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MINUTES OF THE REGULAR MEETING OF THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, held in the Council Chambers, 88 E. Chicago Street, on Thursday, May 24, 2012 at 7:14 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
	Trinity Donovan	Councilmember
	*Kevin Hartke	Councilmember
	Rick Heumann	Councilmember
	Matt Orlando	Councilmember
	Jack Sellers	Councilmember

*Councilmember Hartke participated in the meeting via telephone.

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

INVOCATION: Councilmember Trinity Donovan

PLEDGE OF ALLEGIANCE: Councilmember Orlando led the Pledge of Allegiance.

UNSCHEDULED PUBLIC APPEARANCES:

None.

CONSENT:

MOVED BY VICE-MAYOR WENINGER, SECONDED BY COUNCILMEMBER ORLANDO, to approve the Consent Agenda as presented.

MOTION CARRIED UNANIMOUSLY (7-0).

1. MINUTES:

APPROVED the minutes of the Chandler City Council Regular Meeting of May 10, 2012.

2. CITY CODE AMENDMENT: Chapter 1 Ord. #4361

ADOPTED Ordinance No. 4361 amending Chapter 1 of the Chandler City Code, adding a new Section 1-13 pertaining to licensing inspection procedures.

3. R-O-W VACATION: 55 W. Chicago Street Ord. #4370

ADOPTED Ordinance No. 4370 authorizing the vacation of a 5-foot strip of right-of-way and extinguishment of an easement at 55 W. Chicago Street.

4. CITY CODE AMENDMENT: Chapter 43 Ord. #4365

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4365 repealing Chapter 43 of the Chandler City Code and adding a new Chapter 43 for the purpose of merging the Department of Public Works and the Department of Planning and Development into a single Transportation and Development Department; and making conforming amendments to various sections and subsections of Chapters 8, 11, 32, 38, 40, 41, 45, 46, 47, 48, 49, 51, 52, 53 and 54.

City Charter Section 2.08 gives the City Council authority for the creation of any new City department or the consolidation, alteration or abolishment of existing departments. On May 27, 1999, Ordinance No. 2970 adopted Chapter 43 of the Chandler City Code which created a Department of Public Works to be overseen by a Director. On November 18, 1999, Ordinance No. 3063 was adopted to enact Chapter 35, Article 1 of the Chandler City Code, established a Planning and Development Department for the City with a Director. This ordinance sets the stage to merge the two departments into the new Transportation and Development Department and makes conforming amendments to City Code Chapters 8, 11, 32, 38, 40, 41, 45, 46, 47, 48, 49, 51, 52, 53 and 54 to support this merger. At some point in the future, there may be an additional ordinance brought to Council to make some additional amendments to Chapter 35 (zoning) and Chapter 39 (sign code, as required by State Statutes).

The primary changes made by this ordinance are change of department name, director's title and transferring the authority and duties from the Public Works and Planning and Development departments and their directors to the newly created Transportation and Development Department and Director. It also updates the edition and number of standards, details specifications and/or policies regarding public improvements. The merger of the two departments will create a number of efficiencies through the streamlining and integration of staffing and procedures.

5. INTERGOVERNMENTAL AGREEMENT: Maricopa County Department of Transportation Res. #4582

ADOPTED Resolution No. 4582 authorizing an Intergovernmental Agreement (IGA) with the Maricopa County Department of Transportation for cost sharing for improvements to Ocotillo Road from Arizona Avenue to McQueen Road.

BACKGROUND/DISCUSSION

The City of Chandler is planning to construct improvements to Ocotillo Road from Arizona Avenue to McQueen Road in late FY 2013 and early FY 2014. These improvements will result in a four lane roadway with curb, gutter, sidewalk, streetlights, landscaping, and improved railroad crossing, utility relocations and an extended SRP canal crossing. Along this section of Ocotillo Road, there are existing County island properties representing about 30% of the project frontage. Because these improvements benefit the County island residents, the Maricopa County Department of Transportation (MCDOT) is participating in the funding of this project at 30% of the project cost, less City enhancements. The City enhancements that MCDOT will not participate in funding include landscaping, street lighting and undergrounding overhead utilities. The estimated construction cost is \$9.9 million including City enhancements and \$8.768 million not including City enhancements.

However, the recent award of the Highway Safety Improvement Program (HSIP) grant in the amount of \$3,973,634.00 will lower both the City's and MCDOT's total cost participation in the project. The construction cost of the project less the HSIP grant amount will be the amount shared between the City and MCDOT. MCDOT's share of the project is \$1.438 million.

After completion of all the right-of-way acquisition, the City will process annexation of the Ocotillo Road right-of-way and maintain the roadway.

TRANSPORTATION COMMISSION

During the Transportation Commission meeting held on May 9, 2012, the Commission voted unanimously to forward a recommendation to Council authorizing the City to enter into an Intergovernmental Agreement (IGA) with the Maricopa County Department of Transportation for cost sharing for Improvements to Ocotillo Road from Arizona Avenue to McQueen Road.

FINANCIAL IMPLICATIONS

The programmed funding for this project is:

\$3,973,634	HSIP Grant
\$ 891,366	City Bond funding
\$3,596,542	City Prop 400 funding
<u>\$1,438,458</u>	<u>MCDOT Prop 400 funding</u>
\$9,900,000	Total Estimated Project Cost

\$5,035,000 in Prop 400 funding is programmed in the February 22, 2012 Arterial Life Cycle Program (ALCP) for reimbursement to the City and MCDOT for this project; \$2,640,000 in FY 2016 and \$2,395,000 in FY 2022. The City will seek advance reimbursement of these funds in the MAG Arterial Life Cycle program close-out process.

At the completion of the construction, the actual cost of the project elements will be used to determine the final cost that MCDOT will be responsible for under the terms of this agreement.

6. INTERGOVERNMENTAL AGREEMENT: Maricopa County Department of Transportation Res. #4583

ADOPTED Resolution No. 4583 authorizing an Intergovernmental Agreement (IGA) with the Maricopa County Department of Transportation for cost sharing for improvements to Gilbert Road from Queen Creek Road to Hunt Highway.

BACKGROUND/DISCUSSION

The City of Chandler is planning to make improvements to Gilbert Road from Queen Creek Road to Hunt Highway. These improvements will result in a six-lane roadway from Queen Creek Road to Ocotillo Road and a four-lane roadway from Ocotillo Road to Hunt Highway with curb, gutter, sidewalk, streetlights, landscaping, utility relocations and an extended Roosevelt Water Conservation District (RWCD) canal crossing. Along this section of Gilbert Road, there are existing County island properties representing about 13% of the project frontage. Because these improvements benefit the County island residents, the Maricopa County Department of Transportation (MCDOT) is participating in the funding of this project at 13% of the project cost, less City enhancements. The City enhancements that MCDOT will not participate in funding include landscaping, street lighting and undergrounding overhead utilities. This agreement will include cost sharing on the segment of Gilbert Road currently under construction, Queen Creek

Road to Ocotillo Road. The estimated construction cost is \$32.4 million including City enhancements and \$26.67 million not including City enhancements.

The construction cost of the project less the amount of any future grants will be the amount shared between the City and MCDOT. MCDOT's share of the project is \$3.468 million. After completion of all the right-of-way acquisition, the City will process annexation of the Gilbert Road right-of-way and maintain the roadway.

TRANSPORTATION COMMISSION

During the Transportation Commission meeting held on May 9, 2012, the Commission voted unanimously to forward a recommendation to Council authorizing the City to enter into an Intergovernmental Agreement (IGA) with the Maricopa County Department of Transportation for cost sharing for Improvements to Gilbert Road from Queen Creek Road to Hunt Highway.

FINANCIAL IMPLICATIONS

The programmed funding for this project is:

\$12,690,496	City Bond funding
\$16,267,260	City Prop 400 funding
\$ 2,430,740	MCDOT Prop 400 funding
<u>\$ 1,037,004</u>	<u>MCDOT funding</u>
\$32,425,500	Total Estimated Project Cost

\$18,698,000 in Prop 400 funding is programmed in the February 22, 2012 Arterial Life Cycle Program (ALCP) for reimbursement to the City and MCDOT for this project: \$52,000 in FY 2012; \$1,418,000 in FY 2013; \$5,271,000 in FY 2014; \$2,267,000 in FY 2016; \$6,160,000 in FY 2018; \$2,860,000 in FY 2019; and \$670,000 in FY 2023. The City will seek advance reimbursement of these funds in the MAG Arterial Life Cycle program close-out process. The MCDOT funding of \$1,037,004 is programmed for reimbursement to the City in FY 2017 or sooner if they have available funding.

At the completion of the construction, the actual cost of the project elements will be used to determine the final cost that MCDOT will be responsible for under the terms of this agreement.

7. INTERGOVERNMENTAL AGREEMENT: Maricopa County Department of Transportation Res. #4584

ADOPTED Resolution No. 4584 authorizing an Intergovernmental Agreement (IGA) with the Maricopa County Department of Transportation for cost sharing for improvements to McQueen Road from Ocotillo Road to Riggs Road.

BACKGROUND/DISCUSSION

The City of Chandler is planning to make improvements to McQueen Road from Ocotillo Road to Riggs Road. These improvements will result in a four-lane roadway from Ocotillo Road to Riggs Road with curb, gutter, sidewalk, streetlights, landscaping and utility relocations. Along this section of McQueen Road, there are existing County island properties representing about 22% of the project frontage. Because these improvements benefit the County island residents, the Maricopa County Department of Transportation (MCDOT) is participating in the funding of this project at 22% of the project cost, less City enhancements. The City enhancements that MCDOT will not participate in funding include landscaping, street lighting and undergrounding overhead

utilities. The estimated construction cost is \$10.96 million including City enhancements and \$9.46 million not including City enhancements.

The construction cost of the project less the amount of any future grants will be the amount shared between the City and MCDOT. MCDOT's share of the project is \$2.08 million.

After completion of all the right-of-way acquisition, the City will process annexation of the McQueen Road right-of-way and maintain the roadway.

TRANSPORTATION COMMISSION

During the Transportation Commission meeting held on May 9, 2012, the Commission voted unanimously to forward a recommendation to Council authorizing the City to enter into an Intergovernmental Agreement (IGA) with the Maricopa County Department of Transportation for cost sharing for Improvements to McQueen Road from Ocotillo Road to Riggs Road.

FINANCIAL IMPLICATIONS

The programmed funding for this project is:

\$ 3,929,974	City Bond funding
\$ 4,949,880	City Prop 400 funding
\$ 1,396,120	MCDOT Prop 400 funding
\$ 375,000	MCDOT Special Project funding (received)
\$ 309,026	MCDOT funding
<u>\$10,960,000</u>	<u>Total Estimated Project Cost</u>

\$6,346,000 in Prop 400 funding is programmed in the February 22, 2012 Arterial Life Cycle Program (ALCP) for reimbursement to the City and MCDOT for this project; \$3,553,000 in FY 2016; \$1,693,000 in FY 2017 and \$1,100,000 in FY 2022. The City will seek advance reimbursement of these funds in the MAG Arterial Life Cycle Program close-out process. The MCDOT funding is programmed for reimbursement to the City in FY 2017 or sooner if they have available funding.

At the completion of the construction, the actual cost of the project elements will be used to determine the final cost that MCDOT will be responsible for under the terms of this agreement.

8. AREA PLAN AMENDMENT/REZONING: Stonefield Luxury Apartments Res. #4607
& Ord. #4371

ADOPTED Resolution No. 4607, Area Plan Amendment, APL12-0001, Stonefield Luxury Apartments, Area Plan Amendment of the Clemente Ranch Area Plan from Commercial to Multi-Family Residential.

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4371, DVR12-0001, Stonefield Luxury Apartments, rezoning from PAD for a commercial shopping center to PAD for multi-family residential development and PDP for a multi-family residential development on approximately 10.8 acres located at the SEC of Dobson and Germann roads. (Applicant: Mike Perry; Whitneybell Perry, Inc.)

BACKGROUND

The subject site is located at the southeast corner of Dobson and Germann roads. Directly north, across Germann Road, is the Shops at Pecos Ranch commercial center. Directly east and south

of the subject site are the Stonefield and Stonefield II single-family residential subdivisions. West, across Dobson Road, is the Chuparasas commercial development.

AREA PLAN AMENDMENT

The subject site is within the Clemente Ranch Area Plan that is bounded by Germann, Alma School, Queen Creek and Dobson roads. The Area Plan was approved in 1993 as part of the Clemente Ranch master plan community and originally designated the subject site and adjacent areas as supporting development of 13.2 acres for commercial and 18 acres for multi-family development. In 2005, the Area Plan was amended for the Stonefield I single-family residential development which rotated the area designated for commercial from a north/south design to an east/west design and designated the multi-family to medium density single-family residential. While the designated areas were shifted, the acreage amount for each designation within the original area plan was maintained. The current request is to amend the commercial designation to allow for a multi-family development.

SITE LAYOUT

The gated development seeks to provide a luxurious resort style atmosphere incorporating a number of resort style elements including an outdoor demonstration kitchen area, cabanas, bocce court, private outdoor gathering/barbeque areas, shaded tot lot, spa with a fireplace and large pool with a wet deck. The development proposes eight different building types for 14 residential buildings. The development proposes three loft buildings where units are provided above garages, two two-story buildings with a single-story component located at the ends, three different designs for the five two-story buildings and three different designs for the four three-story buildings. One-hundred and ninety-four units are proposed for a total density of 17.96 dwelling units per acre which is consistent with the General Plan. The buildings are designed in staggered north/south, east/west and angled orientations, providing visual interest to the site.

Primary access to the site is provided off of Germann Road; a right-out exit only is located along Dobson Road. While a right-in/right-out movement would be beneficial along Dobson Road, the right-out exit only is limited due to the close proximity of the entrance of the Stonefield II single-family residential subdivision located south of the subject site and the inability of the right-in/right-out driveway to meet design requirements.

Due to the surrounding single-family residential developments, the development team has worked to provide an adequate buffer between the single-family subdivisions and the subject site. The typical 10-foot landscape buffer is provided along the southern and eastern property boundaries; however, the depth of the buffer averages about 18 feet. In addition to the buffers, both subdivisions were designed so that local streets are adjacent to the subject sites' property line increasing the general distance between apartment buildings and single-family homes. Furthermore, a majority of the parking along the southern and eastern boundaries will be designed as either covered or garage parking. Lastly, the design team has located a majority of the three-story buildings closer to the northwest portion of the site where a three-story building is located close to the single-family subdivisions, the building is oriented north/south which effectively reduces the visual impact of the structure.

The development is proposing 360 parking spaces, which is less than what code requires (375); however, 36 tandem parking spaces are provided, which is generally not considered in parking requirements. Of the 360 parking stalls, 247 will either be garage or covered parking. Staff supports the reduction in the parking requirements.

BUILDING ARCHITECTURE

The building architecture is southwest contemporary in design and incorporates a number of elements beneficial to the southwest. Elements include varying building masses that naturally create shading, metal canopies, recessed windows and recessed patio areas. Additionally, the front doors of the units are all located within common breezeways of the various buildings. The building design is atypical of previous approvals and provides a good amount of visual movement. Design elements included are various stacked stone elements depending on the building type, a variety of metal elements including awnings, wrought iron detailing and screening for the patios, various horizontal and vertical building massing elements and stepping parapet heights. Three color schemes are provided so that no two buildings will be alike.

Additionally, with the diverse amount of building types, as well as diversity among the color schemes, the development will provide a substantial amount of divergence that is not typical to multi-family developments. Furthermore, the way a number of the buildings have been designed (eight of the fourteen), breezeways are designed into the building that allows visibility through portions of the building, which further assists in breaking up the building massing.

The Planning Commission and Staff support the Area Plan Amendment, Rezoning and Preliminary Development Plan, citing that the proposed land use is considerable within the General Plan, that in previous renditions of the Area Plan multi-family was considered, and the development provides a much needed housing alternative to the area. Additionally, the design team has done a good job of incorporating unique architectural styles to the buildings allowing for good building diversity throughout the site, as well as incorporating a number of unique and attractive amenities for the residents.

The request seeks relief from the development standard of requiring all structures to be at the 50-foot building setback along arterial streets. The requested relief from the standard is specifically for the building located at the intersection, for the perimeter fence, and two trash enclosures.

The Planning Commission and Staff is supportive of the request for deviation for the building at the arterial intersection, as the encroachment is minimal (five feet) and the angled building design tends to create a more desirous and visually appealing streetscape than a more vertical or horizontal layout of the building. Additionally, Staff supports the request for deviation for both the perimeter fencing and the trash enclosures. While requiring the perimeter fencing to meet the building setback would create greater landscape amounts along the arterials, it would have the effect of compressing all of the buildings on the site, which in return would require the elimination of buildings, thus not making the project feasible. Additionally, setback relief for perimeter fencing of apartment developments is a consideration that has been granted in many instances throughout the City, so precedence is not being set by granting relief. While historically Staff would require the relocation of the trash enclosures to be outside of the building setbacks, in this instance the trash enclosures are located within the setbacks to provide separation from the residential buildings. Staff believes the encroachments are minimal and will ensure additional landscape screening of the trash enclosure is adequate so they are screened as best as possible from street view.

PUBLIC/NEIGHBORHOOD NOTIFICATION

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on April 4, 2012. There were five neighbors in attendance who were generally supportive of the request.

Following the writing of the Planning Commission memo, Staff received a written concern from a resident to the south of the subject site regarding the name of the project and requested that the

name be changed. Staff explained that the name of the development is given by the owner. Additionally, Staff has heard from the Chuparasos development expressing a desire to reduce the overall number of residential stories from three to two in order to be more in keeping with the surrounding area. Staff has received no correspondence in opposition to the request.

RECOMMENDATIONS

Area Plan Amendment

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

Rezoning

Upon finding consistency with the General Plan, 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. Development shall be in substantial conformance with Exhibit 9, Development Booklet, entitled 'STONEFIELD", kept on file in the City of Chandler Planning Services Division, in File No. DVR12-0001, except as modified by condition herein.
2. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
3. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
4. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or association.
5. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.

9. PRELIMINARY DEVELOPMENT PLAN: Calabria

APPROVED Preliminary Development Plan PDP10-0019/PPT12-0003 Calabria, for a new single-family residential subdivision located on approximately 30 acres at the SWC of Brooks Farm and Cooper roads. (Owner/Applicant: Pinnacle Ridge Holdings, LLC.)

BACKGROUND

The application requests PDP approval for conceptual site layout and community landscaping for a new single-family subdivision on approximately 30 acres at the southwest corner of Brooks Farm and Cooper roads. The subject site currently contains an inactive palm tree farm with a small single-family home fronting Cooper Road. To the south are a farm house and narrow farm field. Single-family homes surround the property to the west, north and east. The site received its PAD zoning and Preliminary Development Plan (PDP) approval in 2002 for a 47-lot single-family subdivision. The zoning was extended in 2003, 2006 and 2009. Fires occurred on the site in 2009 and 2011. The applicant has committed to removing the palm trees immediately following this PDP hearing process in order to reduce the fire hazard.

The proposed site layout for this subdivision includes primary vehicular access via Brooks Farm Road on the north and exit-only/emergency access via Tower Avenue on the west. Streets are private and generally form a ring around the rectangular-shaped site. The main entrance, which has a faux guard house in its center median and textured paving, terminates quickly at the centralized open space where it splits east and west. The subdivision's functional open space forms a T comprising the subdivision's central spine in both the north/south and east/west orientations and allowing the open space to be accessible within one (1) block of every residence. Open space amenities include a tot lot, a basketball court, a soccer field, two ramadas, and a community garden. Lot sizes range from 7,590 to 14,785 square feet in size. Minimum setbacks are generally 20' in the front, 20' in the rear (30' or two-stories) and 5'/10' on the sides. Side-entry garages and forward-set livable areas have a reduced minimum front yard setback of 15'. Additionally, porches can extend up to 10' into the rear yard setback and 5' into the front yard setback.

Both internally and externally, the project features stylized 6'-high theme walls with two-tone stucco panels, stone columns and brick caps. Also, wrought iron view fencing is integrated into the wall in two locations along Cooper Road and adjacent to the Brooks Farm entrance to allow views into the site's open space.

The proposed landscaping features Ironwood and Date Palm trees highlighting the main entrance from Brooks Farm Road, with groupings of Pistache, Chinese Elm, Chitalpa and Mulga trees forming the main presence along Cooper Road. The Cooper Road frontage has an approximately 45'-wide landscape tract with a double row of trees. Sufficient western shade is provided to the tot lot by a grouping of Sissoo trees.

The proposal meets the Residential Development Standards (RDS) for subdivision diversity by providing all eight (8) required diversity elements and the minimum 10 optional elements. Details of element provision are contained in the Development Booklet. Housing product is not part of this application and will therefore require a future PDP application under which it will be evaluated against the RDS for architectural diversity.

The subject site is designated by the Southeast Chandler Area Plan (SECAP) for Traditional Suburban Character, which allows for single-family residential subdivisions of up to 3.5 dwelling units per acre such as proposed. For projects proposing 2.5 to 3.5 dwelling units per acre, the SECAP recommends that certain density incentive amenities be provided that increase subdivision quality above the city-wide baseline provided by the RDS. The subject development, with a proposed density of 3.21 dwelling units per acre, provides all six (6) of the density incentive amenities recommended by the SECAP. Details of SECAP density incentive compliance are provided in the Development Booklet.

The applicant has researched the possibility of salvaging and relocating the site's existing fan palm trees, but found it cost prohibitive.

The immediately surrounding subdivisions have larger lots than those proposed for the subject site which has a minimum lot size of 7,590 square feet. The minimum lot sizes in the immediately surrounding subdivisions are: 12,600 square feet (to the west), 10,875 square feet (to the north) and 10,000 square feet (to the east). Farther south, beyond an agricultural property, is a subdivision with a minimum lot size of 9,375 square feet. Farther north is a subdivision with a minimum lot size of 8,330 square feet. One-half mile to the north, at the northwest and northeast corners of Cooper and Ocotillo roads are subdivisions with minimum lot sizes of 7,000 and 7,150 square feet. There are substantially larger rural ranchette lots (~2.5 acres) one-half mile to the

south. Overall, the surrounding area (one mile radius) can be characterized as primarily having 7,000 to 13,000 square foot lots in the incorporated subdivision, with substantially larger rural ranchettes in the unincorporated areas.

The Planning Commission and Staff find the proposed subdivision to be of a high quality and compatible with the area. The quality design, particularly the generous open space amenities provision, warrants the requested density and allows the neighborhood to be sustainable in the long-run.

PUBLIC/NEIGHBORHOOD NOTIFICATION

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held April 12, 2012. There were 13 neighbors in attendance with questions regarding road improvements and the specific plan for palm tree removal. Concerns were expressed relating to the tree removal driving scorpions into the neighborhood. The applicant agreed to further research various tactics for scorpion control in this situation and meet again with interested neighbors on April 30.

Several neighbors have stated concerns regarding scorpion control and traffic control, though they have not stated opposition to the project. One neighbor, who generally supports development of the site, wrote a letter of concern to which Staff notes that a traffic study was not required because of the project's size and that Brooks Farm Road will be completed as part of the subject development. Another neighbor attended the Planning Commission hearing in opposition.

PLANNING COMMISSION VOTE REPORT

Motion to approve: in favor: 5 opposed: 1 (Cunningham) absent: 1 (Veitch)

The Commissioner who voted against the item stated concerns with the lot sizes and their ability to accommodate a quality housing product without negatively affecting the property values of nearby larger-lot subdivisions. Another Commissioner expressed a desire for one-story homes to be part of the housing product PDP when that comes forward.

One neighbor attended the meeting in opposition to the request, but did not speak. The neighbor is concerned with lot sizes, potential house sizes and the potential corresponding effect on surrounding property values.

RECOMMENDED ACTION:

Upon finding consistency with the General Plan, Southeast Chandler Area Plan and Residential Development Standards, the Planning Commission and Staff recommend approval subject to the following conditions:

1. Development shall be in substantial conformance with the Development Booklet entitled "Calabria", kept on file in the City of Chandler Planning Services Division, in File No. PDP10-0019, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3401 in case DVR02-0028 CALABRIA, except as modified by condition herein.
3. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or homeowners' association.

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

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

10. BOARD AND COMMISSION APPOINTMENTS

Approved the following Board and Commission appointments:

Airport Commission:

David Sperling

Domestic Violence Commission:

Sarah Youngblood – Alternate, Agency Representative

Housing and Human Services Commission:

Jeff Riggs

Library Board:

Nancy Kruse-Kampfe

11. SETTLEMENT: Felicia Blasdel v. City of Chandler, et al

APPROVED a settlement in Felicia Blasdel v. City of Chandler et al. in the amount of \$95,000.00 and authorized the City Attorney to sign any necessary documents in such form as are approved by the City Attorney to effectuate. This lawsuit stems from a bicycle accident that occurred in the bicycle lane of Alma School Road near Oakwood Lakes Boulevard on March 19, 2010.

12. AGREEMENT: Buesing Corp.

APPROVED Agreement #ST2-745-3103 with Buesing Corp. for asphalt and concrete crushing in an amount not to exceed \$120,000.00 for one year with the option to renew for up to two additional one-year periods.

13. AGREEMENT: RDO Equipment Co.

APPROVED Agreement #ST2-760-3055 with RDO Equipment Co. for the purchase of a landscape loader and trailer in the amount of \$111,690.39.

14. AGREEMENT: RDO Equipment Co.

APPROVED Agreement #ST2-760-3054 with RDO Equipment Co. for the purchase of a backhoe loader in the amount of \$99,752.65.

15. REJECTED AGREEMENT: Artistic Land Management, Inc.

REJECTED Agreement #ST2-988-3085, as requested by Staff for the purpose of rebidding, with Artistic Land Management, Inc. for revegetation of City streets in the amount of \$828,740.00 for one year with the option to renew for up to two additional one-year periods.

16. AGREEMENT AMENDMENT: Water/Wastewater Equipment Repair

APPROVED Agreement #WA0-936-2649, Amendment No. 2, with Phoenix Pumps, Inc., Foster Electric Motor Service, Inc., Arizona Pneumatic Systems, Inc., Gilbert Pump and Equipment Company, Weber Group L.C., Precision Electric Co., Inc., Keller Electrical Industries, Inc., Layne Christensen Company and Hennesy Mechanical Sales for water/wastewater equipment repair and maintenance in an amount not to exceed \$1,223,000.00. This is the second of four optional one-year renewals.

17. CONTRACT AMENDMENT: SDB, Inc.

COUNCILMEMBER HEUMANN voted yes on this item, but noted the importance of being careful with future JOCs (Job Order Contracts).

APPROVED Contract #JOC1201-401, Amendment No. 1, with SDB, Inc., to increase the annual limit of the Job Order Contract from \$2,000,000.00 to \$3,000,000.00.

SDB, Inc. was selected for award of a Job Order Contract for general construction services, including major and minor construction projects, renovations and repairs, additions, demolitions, reconstructions, and alterations to City facilities, in accordance with established City policies and procedures. Thus far in 2012, City Staff has brought forward a project agreement in the amount of \$955,288.00 for improvements to the Ocotillo Water Reclamation Facility. Project agreement award amounts will near the approved annual limit with the award of site improvements to Tumbleweed Park and upgrades to the Police Communication Center, both of which will be brought forward for Council approval.

18. CONTRACT: McCarthy Building Companies, Inc.

APPROVED Contract #WW1013-401, Construction Manager at Risk, with McCarthy Building Companies, Inc., for Phase 1 of the Airport Water Reclamation Facility Expansion to 22 MGD, in an amount not to exceed \$12,319,854.00, contingent upon written notification from Intel and appropriate funding.

The Airport Water Reclamation Facility is located on Queen Creek Road, west of McQueen Road. Design and construction of new wastewater treatment capacity will accommodate Intel's plant expansion on Dobson Road. Public information meetings will be held with residents neighboring the facility to discuss the expansion project and the measures taken to mitigate impact to the surrounding community. The expansion project will begin June 2012 and be completed in the summer of 2014. The facility's treatment capacity will increase from 15 MGD to 22 MGD. The overall project will be released for construction in phases with each phase of the project requiring Council approval.

19. CONTRACT: Achen-Gardner Construction, LLC

APPROVED Contract #WW1013-401, Construction Manager at Risk, with Achen-Gardner Construction, LLC for Phase II of the Ocotillo Water Transmission Main and Wastewater Force Main in an amount not to exceed \$13,057,196.88, contingent upon written notification from Intel and appropriate funding.

20. USE PERMIT EXTENSION: Leisure Living Home

APPROVED a Use Permit extension ZUP12-0004 Leisure Living Home, for the continued operation of an assisted living home for the elderly within a single-family residential home located

at 507 N. Nantucket Ct., north and east of the NEC of Chandler Boulevard and McQueen Road. (Applicant: Nhor Latinovich, owner.)

BACKGROUND

The subject site is located north and east of the northeast corner of Chandler Boulevard and McQueen Road, within the Tradition single-family subdivision. The subject site received Use Permit approval to operate an assisted living home for up to eight residents in 2007 for one year. In 2008, a three-year extension was granted. The applicant is requesting an extension of the Use Permit for an additional five years.

Assisted living homes are required to obtain a Use Permit when there are more than five residents living together in a single dwelling, excluding staff. The applicant has been operating an assisted living home at this location for the past ten years. Prior to obtaining a Use Permit for the additional residents in 2007, the home operated with five or fewer residents, thus not requiring a Use Permit. The maximum potential amount of residents allowed with a use permit is 10, excluding staff, however, the applicant is only requesting up to eight residents. Additionally, the amount of residents allowed is based upon requirements provided by the State Health Department.

The home is approximately 2,285 square feet and provides six bedrooms and three bathrooms. The State Health Department requires that a single user bedroom shall be 80 square feet and two residents may share a room if the room is 120 square feet or more. On no occasion can a bedroom exceed more than two residents. The rooms for this application conform to these requirements.

The applicant is a Certified Manager and Program Trainer for caregivers licensed by the Department of Health Services and licensed by the Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers.

PUBLIC/NEIGHBORHOOD NOTIFICATION

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on April 27, 2012. There were no neighbors in attendance. Staff has received no correspondence in opposition to this request.

RECOMMENDED ACTION

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 (Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
2. The assisted living home shall have no more than eight (8) residents at any time.
3. Should the applicant sell the property, this Use Permit to operate an assisted living home shall be null and void.
4. This Use Permit shall remain in effect for five (5) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.

21. USE PERMIT: Yummy Buffet LLC

APPROVED a Use Permit, LUP12-0007 Yummy Buffet LLC, Series 12 Restaurant License, to allow liquor sales as permitted for a new restaurant located at 2100 S. Gilbert Road, Suite 1. (Applicant: Ming Fei Lu.)

BACKGROUND

Yummy Buffet is a new restaurant located within the Mill Crossing development at the southwest corner of Gilbert and Germann roads just west of the Sears Appliance store and McDonald's restaurant. The tenant space was formerly occupied for a short time by Sun's Buffet. The request is for a Series 12 Restaurant License which allows the on-site sale of beer, wine and spirits for on-site consumption. The restaurant is an oriental style buffet.

The tenant space is approximately 7,600 square feet with 250 seats. There is no outdoor patio or dining area and no entertainment related uses. The business is open Sunday through Thursday 11 a.m. to 9:30 p.m. and Friday/Saturday 11 a.m. to 10 p.m.

PUBLIC/NEIGHBORHOOD NOTIFICATION

The request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held April 18, 2012. There were no neighbors in attendance. The Police Department has been informed of the application and responded with no concerns. Staff has received no correspondence in opposition to the request.

RECOMMENDED ACTION

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

1. Expansion, modification, or relocation beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new liquor Use Permit reapplication and approval.
2. The liquor Use Permit is granted for a Series 12 (Restaurant License) only and any change of licenses shall require reapplication and new liquor Use Permit approval.
3. The liquor Use Permit is non-transferable to other restaurant locations.
4. The site shall be maintained in a clean and orderly manner.

22. LIQUOR LICENSE: Yummy Grill Buffet

APPROVED a Series 12 Restaurant Liquor License (Chandler #138534 L12) for Min Feng Lu, Agent, Yummy Buffet LLC, dba Yummy Grill Buffet, 2100 S Gilbert Road, Suite 1. A recommendation for approval of State Liquor License #12078971 will be forwarded to the State Department of Liquor Licenses and Control. The Police Department reports no objections to the issuance of this license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code.

23. USE PERMIT: Someburros Mexican Food

APPROVED Use Permit LUP12-0008 Someburros Mexican Food, Series 12 Restaurant License, for on-premise consumption only within a restaurant that includes an outdoor patio at 3461 W. Frye Road. (Applicant: La Vista Investments.)

BACKGROUND

The subject business is located in a freestanding pad building in the shopping center anchored by Target, south of the Chandler Fashion Center. It is surrounded in all locations by other

commercial uses. It has operated at this location for seven (7) years without alcohol service. The restaurant seats approximately 98 indoors and 50 on the outdoor patio. Hours of operation are 9 a.m. to 10 p.m. daily. No modifications are anticipated to the business model or layout, except that a portion of the patio that is currently unfenced will be closed off in order to comply with State of Arizona requirements. There is no live entertainment either indoors or outdoors.

PUBLIC/NEIGHBORHOOD NOTIFICATION

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on April 25, 2012. There were no neighbors in attendance. The Police Department has been informed of the application and has no issues or concerns. Staff has received no correspondence in opposition to this request.

RECOMMENDED ACTION

Upon finding consistency with the General Plan and Planned Area Development (PAD) zoning, the Planning Commission and Staff recommend approval subject to the following conditions:

1. The Use Permit granted is for a Series 12 license only and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. 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.
5. The outdoor patio shall be maintained in a clean and orderly manner.

24. LIQUOR LICENSE: Someburros Mexican Food

APPROVED a Series 12 Restaurant Liquor License (Chandler #102794 L12) for Timothy Vasquez, Agent, Someburros, Inc., dba Someburros Mexican Food, 3461 W. Frye Road. A recommendation for approval of State Liquor License #12079041 will be forwarded to the State Department of Liquor Licenses and Control. The Police Department reports no objections to the issuance of this license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code.

25. CONTINUED LIQUOR LICENSE: Seksun Sushi Goaround

CONTINUED TO JUNE 14, 2012, a Series 12 Restaurant Liquor License for Tai Zhou, Agent, CRI Groups LLC, dba Seksun Sushi Goaround located at 1175 W. Ray Road, to allow the applicant time to complete the zoning requirements for their Use Permit.

26. LIQUOR LICENSE: Pearl Sushi Lounge & Bomber Bar

APPROVED a Series 12 Restaurant Liquor License (Chandler #140900 L12) for Tammy Lynn Carlin, Agent, TLC Raw Ventures LLC, dba Pearl Sushi Lounge & Bomber Bar, 2040 S. Alma School Road, Suite 3. A recommendation for approval of State Liquor License #12079089 will be forwarded to the State Department of Liquor Licenses and Control. The Police Department reports no objections to the issuance of this license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code. Transportation and Development advises a new Use Permit is not required since this will be a continuation of the location's previous use as Ninja Sushi.

27. LIQUOR LICENSE: La Victoria Mexican Grill

APPROVED a Series 12 Restaurant Liquor License (Chandler #140616 L12) for Martha Alicia Hernandez, Agent, La Victoria Mexican Grill, 757 E. Chandler Boulevard. A recommendation for approval of State Liquor License #12079080 will be forwarded to the State Department of Liquor Licenses and Control. The Police Department reports no objections to the issuance of this license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code. This application reflects a change in ownership. Transportation and Development advises that a new Use Permit is not required since this will be a continuation of the location's previous use as El Taco De Chandler.

28. LIQUOR LICENSE: Can't Stop Smokin' Bar-B-Q

APPROVED a Series 12 Restaurant Liquor License (Chandler #139164 L12) for Theresa June Morse, Agent, Valley Smokers LLC, dba Can't Stop Smokin' Bar-B-Q, 7250 W. Chandler Boulevard. A recommendation for approval of State Liquor License #12079103 will be forwarded to the State Department of Liquor Licenses and Control. The Police Department reports no objections to the issuance of this license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code. The applicant's Use Permit was previously approved at the April 26, 2012, Council meeting.

29. LIQUOR LICENSE: Courtyard by Marriott

APPROVED a Series 11 Hotel/Motel Liquor License (Chandler #141417 L11) for Gary David Lueck, Agent, Courtyard Management Corporation, dba Courtyard by Marriott, 920 N. 54th Street. A recommendation for approval of State Liquor License #11077021 will be forwarded to the State Department of Liquor Licenses and Control. The Police Department reports no objections to the issuance of this license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code. Transportation and Development advises a new Use Permit is not required since this will be a continuation of the location's previous use as Courtyard by Marriott.

30. PRELIMINARY PLAT: Arizona-Elliot Commerce Center

APPROVED Preliminary Plat PPT12-0002 Arizona-Elliot Commerce Center, for a new commercial development that includes a fuel station, convenience store, car wash, restaurant pads and self-storage on 6.6 acres located at the SWC of Elliot Road and Arizona Avenue. The site is currently vacant. The plat creates the lots, establishes the necessary easements and dedicates the required rights-of-way. (Applicant: MD Partners.)

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

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

31. FINAL PLAT: Pastorino

APPROVED Final Plat FPT12-0002 Pastorino, for 74 single-family lots on approximately 23 acres located east of the SEC of Lindsay and Ocotillo roads. The Final Plat is proposed in conjunction

with a recently approved single-family development on approximately 23 acres. The plat creates the lots and tracts, establishes the necessary easement and dedicates the required rights-of-way. (Applicant: Bowman Consulting.)

32. On action.

33. On action.

34. See Public Hearing.

35. AGREEMENT: Taylor Rymar Corporation

APPROVED Agreement #BF1203-201 with Taylor Rymar Corporation for Transportation and Development Department HVAC upgrades in an amount not to exceed \$42,150.00.

****The Mayor took the items out of order from the printed City Council agenda. He announced the Public Hearing would now be heard.**

PUBLIC HEARING:

The Mayor opened the public hearing at 7:18 p.m.

PH1. DOWNTOWN CHANDLER ENHANCED MUNICIPAL SERVICES DISTRICT ASSESSMENT FOR FISCAL YEAR 2012-13

BACKGROUND

On April 12, 2012, City Council approved Resolution No. 4592, which authorized modification of the Assessment Diagram, making a statement and estimate of expenses for the Downtown Chandler Enhanced Municipal Services District, completing the assessment and setting the date for the public hearing on the assessments for the May 24, 2012, City Council meeting.

Subsequent to the April meeting, Staff published notice of the date of the public hearing for five consecutive days in The Daily News Sun, Mesa Tribune and Chandler Tribune as required by Arizona Revised Statutes. Enhanced Municipal Services District staff also sent a notice of the public hearing to all property owners in the District. The letter advised the property owners that they could file an objection with the City Clerk, should they desire to do so. To date, no objections have been received in the City Clerk's office.

Upon completion of the public hearing and approval of this item, Staff will forward the calculated Assessment Roll to the Maricopa County Assessor's Office. The first assessments for the District will be mailed to property owners with their tax bill in the fall of this year.

DISCUSSION

MS. TERI KILLGORE, Downtown Redevelopment Manager, came forward to introduce the 7th Annual Public Hearing for the Enhanced Municipal Services District. MS. KILLGORE explained that this is step two in a three step process to set the district boundaries, finalize the assessment

rule, and come back in June with a contract to administer the district with the DCCP (Downtown Chandler Community Partnership).

MS. KILLGORE said that the intent of this District was to set assessments against commercial properties to enable property owners and merchants to better market and beautify the area above and beyond the services that the City of Chandler already provided. MS. KILLGORE advised that Chandler borrowed this model as it was successful around the world.

MS. KILLGORE advised that the District has 61.5 acres with over one million square feet of commercial space in the assessment pool in the Downtown area, including Chandler City Hall. She said in the last year of operations, the District had many successes, as represented in the quality businesses now located in Downtown Chandler. MS. KILLGORE said since the last presentation, the following businesses were added to Downtown Chandler: Vintage 95 Wine Restaurant, Simply Classic Interiors, One Wing Boutique, Sibley's West Gifts, Planet Subs, and the Pampered Pinkie. She further stated that there are several additional businesses coming online between now and the close of the fiscal year.

MS. KILLGORE said in addition to retail and service businesses there were several key office users, most significantly, Ports America. Also, the University of Arizona and Arizona State University both plan to open locations in Downtown Chandler. MS. KILLGORE said that the retail vacancy was 6% during the last presentation; it now stands at less than 2%.

MS. KILLGORE advised that the sales tax receipts for Downtown Chandler continue to increase. She said they are currently less than 2% below the peak in 2007. The DCCP manages the contract for the City. MS. KILLGORE explained that as part of the contract, there are more than 20 special events occurring each year, including a weekly Farmers Market from October through May; and a monthly ArtWalk; and added signature events like the Block Party, with over 15,000 participants. MS. KILLGORE stated that the District funded activities are said to be one reason that individuals have chosen to locate in the Downtown Chandler area.

MS. KILLGORE said that the DCCP implemented a new branding strategy this year with a new logo and Website and they have seen much success. The first two months that the Website was launched resulted in more than 5,000 views. Additionally, DCCP increased its social media presence with more than 1,000 Facebook likes. MS. KILLGORE noted in a short period of time the DCCP increased its visibility of the brand and built that social network. She advised that the DCCP also implemented the new Centennial murals in Dr. A.J. Chandler Park and implemented a trial valet to see how valet parking could function in Downtown.

MS. KILLGORE requested that the Downtown Chandler Enhanced Municipal Services District be continued for Fiscal Year 2012-13. The assessment was authorized by the property owners and district. She said that 100% of the proceeds are paid to the District and are collected by the County as a secondary property tax. MS. KILLGORE advised that the City Council is the governing body who officially enabled the District each year. She said this District is on year 7 of a 10-year term. MS. KILLGORE advised that notices were published and mailed as required by ordinance and there has been no public feedback or objections.

COUNCILMEMBER ORLANDO said that he believed this has been a very successful program as all of the targets for occupancy and expansion of the area have been exceeded. COUNCILMEMBER ORLANDO commended Ms. Killgore and the other staff members for their efforts.

MAYOR TIBSHRAENY said that he appreciated all the statistics that were given on the vacancy rates for the office and retail. He said there is an opportunity for new construction on commercial or retail as most everything that could be leased has and he said it would be nice to see something new built in the next few years.

MS. KILLGORE agreed and further stated that staff has turned away great new businesses to Downtown due to lack of available space. MS. KILLGORE stated that Downtown Chandler is on the radar of large redevelopment firms who build new product and have key connections to the brokerage community that can bring in additional new tenants. She said Chandler's enthusiasm is being shared by others.

COUNCILMEMBER HEUMANN said as a result of ASU and UofA coming to Downtown, along with approximately 24 units of the San Marcos Commons coming online in the next six months, he thought that the sales tax numbers would increase quite a bit next year.

COUNCILMEMBER HEUMANN said when he is out in the community he always hears nice things about Downtown Chandler. He would like to commend City staff and the Downtown merchants.

FINANCIAL IMPLICATIONS

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

The total of all assessments is \$256,400; of that, privately owned property in the District contributes \$137,596. In addition, the assessment for City-owned property is \$118,804, which is the same as the prior year's contribution and represents 46.3% of the total District operating funds for FY 2012-2013. Funds to provide for the City's contribution to the District have been requested in the Downtown Redevelopment's operating budget for 2012-2013.

The Mayor closed the public hearing at 7:26 p.m.

34. ANNUAL ASSESSMENT: Downtown Chandler Enhanced Municipal Services District
Res. #4612

ADOPTED Resolution No. 4612 authorizing the 2012-2013 Annual Assessment for the City of Chandler Downtown Chandler Enhanced Municipal Services District.

MOVED BY COUNCILMEMBER ORLANDO, SECONDED BY COUNCILMEMBER HEUMANN TO APPROVE THIS ITEM AS PRESENTED. MOTION CARRIED UNANIMOUSLY (7-0).

ACTION:

32. 2012-13 TENTATIVE BUDGET Res. #4595

ADOPTED Resolution No. 4595 adopting the 2012-13 Tentative Budget and the budget forms as prescribed by Arizona Revised Statutes 42-17101 and 42-17102.

As required, the budget forms will be published as will a notice that the City Council will meet on June 14, 2012, at 7:00 p.m. for the purpose of a public hearing and for final adoption of the 2012-13 Budget and will further meet for the purpose of setting the tax levies at 7:00 p.m. June 28, 2012. Any budget amendments that are approved at the special meeting held Monday, May 21st, will be incorporated into the Auditor General report prior to publication for the upcoming Budget hearings.

In summary, the 2012-13 recommended budget totals \$835,767,025 and includes funding for departmental operating budgets of \$318,530,665; funding for debt service of \$69,025,193; budget for equipment, technology and vehicle replacement purchases of \$7,672,889; and contingencies and reserves in the amount of \$59,800,596 in various funds. The capital budget includes \$189,716,102 in new appropriation, capital carry forward of \$188,781,580 (including \$5,709,022 in the 1291 Non-Departmental Capital reserves) and contingency and reserve funding of \$2,240,000.

Included in the projected operating revenues of \$460,863,387 is a property tax levy of \$28,135,967 based on a rate of \$1.2714 per \$100 assessed property value plus \$507,833 for SRP's payment to the City in lieu of property tax for a total of \$28,643,800.

DISCUSSION

DAWN LANG, MANAGEMENT SERVICES DIRECTOR, provided an overview on the fiscal year 2012-13 tentative budget and 2013-22 tentative capital improvement programs. MS. LANG explained that the fiscal year 2012-13 tentative budget, Resolution No. 4595, and the auditor general forms presented reflect the May 21 Council approved budget amendments. She said that the fiscal year 2012-13 operating and capital tentative budget totals \$835,767,025.

MS. LANG said that the budget process was transparent this year through Budget Connect and numerous other public input opportunities. She said that tonight's Council meeting provides one more option for public comment prior to the public hearing and final adoption on June 14, 2012.

COUNCILMEMBER HEUMANN said that he is proud to sit on the Council and observe the conservative fiscal policies at work throughout the budget process. COUNCILMEMBER HEUMANN said he was happy that it was not necessary to raise the property taxes or water rates, yet Council was able to add additional equipment to parks, lighting, and other items for Chandler residents as a result of the budget amendments discussed during the Monday evening Study Session.

MAYOR TIBSHRAENY asked when the tax levy would occur.

MS. LANG advised that the tax levy adoption is scheduled for the evening of June 28, 2012.

MOVED BY COUNCILMEMBER HEUMANN, SECONDED BY COUNCILMEMBER ORLANDO to adopt Resolution No. 4595 for the 2012-13 tentative budget and the 2013-22 tentative capital improvement program and give notice of the dates and times for hearing taxpayers for final adoption of the budget and setting tax levies and tax rates.

MOTION CARRIED UNANIMOUSLY (7-0).

33. AGREEMENT: Valley Express Towing

Agreement #PD2-968-3095 with Thompson Diversified LLC dba Valley Express Towing for Police Towing Service for one year with the option to renew for four additional one-year periods.

DISCUSSION:

MIKE MANDT, PURCHASING AND MATERIALS SUPERVISOR, said the recommendation is to award a contract for police towing services, which replaces the current police towing contract that is scheduled to expire June 30, 2012. MR. MANDT said that the Police Department uses this contract for a variety of situations including vehicles that have been in accidents, abandoned vehicles, vehicles that are towed for evidentiary purposes, impounded vehicles, and vehicles towed due to an arrested driver.

MR. MANDT stated that the term of the proposed contract is one-year with four one-year extensions. He said that the City issued an Invitation for Bid (IFB) for this service and received four bids. Staff recommended the award to the lowest bidder, Valley Express Towing. He stated that the City has received a protest to the recommended award from All City Towing.

COUNCILMEMBER ORLANDO asked what criteria was used to evaluate the bids.

MR. MANDT stated that staff set minimum criteria, which included some minimum experience such as towing at least 3,600 vehicles per year for the last two years, minimum equipment requirement, minimum yard size requirement, and a location requirement with the yard being located within a certain radius. MR. MANDT stated that the lowest bidder that met the minimum criteria was recommended for the award.

COUNCILMEMBER ORLANDO asked if this was purely based on price.

MR. MANDT answered affirmatively and clarified that as long as the company met the minimum qualifications that were set forth, the lowest bidder would be recommended for the award.

MAYOR TIBSHRAENY asked what the reasoning was for the protest that was filed.

MR. MANDT stated that there were several items as part of the protest, but the primary reason was that the low bidder bid zero on all the line items, therefore, the bid should be considered unreasonable at a zero bid.

MR. MANDT stated that there were additional protest concerns including that the firm lacked legal authority to enter into contract because of some administrative issues with the certificate of incorporation and that the company was not qualified because they did not submit the proper recording to the agency NMDTIS. Additionally, it was stated that there were structural problems with the solicitation. The protest also asserted that Valley Express Towing could bid zero and then charge any fee by subcontracting.

MR. MANDT said that City staff does not believe this is true as there is a provision for outside contracted services in extraordinary cases if the officer approves it, but the contractor is not allowed to subcontract any part of this and then pass that fee on to the City. MR. MANDT stated that the final basis of the protest revolved around the fact that the proposed award has an office in one location and a storage lot in another location.

MAYOR TIBSHRAENY provided an opportunity for members of the audience to come forward to speak on this issue.

MR. JEFFREY DUNN, 2031 W. 1st St., Tempe, AZ, stated that he is the General Manager of All City Towing and his company has been the contractor for the City of Chandler for well over ten

years. MR. DUNN said that he believes the method for the Invitation for Bid (IFB) for the procurement of towing services is flawed and it is incumbent on the Mayor and Council to fix this problem.

MR. DUNN stated that before explaining further he would like to take a moment to compliment staff and the Police Department. He said that they are some of the most professional individuals that he has dealt with.

MR. DUNN said the last time that the IFB method was used to procure towing services was over six years ago by the City of Chandler. He said that he believes that method is easily manipulated and noted that several counties, state agencies, cities and towns that surround Chandler (Mesa, DPS, Tempe, and MCSO) all use an RFP (Request for Proposal) process instead. MR. DUNN said that these agencies fixed the pricing in the RFP documents to eliminate the gamesmanship. Simply put, a zero line item bid cumulative is not responsive. MR. DUNN said that he believes that the instant solicitation of the cumulative bid proves this. MR. DUNN asserted that one cannot possibly conduct business by charging zero to the customers. He said it completely destroys the competitive bidding process. Furthermore, he believed that the City deserves more than someone who meets the minimum requirements. MR. DUNN said he questioned what happened to the factors of evaluation relative to experience, community involvement, equipment, storage facilities, manpower, etc. MR. DUNN said he believed the IFB process disregarded these and requested that the Mayor and Council reject all bids and release another solicitation in the form of an RFP. Additionally, MR. DUNN said he didn't believe that the solicitation method was in the best interest of the City of Chandler or its citizens. He thanked Council for the opportunity to speak.

COUNCILMEMBER ORLANDO asked Mr. Dunn what percentage of the revenue stream is the up-front cost from a business model standpoint.

MR. DUNN said that towing for zero dollars is not profitable, nor is it possible to cover the costs. He said that the idea of a large profit on the back end of the transaction between the tower and the customer once the vehicle comes back to the storage facility does not happen. MR. DUNN said that All City Towing has towed for Chandler for over ten years, with approximately 4,000 tows each year, totaling 40,000 tows. He said that typically less than 5% of the vehicles are abandoned. Some of the vehicles don't have liability insurance so there is no intent for the owner to pick up the vehicle, so the tower is faced with \$700 to \$800 storage and towing bill and an abandoned vehicle. MR. DUNN explained that by law it is required that the tow company files for the abandonment within a prescribed time frame. MR. DUNN said on average tow companies may have an opportunity to recoup the costs and sometimes there may be opportunities to get \$800 at an auction or at a scrap yard, however, nine times out of ten that doesn't happen.

COUNCILMEMBER ORLANDO clarified by asking if the flat rate for the tow, storage, extraordinary recovery after hours, and mileage are key elements to being a self-sustaining organization, since the business is not as revenue enhanced as it should be.

MR. DUNN said that is correct.

COUNCILMEMBER ORLANDO asked if Mr. Dunn is suggesting that a best value model RFP should be utilized for the customer.

MR. DUNN said that he believed that the RFP method is more suitable for the procurement of towing services, particularly since price is only one of several factors of the process.

DAVID SCHWARTZ, 30 W. 1st St., Mesa, AZ 85201. MR. SCHWARTZ said he is with the law firm of Udall, Shumway & Lyons of Mesa and resides in Chandler. MR. SCHWARTZ said that this particular IFB was a result of a 2011 IFB, which at the time under Section 7.3, said that unbalanced bidding could be grounds for rejection as well as an unreasonable bid. MR.

SCHWARTZ said that the word "unbalanced" was removed in the current 2012 IFB. He explained that the word "unbalanced" is a term that lawyers use essentially when someone bids zero or some nominal sum on one item or several items that are on a bid. For example, there are four different items: towing, storage, recovery fees, open gates, etc. A zero or one dollar bid on one item would be recovered on another item. He described that as an unbalanced bid. MR. SCHWARTZ said that Council and the City decided to get rid of the term "unbalanced" as an improper ground, however, left in that an unreasonable bid for an amount, whether a lump sum or unit price could still be at the City's discretion, grounds to deem a bid unreasonable and could be rejected.

MR. SCHWARTZ noted that a zero dollar bid by nature is not an unreasonable bid. He said that the purpose of it being there is to deal with a situation when someone comes in exactly as this current case. MR. SCHWARTZ said that neither he, nor his client, have ever heard of anyone bidding zero for every service in relation to a tow. MR. SCHWARTZ stated that he believed this is further evidence as to why this particular bid should be rejected as unreasonable.

MR. SCHWARTZ stated that All City Towing is the second bidder and he is requesting that the Council reject the concept of an IFB and replace with a Request for Proposal (RFP) and award All City Towing the bid. He stated that Council has used RFPs in other types of situations and stated that it is the current, most popular method. MR. SCHWARTZ explained that in a case that he previously argued, a judge said it is perfectly legal to have a RFP, where you actually set the tow price and you can have competition on other factors and that would be satisfactory under Statute 28-1108e.

MR. SCHWARTZ reiterated that the surrounding agencies use the RFP process. He said in the case of Valley Express Towing when someone has to pick up their vehicle, one must first go to Thompsons Valley Express office to pay for the tow and then go somewhere else about 0.7 miles away.

MR. SCHWARTZ stated in regard to Mr. Mandt's point, he asked if the City is prepared to have a police officer at the scene to decide whether an outside contractor is appropriate or inappropriate and what basis or guidelines would they use. He indicated that the price sheet that was part of the solicitation does not allow for subcontractors, but outside contractor's charges to be passed through. MR. SCHWARTZ asked what happens when Valley Express can't make it to the scene and the officer wants the scene cleared.

MR. SCHWARTZ again requested that Council reject all bids start the process over. He stated that the City has the legal authority if it so desires and he believes there is good reason to do so.

VICE-MAYOR WENINGER asked how Mr. Schwartz would defend his storage and extraordinary recovery when the bid listed is zero.

MR. SCHWARTZ again stated when looking at the 2012 current solicitation verses the 2011, the word "unbalanced" was expressly deleted; it used to be in the 2011. He said that the purpose of that was to anticipate and allow for some of the items to be zero. He said that is how he interpreted it, the logical conclusion "unbalanced" used to be something that could get you rejected, the deletion of it suggests the intent not to disallow an unbalanced bid.

W. STEVEN MARTIN, P.O. BOX 6456, Chandler, AZ. MR. MARTIN said that as he has been involved for many years in fundraising, he believes that staff at All City should receive an award for the support they have shown Chandler charities. Additionally, for the work they do across the state in the public service arena. MR. MARTIN said that the partnership he has with All City has helped with his toy drive. All City has donated trailers to haul toys, donated money for gas, they have entered foursomes for golf tournaments, and believe they are out trying to make a difference. MR. MARTIN stated when a charity needs help All City Towing is often contacted. MR.

MARTIN said there is a two mile area of the Beeline Highway that is maintained where Officer Bob Martin was killed. MR. MARTIN recalled that one year when told that the state had no money for a truck to pick up trash where an officer died Mr. Martin called All-City Towing. He said that All City sent out trucks, they brought out trash bags, they provided lunch at no charge. MR. MARTIN said that this company is one that the City should look at for a partnership in Chandler.

MR. MARTIN said that the staff at All City should be thanked and the contract decision should be reevaluated. He stated that he understood that there is a system for finding the lowest bid, but asked that the system find the best bid, one that will allow the partnership to continue between, Chandler, All City, or any other company that makes a difference. MR. MARTIN said that he did not believe that if he or another member of his family were to be involved in an accident that the cost would be zero. It would likely cost \$500 to \$700.

MR. MARTIN asked Council to reevaluate this contract and be fair to all those involved.

BRAD STRATTON, representing Valley Express Towing, 661 W. Broadway, Mesa, AZ. MR. STRATTON said that staff displayed professionalism on handling the solicitation and the IFB. MR. STRATTON said that he felt that Mr. Mandt undersold what was truly represented on the IFB. He stated that Mr. Mandt used the word "minimum", which means if you didn't meet it, you could not bid. MR. STRATTON said that the minimum standards were so high that well over 90% of the towing companies in the Valley couldn't approach them on any level. He said that any of the tow companies that made it to the bid would be an outstanding towing company. He felt that the IFB made sure of that. In fact, the IFB was fairer than others that Mr. Stratton has seen in the past. He stated that instead of trying to guess how many trucks you would need to do a great job towing or how much staff needed, they simply said if you can't demonstrate that you are towing 3,000 to 4,000 vehicles for other police departments in the state and they are happy and you do the job right, they are not interested. MR. STRATTON said that his tow company has an A+ Better Business rating, a positive rating with Dun & Bradstreet, and a debt free balance sheet. He said they currently tow for the County Sheriff's office, Department of Public Safety, Town of Gilbert, and the highest volume zone in Mesa. MR. STRATTON said he has been doing this for over a decade and the company is extremely qualified.

MR. STRATTON advised that each time a municipality has selected his company to service a police department, Valley Express Towing has continued to serve those municipalities. He stated that his company is not a former tower to any of them. He said that it is important that Valley Express be awarded this contract and noted that he views towing for Chandler a privilege.

MR. STRATTON said that in response to Councilmember Orlando's earlier question about how important it is to have up front revenue, up front meaning that which comes from the owner of the vehicle being towed. He said that his company conducted a study of 12,000 police tows over the course of the Valley, going back two years. MR. STRATTON said had he turned in the second place bid of \$170,000 from All-City Towing, his company would still have been getting 70% of its revenue plus on the back end from the liquidation of the vehicles. MR. STRATTON said that his company would expect more than twice that revenue from the liquidation of abandoned cars. He indicated that the rate that was realized over the course of that analysis was about one in eight times a vehicle is towed that the company ends up taking ownership through the abandoned title process. MR. STRATTON explained when expanded over the 4,000 tows that is proposed, the number is 500 vehicles a year at about \$800 in value, which equals \$400,000 per year to any company that bids, whether they came in first or last. That \$400,000 is not represented anywhere on the price sheet, you can add 400.

COUNCILMEMBER HEUMANN asked MR. STRATTON what the tow charges are for the other cities and the County that he works with.

MR. STRATTON said that the pricing varies and stated that under municipal tows it is under contract: \$15 storage, 1 cent tows in Mesa. He said he believes they charge DPS \$25. MR. STRATTON acknowledged that those are higher numbers. The RFP process states a price, MR. STRATTON asked if a price were to be set, what would the best price be for constituents.

MR. STRATTON said that he felt that All City turned in a great bid, but it would cost the citizens of Chandler an extra \$850,000 over the 5-year period proposed in the bid. In any economy, the numbers are worth looking at and that is in a competitive bid. MR. STRATTON said whether a city is paying \$25 or \$15 or \$10 a day storage, the service that Chandler will enjoy is the same service that other cities enjoy. They are happy enough that Valley Express doesn't have any former municipal clients.

MR. STRATTON said that he does not believe that there is not a superior tow company in the Valley, but stated that his company submitted a superior bid. He said his company has high ratings with the Better Business Bureau, Dun & Bradstreet, and the reputation with its clients, along with a longstanding history in the towing industry.

COUNCILMEMBER HEUMANN asked Mr. Stratton for clarification on the percentage of quality vehicles compared to the Pintos or Gremlins.

MR. STRATTON said he agreed with Mr. Dunn's description of the quality of the vehicles, noting that "quality" is a subjective term. MR. STRATTON said that the number of cars that might come through under a proposed contract with a value exceeding \$2,000, they would be lucky to see 3, maybe 4 in an entire month of towing.

COUNCILMEMBER ORLANDO asked if tows are subcontracted out.

MR. STRATTON stated that if a tow would be subcontracted if it is of a heavy enough nature, if the company didn't have a truck of that size, however, it would not apply to the tows that are proposed in this contract. MR. STRATTON said that the IFB makes no provision for the company to profit from subcontracting. He said that his company could only charge its cost.

COUNCILMEMBER ORLANDO verified that subcontracting is simply a pass through and that there is no additional fee and/or profit.

MR. STRATTON said that there is no intent to do that. It would be a rare occurrence due to not having equipment in excess of the requirements of the IFB or the contract that is being proposed.

COUNCILMEMBER ORLANDO clarified by stating that part of the minimum bid was to have at least six tow trucks available and the time frame within half an hour.

MR. STRATTON advised that today he received a report from the company's largest client in Mesa. He said they were reported at 99.6% last month on getting there within the time frame. MR. STRATTON reassured Council that there will not be any time problems. He said that the police statistics in 2011 for Mesa where All City and Valley Express tow together in adjacent zones, the average response time for All City was 12.5 minutes and the average response time for Valley Express was 11 minutes. He said that both exceed the 30 minute cap and stated that this was over the course of 3,600 tows. MR. STRATTON said that the difference is not particularly important, but did state that it is not a bid from an inferior company.

MR. STRATTON said that this is a company that was able to turn in a bid based on waste. He said that they have land that will be owned for the next 5 years without cars on it. Through the City's contract it will. He said that he has staff that is required to be in the office 24 hours a day for the company's other contracts. MR. STRATTON stated that the staff is only busy about 40% of

the time. With the City of Chandler bid it won't be that way. MR. STRATTON said that the reason that his company was lower is probably due to the fact that as far as actual cash outlay goes to satisfy this contract, we were already spending the money: interest on the note, property taxes, labor in the office, labor in the yard, security force, it was all there, it was just under-utilized. MR. STRATTON said that his company is inefficient and will continue to be until a contract of this size is under its roof. He said that is the nature of the bid and probably the nature of the difference between this and All City's bid.

COUNCILMEMBER SELLERS said that he doesn't have an issue with either of the tow companies, but said that he struggles with the process that was used as part of this bid. COUNCILMEMBER SELLERS said he comes out of a business environment and struggles with how to evaluate the bids that were received. He said he has talked to other cities about towing and has received no complaints about either of these companies. COUNCILMEMBER SELLERS said that most cities have moved away from the bidding process that was used here. COUNCILMEMBER SELLERS Moved to Reject All Bids (Towing Procurement)

MOVED BY COUNCILMEMBER SELLERS that Council not award Agreement #PD2-968-305 to Thompson Diversified LLC dba Valley Express Towing for the following reasons:

The process that was used did not have sufficient emphasis on quality, focusing instead almost entirely on price. This has led to a situation where the bidders bid a price too low to make a profit and then have to recoup those losses in some other way, including a bid for zero compensation in this case for both the tow and the storage. I am concerned that the City has an inadequate ability to monitor and control what those other ways might be. The current process does not take into account the fact that this industry has a history of customer service issues and that 100% monitoring of the contractor is impossible. These issues will only be exacerbated while the contractor looks for ways to make a profit other than through the direct services for which the City is contracting. This process puts too much emphasis on the ability of the contractor to guess at how it can make a profit on work done for little or no compensation. That is unacceptable given the critical importance of this work to the safe operation of the City's streets. Recommend that Council REJECT ALL BIDS AND START THE PROCESS OVER FOR THE SAME REASONS, COUNCILMEMBER HEUMANN SECONDED THE MOTION.

MAYOR TIBSHRAENY asked Councilmember Sellers if the bid process were to start over what process should be used.

COUNCILMEMBER SELLERS said he would suggest that the City look at using the RFP process, the same process that many cities have gone to.

CITY ATTORNEY, MARY WADE, CLARIFIED THAT THIS IS A MOTION TO REJECT ALL BIDS AND START THE PROCESS OVER USING THE RFP PROCESS.

COUNCILMEMBER SELLERS CONFIRMED.

COUNCILMEMBER ORLANDO asked staff if this motion were to pass what would the timeframe be for the activity to occur.

MR. MANDT said that a typical RFP is probably a six-month process or longer, towing RFPs tend to be challenged and take longer.

COUNCILMEMBER ORLANDO asked if there would be an industry day so staff would know how to structure this RFP to be able to evaluate.

MR. MANDT said that he has samples from other cities that he could use. There would probably need to be discussion about the two models of RFPs, one where you fix the price, one where the price has a competitive element, but is not the sole criteria. He said that staff would need to know what direction to move forward on that issue.

COUNCILMEMBER ORLANDO suggested that industry give staff some ideas so that six months from now Council doesn't have this item presented with other items or elements that were left out of the criteria. He encouraged Mr. Mandt to have a towing industry day to have that dialogue and input from the industry to make the evaluation criteria.

MR. MANDT advised that staff could do that.

COUNCILMEMBER HEUMANN said that based on what has gone on over the past few months. He suggested this item go before a Council Subcommittee for further discussion on this issue.

MAYOR TIBSHRAENY said that he feels there should be some discussion on vehicles that are impounded that never get claimed and get sold and the titles get transferred.

MOTION CARRIED BY MAJORITY (6-1). COUNCILMEMBER DONOVAN VOTED NAY ON THIS ITEM.

CURRENT EVENTS:

A. Mayor's Announcements

MAYOR TIBSHRAENY wished Assistant City Manager Pat McDermott a Happy Birthday.

MAYOR TIBSHRAENY thanked staff, sponsors and volunteers for their efforts during the Centennial event celebration. He said they did a great job of putting together the events in honor of Chandler's 100 years. MAYOR TIBSHRAENY also highlighted photos of the winning team for the Whiskerino contest and other activities as part of the celebration.

MAYOR TIBSHRAENY announced that the Chandler Fire Department is accepting applications for the basic training classes for Community Emergency Response Teams, or C.E.R.T., which will be held June 22 through June 24.

Chandler's basic C.E.R.T. course will teach participants how to identify and anticipate potential hazards, turn off utilities, put out small fires, apply basic medical aid, and assist emergency first responders.

To register, call the Chandler Fire Department at 480-782-2116 or send an email to CertAdmin@chandleraz.gov.

MAYOR TIBSHRAENY announced that the next Listening Tour is scheduled for Tuesday, June 12 at 7 p.m. at Navarette Elementary, 6490 S. Sun Groves Blvd. He said the tours have been a great opportunity to discuss neighborhood issues with Council and staff.

