

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, March 8, 2012 at 7:00 p.m.

THE MEETING WAS CALLED TO ORDER BY MAYOR JAY TIBSHRAENY.

The following members answered roll call:

Jay Tibshraeny	Mayor
Jeff Weninger	Vice-Mayor
Kevin Hartke	Councilmember
Rick Heumann	Councilmember
Matt Orlando	Councilmember
Jack Sellers	Councilmember
Trinity Donovan	Councilmember

Also in attendance:

Rich Dlugas	City Manager
Pat McDermott	Assistant City Manager
Mary Wade	City Attorney
Marla Paddock	City Clerk

INVOCATION: Councilmember Donovan

PLEDGE OF ALLEGIANCE: Councilmember Heumann

UNSCHEDULED PUBLIC APPEARANCES: None.

CONSENT:

MAYOR TIBSHRAENY noted that Item No. 11 (Res. 4579 Transportation Enhancement Funds) was withdrawn by staff.

MOVED BY COUNCILMEMBER HARTKE, SECONDED BY VICE MAYOR WENINGER, to approve the Consent Agenda with the change as noted.

COUNCILMEMBER HEUMANN VOTED NAY ON ITEM 13.

COUNCILMEMBER ORLANDO inquired why Item No. 11 was withdrawn. CITY MANAGER DLUGAS replied that further review regarding the quiet zone and the necessity to have gates over the pedestrian crossing over the tracks was needed.

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

1. MINUTES:

APPROVED the minutes of the Chandler City Council Special Meeting of February 23, 2012.

2. REZONING: Waters at Ocotillo – Parcels 1 & 4

Ord. #4349

ADOPTED Ordinance No. 4349, DVR11-0035 Waters at Ocotillo – Parcels 1 & 4, rezoning from PAD zoning for multi-family uses to PAD Amended zoning for single-family uses along with PDP for two single-family residential subdivisions located near the intersection of Market Place and Jacaranda Parkway.

3. REZONING: Chandler Center Commons Ord. #4350

ADOPTED Ordinance No. 4350, DR11-0048 Chandler Center Commons, rezoning from PAD to PAD Amended to allow additional uses within the Chandler Center Commons development at 5500-5590 W. Chandler Boulevard.

4. CITY CODE AMENDMENT: Chapter 5 Ord. #4351

ADOPTED Ordinance No. 4351 amending Chapter 5 of the City Code relating to Risk Management.

5. REZONING: Finisterra Ord. #4352

ADOPTED Ordinance No. 4352, DVR11-0038 Finisterra, rezoning from Single-Family Residential (SF-18) to PAD for a 133-lot single-family residential subdivision on approximately 40.8 acres located at the SWC of Ocotillo Road and the future 148<sup>th</sup> Street alignment.

6. LEASE AGREEMENT: ASU Ord. #4356

ADOPTED Ordinance No. 4356 authorizing a lease agreement with Arizona State University (ASU) for property located at 249 E. Chicago Street.

7. REZONING/PRELIMINARY PLAT: North East Cooper & Riggs Ord. #4334

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4334, DVR10-0014 North East Cooper and Riggs, rezoning from AG-1 to PAD along with PDP for an 84-lot single-family residential subdivision on 32 acres and PAD zoning for commercial development on 7.5 acres located at the NEC of Cooper and Riggs roads.

PRELIMINARY PLAT PPT10-0002 North East Cooper and Riggs, for an 84-lot single-family residential subdivision on 32 acres and PAD zoning for a commercial development on 7.5 acres located at the NEC of Cooper and Riggs roads. (Applicant: Michael Jorgensen; Cawley Architects.)

Note: This request has been continued a number of times due to the property owner being located out of the country and obtaining an executed Proposition 207 waiver. Staff has received the executed waiver.

The subject site is located at the NEC of Cooper and Riggs roads and is currently vacant and used as farm land. East, adjacent to the site, is an additional 40 acres currently in the jurisdiction of the County. North are the Barrington and Circle G at Riggs Ranch single-family residential subdivisions and an SRP substation. South, across Riggs Road, is the Cooper Commons single-family residential subdivision; west, across Cooper Road, is the Riggs Country Estates single-family residential subdivision and an approximate three-acre commercial office condominium development.

Based on the General Plan, the subject site is located within the Southeast Chandler Area Plan (SECAP) and designated as supporting "Rural/Agrarian Character" type neighborhoods. The SECAP allows for residential density to be 2.5 dwelling units per acre and provides provision for up to 3.5 dwelling units per acre, based upon amenities provided to the subdivision. The subdivision provides a density of 2.75 dwelling units per acre based on the net acreage (the site plan within the booklet states the density at 2.5) of the subdivision. The subdivision provides the required number of amenities to achieve the proposed density; some of the design amenities will be provided during the housing product review. Housing product is not currently being provided and will require separate Preliminary Development Plan submittal and approval.

#### LAYOUT

The subdivision has a main curvilinear spine running east/west off of Cooper Road that will connect the development with a future subdivision located on the adjacent eastern 40 acres. An additional access point is provided off of Riggs Road that terminates at a small focal point located within a larger open space area. Large landscape tracts are provided along both frontages; however, due to the power lines and substation along Cooper Road, the landscaping will not be as extensive as is provided along Riggs Road due to maintenance concerns and access to the power lines. Rural theming is provided primarily at the entrances of the subdivision with the use of split rail fencing.

Due to the location of the site within the SECAP and the requested density, two optional elements are required; the site meets the requirement by providing 15% open space (5% more than required), and visible open space with views to the San Tan Mountains. In addition to meeting the density requirements within the SECAP, the subdivision also has to meet a number of the Residential Development Standards. In addition to the required 8 elements, an additional 10 optional elements are required. The requirements and how they are satisfied are provided in the development booklet; however, some of the provided elements include providing and grouping wider side yards, having a curvilinear street system, and different lot widths (between 65 to 75 feet wide).

The subdivision is providing 84 lots ranging in size from 7,900 square feet up to 11,761 square feet with the typical lot size of 10,317 square feet. As shown on the site plan, initially 83 lots will be developed with lot 84 serving as a temporary retention basin until the development of the adjacent site. Upon development of the adjacent site, lot 84 will be developed as an additional home site.

In addition to the residential subdivision, the request also includes a request to rezone the immediate corner to PAD for Neighborhood Commercial uses. While the Rural/Agrarian designation is the lowest density designation in the SECAP and promotes the rural/agrarian lifestyle, the SECAP provides provision to allow for non-residential development to occur in a low-intensity manner. As the current request provides, the underlying designation of the site will allow development to occur consistent with the least intense commercial designation. Future Preliminary Development Plan submittal and approval are required for the commercial corner.

The request was continued from the October 5<sup>th</sup> Planning Commission hearing in order for the subdivision to be reviewed by the DRC. Concern expressed at the October 5<sup>th</sup> Planning Commission hearing primarily involved the landscape palette, wall details, subdivision signage, and the amenity area. The design team has made modifications to the landscape palette reflecting the concerns expressed by the DRC.

The Planning Commission and Staff support the request for Rezoning and PDP approval for development of a residential subdivision, citing that the design meets the requirements for subdivision development as outlined within the Residential Development Standards and the SECAP. Additionally, the current design allows for the natural continuation of residential development to the eastern 40 acres in the future. The inclusion of the small neighborhood commercial corner allows for additional services to be provided in the area, yet prevents large scale commercial development from occurring maintaining consistency with the goals of the SECAP.

#### PUBLIC/NEIGHBORHOOD NOTIFICATION

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on November 16, 2010. There were two neighbors in attendance with general questions about the proposed use. Staff has received a couple of phone calls with general questions. Staff has not received any correspondence in opposition to this request.

#### RECOMMENDED ACTIONS

##### **Rezoning**

Upon finding the consistency with the General Plan and the SECAP, the Planning Commission and Staff recommend approval subject to the conditions listed in the ordinance.

##### **Preliminary Development Plan**

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

1. Preliminary Development Plan approval as granted herein shall apply to the subdivision layout only.
2. Development shall be in substantial conformance with Exhibit No. 6, Development Booklet, entitled "COOPER RIGGS PROJECT", and kept on file in the City of Chandler Planning Division, in File No. DVR10-0014, except as modified by condition herein.
3. The tot lot shall be a minimum of 20 total play stations.
4. All homes built on corner lots within the residential subdivision shall be single-story.
5. For lots adjacent to an arterial street, two-story homes are limited to every third lot, with no more than two, two-story homes built side-by-side.

##### **Preliminary Plat**

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

1. Approval by the City Engineer and Director of Transportation & Development with regard to the details of all submittals required by code or condition.

8. R-O-W VACATION: Gilbert Road and Iris Drive Ord. #4342

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4342 authorizing the vacation of the right-of-way on the east side of Gilbert Road and the Iris Drive alignment. Based upon the original design of the Gilbert Road Improvements project from Queen Creek Road to Riggs Road, ST-0809, Lennar-Layton, LLC dedicated an access point for Iris Drive on the east side of Gilbert Road. However, due to changes in the design of the project, this access point is no longer required.

9. AGREEMENT RENEWAL: Zayo Group, LLC Ord. #4354

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4354 authorizing renewal of the agreement with Zayo Group, LLC for the use of facilities in the City's rights-of-way and public places executed May 15, 2007.

The City granted AGL Networks, LLC, an agreement for the Use of Facilities in the City's Rights-of-Way and Public Places, on May 15, 2007, in order to install, operate and maintain an underground optical fiber-based communications network in the public right-of-way of the City with a Class 5 License (Fiber Optic Cable, Interstate Services and Other Communication Facilities excluded from the definition of "Telecommunications"). This Agreement was amended on May 17, 2011, to account for the change in ownership of the company to Zayo Group LLC, as well as setting terms for the company to operate under both a Class 4 and Class 5 license. This ordinance renews the Agreement for an additional 5-year term.

10. LICENSE FIRST AMENDMENT: SRP Res. #4575

ADOPTED Resolution No. 4575 authorizing the execution of the First Amendment to License extending an existing ten (10)-year license agreement from Salt River Project (SRP) to the City of Chandler for the continued use of certain real property that contains existing City water and sewer service lines, located at the Gila drain, south of Ray Road and west of the Pineview Unit One subdivision.

Salt River Project, on behalf of the United States of America, has agreed to extend the existing license agreement for an additional ten (10) year term from the current June 1, 2012, to May 31, 2022, at no cost to the City. The current license expires on May 31, 2012. The license will continue to provide permission to enter upon, use and maintain certain City-owned water and sewer facilities along the Gila Drain canal bank within an 8,772 square-foot strip easement owned by the USA. Pursuant to contracts with the USA, SRP is the authorized licensor and manages the licensed property.

11. APPLICATION: Transportation Enhancement Funds Res. #4579

WITHDRAWN - Resolution No. 4579 authorizing an application for Transportation Enhancement Funds for an approximate total of \$486,125.00 (Federal Funds \$453,701.00; Local Match \$27,424.00; ADOT Review Fee \$5,000.00) for an approximate total of \$486,125.00 for the Western Canal Multi-Use Path Crossing at the Union Pacific Railroad;

12. AGREEMENT: Union Pacific Railroad Company Res. #4580

ADOPTED Resolution No. 4580 authorizing an agreement with the Union Pacific Railroad Company for the reconstruction and widening of Ocotillo Road/Union Pacific Railroad Crossing east of Arizona Avenue in an estimated amount of \$62,125.00; and authorizing the City Engineer to execute, deliver and deposit into escrow, the approved agreement along with all other documents and instructions necessary to consummate the transaction.

In connection with the Ocotillo Road Improvements project, the existing at-grade public railroad crossing east of Arizona Avenue requires reconstruction and widening for a new four lane roadway. The work involves installation of new concrete panels, rail, automatic flashing crossing light signals with gates and construction flagging services. An agreement for a new Public Highway At-Grade Crossing Improvement with Union Pacific Railroad (UPRR) is required to grant the City a property right to establish and construct the new crossing.

Upon execution and delivery of this agreement, the City will pay UPRR the sum of \$27,400.00 to establish the property right and the City will also reimburse UPRR for actual costs incurred by the railroad for the installation of the crossing in an estimated amount of \$584,725.00; for a total estimated amount of \$612,125.00. Additionally, the City will seek approval of the new crossing from the Arizona Corporation Commission.

13. SETTLEMENT: Five Son's Furniture AZ, LLC

COUNCILMEMBER HEUMANN voted nay on this item.

APPROVED (6-1) a settlement in City of Chandler v. Five Son's Furniture AZ, LLC, in the sum of \$126,580.00 plus statutory interest.

The City of Chandler submitted an offer to purchase right-of-way and a temporary construction easement for the Alma School Road and Ray Road Intersection Improvement project (ST-0704) to ACC Retail Associates, LLC, in August of 2009 in the amount of \$89,490.00. The City's original offer was rejected by ACC Retail Associates, LLC. Further negotiations were not successful and the City filed an eminent domain action and was granted an Order of Immediate Possession. The Order of Immediate Possession was later amended to include a power easement required by Salt River Project (SRP). Payment for the SRP easement is included in the agreed settlement amount. In the interim, ACC sold the property to Five Son's Furniture AZ, LLC. The City continued to negotiate with ACC and finally the new owner, Five Son's. Both sides supported their respective positions with appraisals and engineering reports from reputable and experienced appraisers and engineering firms. As a result of purchasing the property, Five Son's became the successor in interest to ACC and was substituted in the condemnation action for ACC. Five Son's will receive payment of the settlement amount.

A settlement has been reached for the additional sum of \$37,090.00 for a total of \$126,580.00 plus accrued statutory interest on the entire amount. Staff recommends the settlement as a fair and reasonable compromise.

14. AGREEMENT AMENDMENT: Somerset Landscape Maintenance, Inc.

APPROVED Agreement #CS9-988-2708, Amendment No. 1, with Somerset Landscape Maintenance, Inc., for retroactive payment in the amount of \$45,589.15 for parks and facilities landscape maintenance services performed between May 31, 2011, and August 31, 2011.

In May 2009, Council approved a two-year agreement with Somerset Landscape Maintenance for landscape maintenance services at various City parks and facilities. The initial term of the agreement was June 1, 2009 through May 31, 2011. The City reserved the right to extend the agreement for up to three one-year terms. Last spring, it was determined by City Staff that this was a contract that could be combined with another landscape contract expiring around the same time with the hopes of receiving better pricing and so the contract was not renewed. Due to the time it took to award the new contract, services from Somerset were continued for three months past the contract period. In addition to regular maintenance of the sites included in the contract, the annual trimming of 338 palm trees and pre-emergent herbicide application in the parks occurred during that time period. The result is the need to retroactively extend the agreement to request additional funds in the amount of \$45,589.15 to pay Somerset for services performed between May 31, 2011 and August 31, 2011.

15. CONTRACT: Professional Medical Transport, Inc.

AWARDED Contract #FD1-990-2691 to Professional Medical Transport, Inc. (PMT), for emergency transportation services for four years with options to renew for two additional four-year terms. The new contract places a Chandler Firefighter Paramedic on six and one-half (the half time ambulance is staffed 12 hours a day) ambulances handling 99% of the Emergency Medical Service transports.

16. CONTRACT CHANGE ORDER: Achen-Gardner Construction, LLC

APPROVED Construction Manager at Risk Contract #WW1104-401, Change Order No. 1, with Achen-Gardner Construction, LLC, for the Ocotillo Water Reclamation Facility (OWRF)/Airport Water Reclamation Facility (AWRF) lift station and deep sewer, in an amount not to exceed \$2,131,632.13 for a revised total contract amount not to exceed \$14,817,414.84, contingent upon written notification from Intel and appropriate funding.

Work included in this change order is required due to redefinition of wastewater characteristics from Intel. Design for this added work is being completed by Wilson Engineers as part of their contract amendments approved by Council on January 26, 2012.

17. JOB ORDER CONTRACT: SDB, Inc.

AWARDED Job Order Contract #1201-401 to SDB, Inc. for general construction services for one year, with the option of four one-year extensions, in an amount not to exceed \$2,000,000.00.

18. JOB ORDER CONTRACT: Chasse Building Team, Inc.

AWARDED Job Order Contract #1202-401, to Chasse Building Team, Inc., for general construction services for one year, with the option of four one-year extensions, in an amount not to exceed \$1,000,000.00.

19. JOB ORDER CONTRACT: CORE Construction, Inc.

AWARDED Job Order Contract #1203-401 to CORE Construction, Inc., for general construction services including major and minor construction projects, renovations and repairs, additions demolition, and re-construction and alteration services for one year, with the option of four one-year extensions, in an amount not to exceed \$1,000,000.00.

20. SPECIAL EVENT LIQUOR LICENSE: All Sports Foundation, Inc.

APPROVED a Special Event Liquor License for All Sports Foundation, Inc., for a St. Patrick's Day 2012 fundraising event on March 16 & 17, 2012, at Mama's House, 2394 N. Alma School 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 has no objections to this event and the applicant has applied for a Temporary Sales and Promotional Event Permit through Neighborhood Resources.

21. CONTINUED LIQUOR LICENSE: Irish Republic Public House

CONTINUED TO MARCH 22, 2012, a Series 6 Bar Liquor License, for Randy D. Nations, Agent, Murphy's Law 58 LLC, dba Irish Republic Public House, 58 S. San Marcos Place, to allow the applicant time to complete the requirements for a new Use Permit

22. CONTINUED LIQUOR LICENSE: Yummy Grill Buffet

CONTINUED TO MARCH 22, 2012, a Series 12 Restaurant Liquor License for Min Feng Lu, Agent, Yummy Buffet LLC, dba Yummy Grill Buffet, 2100 S. Gilbert Road, Suite 1, to allow the applicant time to complete the requirements for a new Use Permit

23. CONTINUED LIQUOR LICENSE: Szechwan Garden

CONTINUED TO APRIL 12, 2012, a Series 12 Restaurant Liquor License for Ying Tao, Agent, Hong's USA LLC, dba Szechwan Garden, 5055 W. Ray Road, Suite 1, to allow the applicant time to complete the requirements for a new Use Permit.

24. SETTLEMENT: Vida Mae Lori v. City of Chandler CV2009-006612

AUTHORIZED the settlement in the matter of Vida Mae Lori v. City of Chandler, Maricopa County Cause No.CV CV2009-006612, by payment from the City of Chandler of the sum of \$45,000.00 in full and final satisfaction of all claims asserted therein and further authorize the City Attorney to sign any necessary documents in such form as are approved by the City Attorney to effectuate the terms of settlement and this motion.

This lawsuit stems from a slip and fall accident that occurred on the sidewalk at the Chandler Center for the Arts on March 2, 2008.

PUBLIC HEARINGS:

The Mayor noted that both Public Hearings were cancelled.

PH1. ANNEXATION CANCELLATION: NEC Queen Creek and Gilbert Roads

Staff recommends a cancellation of the public hearing for the annexation of approximately 2.3 acres located east of the northeast corner of Queen Creek and Gilbert roads due to an inaccuracy in the filing. It is anticipated that the annexation public hearing will be held at the March 22, 2012, City Council meeting in accordance with Arizona Revised Statutes.

PH2. ANNEXATION CANCELLATION: NEC Queen Creek Road and Union Pacific Railroad

Staff recommends cancellation of a public hearing for the annexation of approximately 14.5 acres east of the northeast corner of Queen Creek Road and the Union Pacific Railroad as the applicant is no longer pursuing annexation of this property.

CURRENT EVENTS:

A. Mayor's Announcements

The Mayor's Committee for the Aging is hosting the 22<sup>nd</sup> Annual Senior Expo on Wednesday, March 21<sup>st</sup> from 9 a.m. to noon at the Chandler Community Center.

