higher than the MCL. An alternative to maintain water quality compliance through a blending system

approach will be investigated. Staff believes bypassing the arsenic treatment systems on these wells will achieve operational cost savings in excess of \$300,000.00 annually. This will allow the City to maintain water quality compliance while preserving the City's ability for future arsenic treatment if necessary.

This project will analyze methodology for bypass or blending using the existing water system infrastructure. Review of well piping and arsenic treatment layout drawings and several years of water quality data for each of the five wells is included. Maricopa County Environmental Services permitting and design of the bypass piping to be constructed will be brought forward under a separate contract. Staff anticipates construction costs to be approximately \$350,000.00.

25. AGREEMENT: Black and Veatch

APPROVED Agreement #WA1104-101 with Black and Veatch for an Arc Flash Assessment at the Pecos Surface Water Treatment Plant, pursuant to Contract #EN1003-103, in an amount not to exceed \$107,680.00.

The National Fire Protection Association (NFPA) implemented new requirements for training and safety program audits in response to an Occupational Safety and Health Administration's (OSHA) records requirement. To achieve OSHA compliance with NFPA 70E, an arc flash hazard analysis is required if qualified personnel work near exposed energized equipment. A robust electrical safety program insures safe work practices, procedures and Personal Protective Equipment (PPE). It also provides a safe work environment for staff at the Pecos Surface Water Plant.

The project scope includes review of the current electrical safety program, an arc flash analysis and training of staff on arc flash hazards. The study will deliver a summary report, arc flash summary table and arc flash warning labels to be applied to all equipment.

26. AGREEMENT: SDB, Inc.

APPROVED Agreement #WA1103-401 with SDB, Inc., for construction services for Ocotillo Road 16-inch Water Main Replacement, pursuant to #JOC07-04, in an amount not to exceed \$120,519.00.

27. AGREEMENT: SDB, Inc.

APPROVED Agreement #WA1102-401 with SDB, Inc. for construction services for Surface Water Treatment Plant site upgrades, pursuant to #JOC07-04, in an amount not to exceed \$349,187.00.

28. AGREEMENT AMENDMENT: Otto Logistics, LLC

APPROVED Agreement #WA5-962-2183, Amendment No. 4, with Otto Logistics, LLC, for a 13-month extension for transportation of sludge in an amount not to exceed \$695,000.00.

29. AGREEMENT AMENDMENT: Power Plus

APPROVED Agreement #WA0-936-2761, Amendment No. 1, with Power Plus for generator maintenance in an amount not to exceed \$157,192.00. This will be the first of three optional one-year extensions.

30. AGREEMENT: The Groundskeeper and Agave Environmental Contracting, Inc.

APPROVED Agreement #PM1-988-2974 with Environmental Earthscapes, dba The Groundskeeper, and Agave Environmental Contracting, Inc., for City parks mowing services for two years with the option to renew for one two-year period, in a total amount not to exceed \$207,295.78 per year.

31. AGREEMENT EXTENSION: Hansen Information Technologies

APPROVED a one-year extension of Agreement #MR0-7030-1640 with Hansen Information Technologies for the purchase of software maintenance in an amount not to exceed \$86,480.00 which represents an increase of less than 2%.

32. AGREEMENT: EI Technologies

APPROVED a 3-year agreement for the purchase of support and maintenance for the Land Information System (LIS) from EI Technologies in an amount not to exceed \$61,940.00.

The City's Land Information System (LIS) is the City's database of record for parcels, addresses, streets and other land related data. It also contains City boundary information that pertains to the municipal boundary areas of the City limits, county islands and changes to those boundaries through annexation. All GIS applications and many other City enterprise systems, such as Accela, GBA and Utility Billing are dependent upon the data in LIS. This application is vital to City operations and must be kept fully maintained and current. This maintenance and support provides resolution of technical support issues, software fixes, enhancements and system and application upgrades necessary to operate and keep this system current.

The term of this agreement is July 1, 2011, through June 30, 2014.

33. CONTRACT: Salt River Project

APPROVED (6-1) Contract #ST0704 with Salt River Project (SRP) for design and construction to accommodate the Alma School Road and Ray Road Intersection Improvements for removal of overhead facilities north of Ray Road in an amount not to exceed \$22,471.00; streetlight relocation in an amount not to exceed \$272,467.00; removal of overhead facilities east of Alma School Road in an amount not to exceed \$15,447.00; overhead conversion in an amount not to exceed \$142,367.00; and relocation of underground Salt River Project facilities in an amount not to exceed \$334,975.00, in a total amount of \$787,727.00 and authorized the City Manager to sign the contract documents.

Councilmember Heumann voted nay on this item.

34. PURCHASE: Lucity, Inc.

APPROVED the Purchase of annual maintenance for the Enterprise Asset Management System (EAM) from Lucity, Inc., sole source, in an amount not to exceed \$78,400.00.

Lucity's EAM application is the system that manages the City's service and work order requests, coordinates preventative maintenance programs and tracks City asset maintenance throughout the asset's life cycle. This application is vital to City operations and must be kept fully maintained and current. Additional efforts are presently underway to expand its use by other City departments. This system also handles citizen service requests and includes a web based

service request system. This maintenance and support provides resolution of technical support issues, software fixes and system and application upgrades necessary to operate and keep this system current.

In April 2008, Council awarded the purchase of the EAM system from Lucity, Inc. (formerly gbaMS). The original purchase allows for annual maintenance services to be renewed every July 1 of subsequent years. Because the system is proprietary, the ongoing maintenance service is available only from Lucity. No other vendors are authorized to provide these maintenance services.

35. PURCHASE: Oracle Corporation

APPROVED the Purchase of annual Oracle maintenance services and support renewal from Oracle Corporation, utilizing the GSA contract, in an amount not to exceed \$226,450.00.

The City utilizes Oracle database products to provide the following major systems: Financial, Payroll/HR, Sales Tax, Work Order Management, Permits and Inspections, Utility Billing, Geographic Information and numerous other departmental systems. The City utilizes Oracle applications, which include Self Service Human Resources and Financial modules.

Oracle maintenance and support provides access to technical support resources to resolve system issues as well as providing software fixes and system and application upgrades necessary to operate and keep these systems current.

The City purchases maintenance and support based on the number of servers and processors on which the software is running. The City has audited the number of licenses being used and found that no licenses can be reduced at this time. Maintenance and support is renewed on an annual basis.

36. PURCHASE: IBM Corporation

APPROVED the Purchase of Lotus Notes application support and maintenance renewal from IBM Corporation, utilizing the State of Arizona contract, in an amount not to exceed \$97,850.00.

The City uses IBM Lotus Notes software for email, calendaring and Domino document storage for the Police Department. The Lotus Notes environment includes email and calendaring licenses supporting City full time and temporary staff as well as onsite contract staff. The software is also used for rapid application development for departments that are requesting a quick application solution. The software supports applications such as Water Distribution, Water Lab, Water Quality, Water Web reporting and a number of other smaller applications. The annual maintenance will include Lotus Notes Domino servers (processor maintenance renewal), Lotus Notes client (license maintenance renewal & upgrades) and Lotus Enterprise Integrator. These are annual recurring costs to cover upgrades, maintenance and technical support for these applications. The City performed an audit of licenses in use to determine if the City was over licensed and has determined that all licenses are in use and no reduction to the number of licenses can be made at this time. The City is continuing to look at options and will be looking for ways to reduce the license counts in the future.

37. PURCHASE: Temporary Services

APPROVED the Purchase of temporary services with Staffmark Investment, LLC, Randstad, Corporate Job Bank and Kelly Services, utilizing the State of Arizona contract, in a combined total amount not to exceed \$120,000.00.

38. USE PERMIT: Wingstop

APPROVED Use Permit LUP10-0045 Wingstop, Series 12, for the sale of liquor for on-premise consumption only within an existing restaurant and outdoor patio at 5905 W. Chandler Boulevard, Suite #1 within the Kyrene Crossing shopping center. (Applicant: Nicholas Guttilla, Guttilla Murphy Anderson.)

The subject site is located at the eastern portion of the site within a section of inline shops. North, across Chandler Boulevard, are the Village at Gila Springs multi-family residential development and the Artisan Village at Gila Springs residential and commercial development. Directly east and south is the Sorrento single-family residential neighborhood. West, across Kyrene Road, is the Kyrene Village shopping center.

The subject site received Use Permit approval in 2008 with a three-year timing condition. The timing condition was added due to a neighbor expressing concerns about the outdoor patio being roughly 60 feet from the nearest residential property line and 120 feet to the nearest home. Upon approval of the initial Use Permit, the business owner submitted construction documents for the outdoor patio; however, ultimately decided not to move forward with the construction of the patio due to cost. The business owner would still like the ability in the future to have the outdoor patio. The outdoor patio will be a non-smoking patio and televisions, speakers and music on the patio will be prohibited.

Wingstop is a small company that specializes in chicken wings. Service hours are 11 a.m. to 12 a.m. seven days a week. The interior is approximately 1,266 square feet and provides seating for approximately 34 patrons. The exterior patio is approximately 490 square feet in size and provides seating for approximately 30 patrons. There will be no live music or entertainment.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held April 21, 2011. There were no neighbors in attendance. Staff has received no correspondence in opposition to this request.

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

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

39. CONTINUED USE PERMIT: San Marcos Golf Resort

CONTINUED TO AUGUST 18, 2011, Use Permit ZUP10-0032 San Marcos Golf Resort, to continue a golf cart storage and maintenance yard use on San Marcos Golf Course property near the SWC of Chandler Boulevard and Dakota Street, approximately one-quarter mile west of Arizona Avenue. The Planning Commission continued this item to their July 20, 2011, agenda at the request of the primary property lender. Accordingly, Staff recommends continuing the item to the August 18, 2011, City Council meeting to coordinate with the Planning Commission schedule.

40. USE PERMIT: IMS, LLC

APPROVED Use Permit ZUP11-0004 IMS, LLC, to allow an office use in a residential conversion property zoned SF-8.5 located at 498 W. Chandler Boulevard. (Applicant: Tucson Redd.)

In May 1995, the single-family residential property was approved a Use Permit to convert the home into an insurance office, Allstate Insurance. This property is one of several residential home conversions existing along Chandler Boulevard. Immediately to the east is the David Christiansen law office. The previous insurance office had four employees with the ability to expand to eight employees or lease to another company with four employees. A parking lot on the home's north side was constructed providing for 12 parking spaces. The Use Permit was conditioned to no more than 8 employees on-site at any time and no more than 2 tenants/companies as well as a condition requiring a new Use Permit for the review and approval of a second tenant/company. The Use Permit was granted for a 1-year time limit. A Use Permit was filed and approved by the City Council in January 1996 for a second tenant. The zoning approval included conditions limiting the number of total employees to 7 and no more than 2 tenant/companies with a 3-year time limit. In February 1996, a variance application was approved for a covered parking structure to encroach within the rear and side yard setback. The parking structure was planned to extend across 6 parking spaces on the north end of the parking lot; however, the structure was built to cover only 3 parking spaces. In March 2000, a Use Permit time extension was granted for 5 years to continue the office use as previously approved.

In January 2006, the insurance office use changed to a counseling office with the business owner residing in the home. The Use Permit granted approval allowing up to 24 clients per week by appointment only with no full-time employees, only a part-time office assistant. The business owner resided at the property. Living quarters are approximately 853 square feet including a bedroom, bathroom and kitchen.

Under the Residential Conversion Policy, office uses permitted include accountants, attorneys, insurance agencies, architects, engineers and the like. Uses such as medical and dental offices, daycare, private schools, studios for fine arts, dance, music, photography and the like are not permitted. These uses would require review and approval of a Use Permit. These uses are considered more intense and may generate additional traffic and on-site parking.

The Residential Conversion Policy allows for one tenant/company for each 1,000 square feet of floor area with a maximum of three users. Based on the size of the home, only one tenant/company is permitted. The request is to allow a maximum of one (1) tenant/company. This tenant signed a two-year lease and has resided in the home since February 2011. In February/March 2011, the office use started operating out of the home. The office use is a marketing software company which provides outbound phone calls. Employees call consumers to offer them a do-it-yourself loan modification computer software program. There are a total of eleven (11) employees that include phone staff, a receptionist and the business owner who is also the resident at the home. The office hours are approximately 7:30 a.m. to 6 p.m. Monday

through Friday with some staggered start and end work hours. There are no day-to-day customers coming to the home. The site has 12 parking spaces in which a maximum of 11 parking spaces would be occupied at one time.

Building signage or a freestanding monument sign is not requested with this Use Permit. If, in the future the tenant would like signage, a separate Use Permit shall be filed for review and approval of signage.

A 2-year time limit approval is recommended for this Use Permit to coincide with the 2-year lease agreement that the resident has for the home as well as his office. The site has been occupied by an office-type business since 1995 and during this time, Planning Staff is not aware of any concerns or complaints from the neighborhood. Staff has not received any calls or complaints about the current office.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on April 20, 2011. There were no neighbors in attendance. Staff has not received any correspondence in opposition to this request.

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

1. The Use Permit shall be effective for two (2) years from the date of Council approval. Use Permit extensions, for similar or greater time periods, shall be subject to reapplication to and approval by the City of Chandler.
2. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan, Narrative) shall void the Use Permit and require new Use Permit application and approval by the City of Chandler.
3. The Use Permit is non-transferable to any other property.
4. Increases in on-site employment over that represented, a maximum of eleven (11) which includes the resident, or the expansion of the home to provide additional office space shall require Use Permit application and approval by the City of Chandler.
5. The property shall be maintained in a clean and orderly manner.
6. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
7. Use Permit approval does not constitute Final Development Plan approval such as building plan review and permits for the residential conversion; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Use Permit shall apply.
8. A separate Use Permit shall be filed for review and approval of building and/or freestanding monument signage.

41. SPECIAL EVENT LIQUOR LICENSE: Chandler Lions Club

APPROVED a Special Event Liquor License for the Chandler Lions Club for the 4th of July Celebration on July 4, 2011, at Tumbleweed Park, 2250 S. McQueen Road. 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.

42. CONTINUED LIQUOR LICENSE: Hob Nob Sports Grill

CONTINUED TO JUNE 23, 2011, Liquor License, Series 6, for Peter Ioannis Spentzos, Agent, Soztneps LLC, dba Hob Nob Sports Grill located at 7200 W. Chandler Boulevard to allow the applicant time to complete the requirements for a new Use Permit through Transportation and Development .

ACTION:

43. USE PERMIT: Regal Beagle

Use Permit LUP-11-0001 Regal Beagle, Series 6, to continue to sell all spirituous liquor in an existing restaurant located at 6045 W. Chandler Boulevard, Suite #7, within the Kyrene Village shopping center at the SWC of Chandler Boulevard and Kyrene Road. (Applicant: Gregory James Stanfield.)

This item was continued from the April 14, 2011, City Council meeting in order to allow for a proper neighborhood meeting to be conducted. It was continued again from the May 12th Council meeting in order to allow the applicant's attorney to be in attendance.

This request is for Use Permit approval to sell and serve all spirituous liquor within a restaurant and bar and outdoor patio (Series 6 Liquor License). The Planning Commission and Staff, finding consistency with the General Plan, recommend approval for three (3) years subject to conditions including a prohibition of music on the outdoor patio. As of this writing, the applicant is not in agreement with the condition that prohibits outdoor music.

The subject property is located at the southwest corner of Kyrene Road and Chandler Boulevard within the Kyrene Village Center formerly anchored by Basha's. The center is surrounded on all sides by mostly commercial and industrial uses, including the Paloma Kyrene office/industrial park to the south. The nearest residential neighborhood is south of the southeast corner of the main intersection. The business is a restaurant/sports bar with an outdoor patio on its north side.

The request is to continue operating under the provisions of their 2010 Use Permit approval, which allows amplified music both indoors and on the outdoor patio in accordance with several conditions. The 2010 Use Permit conditions include limiting the music until 10 p.m., having music only two days per week, maintaining a liaison program that allows neighbors to call the bar with any noise issues and prohibiting unreasonable disturbance of the residential properties.

The facility served alcohol under a Series 12 Restaurant License until 2006 when they received Use Permit approval for one year to serve under a Series 6 Bar License. The license change was prompted by a State audit that found food sales to be short of Series 12 requirements (at least 40% of sales must be in food and non-alcoholic beverages). A three-year extension was granted in June 2007. Per condition, a transfer of ownership in mid-2007 required a new Use Permit, which was approved for one (1) year in October 2007. An extension of the Use Permit was approved in December 2008 that was limited to one (1) year in order to closely monitor a noise issue that was recurring throughout 2008. The recurring noise issue involved music on the outdoor patio that was amplified in violation of the Use Permit conditions. The October 2007 and 2008 approvals both restricted outdoor music to "non-amplified acoustic" only. The Use Permit was renewed and amended in January 2010 with a one (1) year time limit to allow amplified

outdoor music under certain conditions, responding to the applicant's complaint that the patio was not useful for music unless it could be amplified. No changes are requested from the 2010 approval.

Outdoor music has been allowed at this location only since the current ownership took over in October 2007. Music regularly disturbed neighbors throughout 2008, largely because it was amplified instead of "non-amplified acoustic" as required by the approved Use Permit. Music did not disturb the neighbors in 2009, during which time the establishment rarely had outdoor music because it found the "non-amplified acoustic" requirement to be unworkable. Since the January 2010 approval that first allowed amplified outdoor music, the music has only disturbed neighbors a handful of times, including in June 2010, Friday April 15, 2011, and Friday April 22, 2011. The disturbances were all from the same one-man band, a reggae artist whose bass can reportedly be heard inside residents' homes with the television on.

The establishment, which has a full menu of American food, provides seating for 125-145 persons including space for 25 persons at the indoor bar, 40-60 in the main seating area and 60 on the patio, which has a second bar. Hours of operation are 10 or 10:30 a.m. to 2 a.m. daily.

The subject property, previously occupied by Hitts and Howie's Pub & Eatery, originally received Use Permit approval to sell alcohol under a Series 12 license in 1988 and received amended Use Permit approval in 1992 in order to add a patio. It has been the "Regal Beagle" since 2004. Other liquor Use Permits in the center include Series 10 (Beer & Wine Store) approval for the currently vacant Basha's, Series 6 (Bar License) approval for Kyrene Lanes bowling alley, Series 12 (Restaurant License) approval for Heart Attack Grill, and Series 12 (Restaurant License) approval for India Gate restaurant. Also, CVS Pharmacy, across the street on the southeast corner of the arterial intersection, has a Series 10 (Beer & Wine Store) license.

The Planning Commission and Staff recommend eliminating music on the outdoor patio and extending the Use Permit for an additional three (3) years. It is recognized that adherence to the conditions approved in 2010 would theoretically result in outdoor music presenting a compatible land use at this location. However, there has been a demonstrated inability to comply with these conditions and, in practice, music on the patio has regularly presented a land use conflict. As such, the Planning Commission and Staff recommend prohibiting outdoor music at this location. The Planning Commission and Staff still recommend an extension of three (3) years rather than a shorter time period because potential externalities other than outdoor music (e.g. indoor music or litter) have not proven to be problems in recent history.

The 2010 approval included a condition that any change in ownership needs a new Use Permit. The Planning Commission and Staff do not recommend including that condition for the subject application because compatibility relies on conformance to the noise-related conditions. Regardless of who owns the business, any change of ownership already requires liquor license approval that is routed through the Planning Division for analysis against the Use Permit conditions, thereby allowing for education of any new owner.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on March 7, 2011. There were two neighbors in attendance. The applicant was not present. A second neighborhood meeting was held at the same location on April 4, 2011, that the applicant did attend, as did two neighbors. The neighbors asked if any changes would be made to the music (none have been requested) and reported that there have been no noise issues for them since last June. The Police Department has been informed of the application and had no issues or concerns prior to April 20. Four neighbors have contacted Staff

in opposition to outdoor music due to noise disturbances on the evenings of April 15 and 22. The Planning Commission's hearing occurred on April 20. One of the neighbors sent an email after the April 15 incident.

The Planning Commission heard testimony from two neighbors opposed to outdoor music and also from the applicant and one of his managers. The neighbors stated that only one artist has been a problem for them over the previous few years. This artist had played the previous Friday and disturbed the neighbors. The applicant team stated that this artist would be playing the following Friday, then not again until the fall. The applicant team requested a continuance to work out an updated plan to contain the music, but the continuance was not granted. Commissioners expressed particular frustration with the fact that the neighbors could not reach the applicant by phone while the music was playing the previous Friday and that the bar staff did not adjust the volume on their own.

Upon finding consistency with the General Plan and Community Commercial (C-2) zoning, the Planning Commission and Staff recommend approval subject to the following conditions:

1. The Use Permit granted is for a Series 6 license only and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. No alcohol shall be carried outside of the building into the parking lot or off premises. Sales of "to-go" liquor shall be prohibited.
4. Expansion or modification beyond the approve exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
5. 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 and approval of the Use Permit.
6. The Use Permit shall remain in effect for three (3) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.
7. The applicant shall provide security on the weekends, if necessary.
8. The applicant shall maintain a liaison program with the adjacent neighborhood that allows neighbors to directly contact a representative of the establishment with their concerns.
9. The applicant shall work to mitigate litter issues resulting from the use.
10. The patio and surrounding area shall be maintained in a clean and orderly manner.
11. Indoor music shall not unreasonably disturb area residential properties.
12. Outdoor music shall be prohibited.

Discussion

Councilmember Orlando declared a conflict of interest on this item and left the dais.

Senior City Planner BILL DERMODY explained to the Council that the request for an extension of liquor use permit approval. He noted that there were a number of conditions that recommended for approval by Planning Commission and Staff, including one that would prohibit outdoor music. He noted that outdoor music had only been allowed on the patio for the last couple of years. He stated that there had been hope that there would be a workable arrangement to control the music through a number of conditions.

He mentioned that there were a number of conditions that had been associated with the permit in

the past that not worked, including one that stated outdoor music was not to disturb the neighbors. He noted that staff had heard from several neighbors who lived 400 feet away and could hear the music even when their TV's were on. Another condition required that a liaison program be set-up and maintained by the bar owner and neighbors. The

He stated that a liaison program had also been required to be set-up and be maintained by the bar owner and neighbors. He explained that the program was to be set-up to have neighbors call and have the noise turned down quickly. He added that the phone line failed to work in an occasion in April. He stated that staff and the Planning Commission agreed on recommending approval in general with the prohibition of music in the outdoor patio. He added that the applicant did not agree with that condition.

COUNCILMEMBER SELLERS recalled reading in the staff memo that there was a neighborhood meeting in April, and that there had not been any complaints received since June of last year. By reading the material, he believed the complaints occurred only when "Alonso" was playing in the patio. He did not want to put another business in jeopardy due to the trouble at the shopping center. He acknowledged the neighborhood's frustration with the situation and was hopeful there could be a win/win situation. He noted that most of the complaints occurred when "Alonso" was played on the patio. He questioned if music could be allowed on the patio, if it was agreed that "Alonso" would not play.

MR. DERMODY responded that the reggae musician known as Alonso was the only source of the complaints. He indicated that bar owner did not want to do that and that there had not been a conclusion in place in time for Planning Commission. He stressed that it was difficult to have one condition that targeted one musician due to the lacks of communication with the neighbors. He believed the problems with communication could occur even with a different musician.

COUNCILMEMBER SELLERS recalled a similar situation with a different neighborhood bar with outdoor patio music. He stated that the problem with that bar was resolved after the owner gave the residents her cell phone number and reacted when people called. He questioned if there would be a viable solution if a similar type of connection was provided to the Regal Beagle neighbors.

MR. DERMODY replied that a similar condition had worked before but stressed that it did not work this past April. He stated that the music continued after the neighbors had called the bar owner and the bar itself.

In response to a question from COUNCILMEMBER WENINGER, Mr. Dermody explained that there had been a condition given to Regal Beagle regarding "acoustic". He stated that the bar owner had indicated that they could not attract anyone with that condition and had he had stated it would need to be amplified in order for the outdoor music to be useful.

In response to a question from COUNCILMEMBER HEUMANN, Mr. Dermody explained that there was not supposed to be any music played on the patio from 1988-2008.

COUNCILMEMBER HEUMANN asked if the applicant had violated the use permit.

MR. DERMODY concurred. He stated that the violations occurred in 2007-2008.

COUNCILMEMBER HEUMANN noted that the issue had been going on for many years and that the applicant had not worked with the neighbors.

MR. DERMODY concurred. He stated that the applicant had been inconsistent with his work with the neighbors.

In response to a question from COUNCILMEMBER SELLERS, Mr. Dermody stated that the music that was played under violation was under the current owner.

MR. JERRY LEWKOWITZ, spoke on behalf of the bar owner and thanked the Council for allowing the item to continue from the original meeting date. He stated he sympathized with the neighbors that were in attendance at the meeting. He stated that there had only been one incident which occurred in April. He explained that the owner had been out of town and that the neighbors called the bar. He stated that the manager who received the calls ignored them but he stated that he was dismissed.

Mr. Lewkowitz told the Council that noise was due to the sound of the bass. He stated that alternatives had been looked into. He clarified to the Council that the music only occurred at the bar on Fridays and Saturdays from 6:00-10:00 p.m. He told the Council that the bar owner had lost a lot of business for a number of factors, including the loss of Basha's at the shopping center. He stressed that the bar needed to have the music on the weekends only. He told the Council that the bar owner would give his numbers to the neighbors as would he. He did not believe that the same thing that happened in April would occur again.

Mr. Lewkowitz told the Council that the applicant would follow the 11 conditions that were being recommended but asked the Council to allow them to have music on the patio. He assured the Council that the music would be controlled.

MR. RICK STANFIELD, 6045 W. CHANDLER BLVD., #13 told the Council through Mr. Lewkowitz, that he would be giving his cell phone number, home number and bar phone number to the neighbors, so they can call if a second occurrence were to occur and that there would not be a bass or a subwoofer at the location.

COUNCILMEMBER HEUMANN questioned the days that music was played at the bar.

MR. STANFIELD replied that the music was only played on Fridays.

COUNCILMEMBER HEUMANN asked for clarification as it had stated on the applicant's application that music was held on the patio Wednesdays and Fridays.

MR. STANFIELD explained that the bar used to have music on both Fridays and Wednesdays.

In response to a question from COUNCILMEMBER HEUMANN, MR. DERMODY stated that there had been numerous problems several years ago with the bar. He indicated that there were 3 reported problems from the neighbors in the last year.

COUNCILMEMBER SELLERS questioned if music would serve the patio if there was music inside the bar with the doors open.

MR. LEWKOWITZ stated that the different groups were served inside and outside the bar.

COUNCILMEMBER HARTKE questioned if the musician would be allowed back. MR. LEWKOWITZ stated that "Alonso" would not be playing outside but would only be allowed to play

inside.

MS. JAN HOSKOVEC, 5971 W. COMMONWEALTH AVENUE, expressed concerns over the Regal Beagle to the Council. She told the Council that she had with her a petition signed by residents requesting that no music be played on the patio of the Regal Beagle. She told the Council that the Regal Beagle had violated the City permit by having amplified music past 10:00 p.m. She told the Council that during the second year of the use permit a liaison program was established, but ultimately the volume of the music went back up. She explained that she had called the bar multiple times and that often times her calls would not be answered or returned.

Ms. Hoskovec recalled that during the neighborhood meeting that was attended by City staff, Mr. Stanfield had stated that "Alonso" was done playing at the bar; however, "Alonso" returned at the bar two weeks in a row. She emphasized that she was in agreement with the Planning & Zoning Commission to grant the Regal Beagle a 3-year liquor license with the provision that no music be allowed on the patio.

COUNCILMEMBER HEUMANN questioned if the bar owner had indeed indicated at the neighborhood meeting that "Alonso" would no longer be playing at the bar.

MR. DERMODY replied that it was his recollection that it had been stated that "Alonso" would be going on vacation and would not return until the fall. He added that about 2 weeks later he had returned.

MS. PAM ROSIC told the Council that the neighbors had tried multiple times to rectify the situation. He clarified that the neighbors were not bothered by the bar having regular music on the patio. She noted that there could be a different musician playing on the patio the same type of music even if "Alonso" were not to play at the bar. She stated she and her husband had tried to get a hold of the bar owner but did not get responses from him.

MR. DARKO ROSIC told the Council he did not have objection to the bar having music on the patio but rather, he objected the bass that was used on patio. He explained that the type of music that was being used could rattle windows and be felt by nearby cars.

MR. PATSY ORLANDO, 5961 W. COMMONWEALTH AVENUE told the Council that the attorney representing the bar owner had not contacted every neighbor because he had not been contacted.

COUNCILMEMBER WENINGER questioned if the bar owner would be acceptable to having only acoustic music on the patio.

MR. LEWKOWITZ stated that having the music on the patio was a viable part of the business. He indicated that any musician who was hired to play would not be allowed to use the bass and would be detailed in their contract. Mr. Lewkowitz clarified that he had not contacted each of the neighbors personally, rather that his wife, Andrea had. He stated that his wife had spoken to 5 of the neighbors.

COUNCILMEMBER SELLERS indicated that there were credibility issues based on what he heard from the neighbors. He questioned Mr. Lewkowitz if his wife had the impression that the neighbors would agree to have the music on the patio as long as the music did not have the subwoofer base. MR. LEWKOWITZ responded that the neighbors did not object to the music, but only the bass.

COUNCILMEMBER SELLERS questioned if the neighbors would have the patience to try the proposals that were being presented by the applicant for a year.

MS. HOSKOVEC clarified that she had not agreed to anything when she spoke to Mr. Lewkowitz's wife. She felt that Mr. Stanfield has had 3 years to prove himself. She said that they had tried to get him to keep his word, but she did not see that happening. She added that at the Planning & Zoning Commission meeting, Mr. Stanfield would not commit to having "Alonso" playing inside. She did not believe that things would change.

MR. ROSIC told the Council that he had called the Police. He indicated that the bar stopped playing the music after the Police visited. He reiterated that he did not have any problem with music being outside, but rather just with the bass. He indicated that he did not know how the bass would travel if "Alonso" was playing inside the bar.

MR. ORLANDO indicated he would oppose any music at the bar. He told the Council that he is hearing impaired and could hear the music; he could only imagine what his neighbors hear.

In response to a question from COUNCILMEMBER HEUMANN, Mr. Lewkowitz stated that he did not attend the Planning & Zoning meeting. He further told the Council that he had conferred with Mr. Stanfield and told the Council that "Alonso" would not be playing inside or outside of the bar.

At the request of COUNCILMEMBER HEUMANN, Mr. Dermody stated that the revocation of a Use Permit would take a few months. He explained that an order could be issued by the Zoning Administrator immediately with litigation happening after that. He stated that the applicant could be heard in Court which could take time.

MOVED BY COUNCILMEMBER HEUMANN, SECONDED BY VICE-MAYOR DONOVAN TO APPROVE LUP11-0001 REGAL BEAGLE, WITH THE STIPULATION SET FORTH BY PLANNING COMMISSION, WHICH INCLUDES NO MUSIC ON THE PATIO.

MAYOR TIBSHRAENY clarified that the motion included all 12 conditions that were recommended by the Planning & Zoning Commission.

VICE-MAYOR DONOVAN noted she felt comfortable with what was being recommended by Planning & Zoning Commission and staff.

WHEN THE VOTE WAS CALLED, THE MOTION CARRIED BY MAJORITY (5-1) WITH COUNCILMEMBER WENINGER VOTING NAY.

44. MEMORANDUM OF UNDERSTANDING: SEIU

DIRECTED the City and SEIU to continue discussions through June 14, 2011, on outstanding issues of the Memorandum of Understanding.

The City and SEIU have met over the last several months to negotiate a wage reopener and tuition. Unfortunately, the City and SEIU were unable to obtain agreement on wages and on May 10, 2011, SEIU declared impasse. In accordance with the City's Meet and Confer Ordinance, the City is required to outline the areas of disputes and agreements for Council's consideration.

Because SEIU is currently covered by a three-year MOU, the negotiations for Fiscal Year 2011/12 were limited to a wage reopener and tuition reimbursement. Ongoing dollars of \$760,299.00 were made available for SEIU to use toward wages for FY 2011/12. On the first day of negotiation, management presented SEIU with six options for consideration that were within the budget allocated for SEIU negotiations:

| <u>Options:</u> | <u>Description:</u> | <u>Total Cost:</u> |
|-----------------|--|--------------------|
| A | Restore top of range pay .5% COLA 2.8% Merit | \$758,268 |
| B | Restore top of range pay 1% COLA 1.7% Merit | \$759,002 |
| C | 1% COLA 2.8% Merit | \$761,768 |
| D | 2.25% COLA | \$756,000 |
| E | Restore top of range 1.8% COLA | \$769,300 |
| F | Restore top of range 3.9% Merit | \$757,534 |

While this was not an exhaustive list of options, Staff hoped it would generate discussions with SEIU regarding their preferences on how to best apply the ongoing budgeted monies. Management and SEIU met five times from February through April 1, 2011, and were able to reach agreement on several items proposed by the City. SEIU ultimately withdrew their initial proposals that were submitted as part of the wage and tuition reopeners with the exception of their proposal of a one-time payment of \$1,200 to each employee costing \$881,700. Unfortunately, SEIU did not engage in discussions with management concerning the ongoing monies until Friday, April 1, 2011. At that meeting, SEIU presented a proposal to increase SEIU's pay grade structure by 62 cents per hour. Management expressed concerns that a flat-rate increase would create compression and erosion issues within the pay structure.

In accordance with the City's amended Meet and Confer Ordinance, SEIU met with the Mayor and City Council on Monday, April 4, 2011, and presented their flat-rate increase proposal as well as their one-time payment proposal. Management presented their concerns to the City Council regarding the remaining SEIU proposals at the executive session on April 14, 2011.

Management and SEIU reconvened negotiations on April 19, 2011. Management explained in detail the issues that would result from the implementation of the flat-rate increase to the pay structure. Management clearly informed SEIU that Council would not support a flat-rate increase or the one-time payment proposal. The one-time payment was too costly. To explain the City's concerns regarding the flat-rate proposal, the following information was presented to the SEIU bargaining team:

1. A flat-rate increase to the compensation structure erodes the differentiation between grades.

For illustrative purposes, a chart was presented comparing SEIU's pay grades 10 and 11 and how the pay structure is impacted over five years if a percentage-based methodology is applied to the structure as opposed to a flat-rate increase. When a percentage is applied to a pay plan, the differentiation between grades is consistently maintained at the current structure of 5%. When a flat-rate is applied, the differentiation starts to erode causing compression between grades.

The City Personnel Rules require a minimum of a 5% wage increase for promotions and reclassifications. The flat-rate approach would create compression resulting in a conflict with the City's Personnel Rules and policies as grade differentiations would fall below 5% and some employees would not be able to receive the full 5%. Further, in any pay plan, it is important to differentiate positions by the qualifications that are required to perform the essential job functions. A pay plan should be designed to compensate for those qualifications. When pay grades get compressed, the structure erodes, making it difficult to adequately defend how positions and corresponding pay are differentiated within the pay plan.

The City's current hierarchical and traditional pay structure ensures parity and consistent application of the City's Personnel Rules and policies. It provides enough distinction to ensure that positions that require higher education and skills are differentiated and compensated appropriately within the pay plan. These are critical components of a pay plan because the structure provides for fair application of City policies, which is legally defensible.

2. The flat-rate increase proposed by SEIU would adversely impact 60% of their represented employees when compared with the 2.25% increase which is applied across-the-board to all grades.

A chart was presented illustrating the salary grades for SEIU positions on the horizontal axis and the percentage of pay increase on the vertical axis. The bar graph shows the pay increase, as a percentage of pay that employees in each grade would receive if the pay grade was increased by 50 cents per hour. (Note: SEIU's original proposal of a 62-cent-per-hour increase did not take into consideration benefit costs. Monies budgeted for negotiations would cover a 50-cent-per-hour pay rate adjustment, with associated benefit costs.)

The City's position is that a Cost-of-Living Allowance (COLA) adjustment based on a percentage of salary is the best solution if it is SEIU's desire to use ongoing monies for an across-the-board wage increase. In this case, the COLA would be a 2.25% increase to each covered employee, which would maintain the integrity of the pay structure.

When comparing the 2.25%-based COLA with SEIU's flat-rate proposal, employees in positions from grades 16 to 23 would receive less than a 2.25% wage increase under SEIU's proposal. There are 353 employees in grades 16 and above representing 60% of the employees represented by SEIU. In addition to the impact to the pay structure, management also has concerns about potential employee relations issues this would cause if it were implemented. Management shared all of these concerns with SEIU prior to impasse.

The amended Meet and Confer Ordinance allows the parties to mutually agree to extend negotiations to no later than May 15th. This year, the deadline fell on Friday, May 13th. All of the

employee groups agreed to cancel negotiations during the week of April 25th, due to scheduling conflicts.

Negotiations were scheduled to resume with SEIU on May 3rd and 10th. SEIU cancelled the meeting scheduled for May 3rd leaving only the May 10th meeting to reach an agreement before the final deadline. Although Management expressed concerns about canceling the May 3rd meeting altogether, SEIU did not seek to reschedule it. Management met with SEIU on May 10th. SEIU rescinded their one-time payment proposal and the informed Management that they intended to go to impasse seeking approval of the flat-rate increase proposal.

The amended Meet and Confer Ordinance was intended to create a process that allows for both employee organizations and management to present areas of dispute to the City Council prior to the close of negotiations. The ability for management to obtain further or different direction from the Council while negotiations are still in progress, improves the likelihood of obtaining an agreement. SEIU was given the opportunity to present their areas of dispute to Council. Management was given the same opportunity and informed SEIU of the direction that was provided by the Council.

Management was disappointed by SEIU's decision to declare impasse over this issue and their unwillingness to consider or discuss other options that would not adversely impact the City's pay plan.

On June 1, 2011, SEIU officially notified the City that they would like to withdraw the impasse.

The Meet and Confer Ordinance prohibits either party from continuing negotiations beyond May 15th. Management will agree to meet with SEIU in good faith to reach an agreement. In order for this meeting to occur, it will require action from the City Council.

PUBLIC HEARING:

PH1. 2011-12 Final Budget, 2012-21 Capital Improvement Program and 2011-12 Property Tax Levy

MAYOR TIBSHRAENY OPENED THE PUBLIC HEARING AT 7:51 P.M.

PROPERTY TAX LEVY/2011-12 BUDGET:

The property tax levy included in the budget, which will produce a combined property tax rate of \$1.2714, is scheduled for adoption on June 23, 2011.

Resolution No. 4507 adopted the Tentative Budget in the amount of \$676,533,227 on May 26, 2011, and scheduled the public hearing for the Council meeting on June 9, 2011. Notification was made through public notices in the Arizona Republic on June 2 and 7, 2011. Arizona Revised Statutes provide that the total amounts proposed to be spent in the final budget shall not exceed the total amounts that were proposed for expenditure in the published tentative estimates.

The amended FY 2011-12 Annual Budget totals \$676,533,227 and includes an operating budget of \$256,876,029, capital expenses (non-grant) of \$228,756,840, funding for Debt Service of \$57,972,627, interfund charges for capital replacement of \$3,728,975, grant expenses of

\$51,056,250, plus a contingency and reserve in the amount of \$78,142,506. Included in the projected operating revenues of \$429,661,307 are property tax levies of \$31,802,600 based on the rate of \$1.2714 per \$100 assessed property value.

2012-2021 CAPITAL IMPROVEMENT PROGRAM:

City Charter requires at a minimum that the City Council present a 5-Year Capital Improvement Program (CIP) for the City of Chandler before June 15th of the current fiscal year. The 2012-2021 Capital Improvement Program, which totals \$958,138,687, was amended from the proposed with direction from Council. Information regarding the various capital scenarios, cost estimates, methods of financing, recommended time schedules and estimated annual operation cost were presented at the Budget Briefing on May 6, 2011.

As required, a Notice of Public Hearing for hearing taxpayers on the proposed property tax levies was published in the Arizona Republic on June 2 and 7, 2011. Also as required, a Notice of Public Hearing for final adoption of the 2011-12 Annual Budget and Ten Year Capital Improvement Program (CIP), as well as budget schedules and general summary of the forecasted 2012-2021 Capital Improvement Program, was posted on the official City website www.chandleraz.gov and published in The Arizona Republic on June 2 and 7, 2011.

Following the close of this public hearing, Council is asked to make a motion to adopt the 2011-12 amended budget and to adopt the amended 2012-2021 Capital Improvement Program. Copies of the tentative budget and Capital Improvement Program are available for public review at the offices of the City Clerk and Management Services Budget Division.

Management Services Director DENNIS STRACHOTA explained to the Council that the budget resolution established the next year's budget of \$676,533,227.00 including approved amendments. In addition, the resolution consisted of the Capital Improvement Program of \$958,138,687.00. He clarified that the first year of the CIP was included in the budget, with the remaining 9 years serving as a planning guide. He told the Council that final action on the budget would occur in two weeks to act on an ordinance to establish the FY 2011-12 Tax Levy.

MR. WARREN PITMAN expressed concern over the City spending money through a tax levy. He did not oppose a tax levy but wanted to make sure that there was a cap on the levy and that it did not continue in perpetuity. He noted that a set amount of funds were needed for the City to conduct projects and reiterated that he hoped that returns were made once property values went back up.

MAYOR TIBSHRAENY thanked Mr. Pitman for his feedback. He explained that the tax levy was looked at every year along with the budget by the Council and staff. He clarified that it was something that did not go on in perpetuity.

COUNCILMEMBER ORLANDO stated that the Council had previously reduced taxes even during the time in the 1990's when there was high power growth. He stated that the increase that was being done would pay for the bonds that were done years ago for the infrastructure that is in place today. He noted that the Council had previously reduced rates as assessed values had gone up. In addition, he noted that the Council had been encouraged to raise rates last year but did not do so.

COUNCILMEMBER HARTKE indicated that it was the Council's goal to keep taxes as low as possible.

COUNCILMEMBER WENINGER agreed with Mr. Pitman's comments. He believed that in the future the rate should be kept consistent, so that there was predictability to it. He believed that the Council would discuss in future years the possibility of a buffer.

COUNCILMEMBER HEUMANN clarified that the amount of money that people would pay would go down by 7%. He thanked Mr. Pitman for his comments.

MAYOR TIBSHRAENY CLOSED THE PUBLIC HEARING AT 8:01 P.M.

CURRENT EVENTS:

A. Mayor's Announcements

Mayor Tibshraeny announced the City of Chandler had won the Food Drive Competition against the Town of Gilbert, which will result in the Town of Gilbert's Council having to wear City of Chandler t-shirts at one of their Council meetings. The City of Chandler raised 5,929 lbs. of food, with Gilbert raising 3,669 lbs. of food.

Mayor Tibshraeny congratulated Gangplank for being named one of the 100 Brilliant Companies by Entrepreneur Magazine. He noted that Gangplank was the only Arizona business being named.

Mayor Tibshraeny announced that the Mayor's Listening Tour would continue on June 14, 2011 at the Neighborhood Advisory Committee meeting at San Tan Elementary School.

Mayor Tibshraeny congratulated Vice-Mayor Donovan on her wedding.

B. Councilmembers' Announcements

Councilmember Heumann expressed his thoughts and prayers were with those affected by the Wallow Fire in northern Arizona. He announced that Coach and Willie's was now open in Downtown Chandler and congratulated the Sun Devil's Ladies Softball team for winning the National Championship

Vice-Mayor Donovan thanked everyone for the congratulatory comments on her wedding.

C. City Manager's Announcements

None.

Adjournment: The meeting was adjourned at approximately 8:05 p.m.

ATTEST: _____
City Clerk

Mayor

Approved: June 23, 2011

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the City Council of Chandler, Arizona, held on the 9th day of June 2011. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this _____ day of June, 2011.

City Clerk