

MINUTES OF THE REGULAR MEETING OF THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, held in the Council Chambers in the Chandler Library, 22 S. Delaware, on Thursday, May 10, 2007 at 7:05 p.m.

THE MEETING WAS CALLED TO ORDER BY MAYOR BOYD W. DUNN.

The following members answered roll call:

Boyd W. Dunn	Mayor
Lowell Huggins	Vice-Mayor
Bob Caccamo	Councilmember
Trinity Donovan	Councilmember
Matt Orlando	Councilmember
Martin Sepulveda	Councilmember
Jeff Weninger	Councilmember

Also in attendance:

W. Mark Pentz	City Manager
Rich Dlugas	Assistant City Manager
Pat McDermott	Assistant City Manager
Michael D. House	City Attorney
Marla Paddock	City Clerk

INVOCATION: The invocation was given by Pastor Forrest Erickson – Rock Church

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

SCHEDULED PUBLIC APPEARANCES:

1. Presentation: CAPA Video Awards

MAYOR DUNN was joined by Communications & Public Affairs Director Nachie Marquez in presenting the Bronze Telly Award to Stacy Sacco, Jim Phipps and Jane Poston for the video production of "Public Works at Work". Ray Gonzales was presented the Silver Telly Award for a video segment entitled "Lessons in Loyalty" about a Japanese family who was interred during World War II.

2. Proclamation: National Police Week / Peace Officer's Memorial Day

MAYOR DUNN was joined by Police Chief Sherry Kiyler as he read a proclamation declaring the week of May 13-19, 2007 as National Police Week and May 15, 2007 as Peace Officers Memorial Day.

Chief Kiyler said that 145 new names would be added to the National Law Enforcement Memorial that were killed in the line of duty in 2006 bringing the number of names to nearly 18,000 and thanked the Mayor and Council for honoring their service.

3. Allied Waste Transfer Facility Discussion

COUNCILMEMBER ORLANDO said that at the last Council meeting, Council invited representatives from Allied Waste to make a presentation before the entire Council. A letter was sent to them explaining that the presentation would be informational and all sides would be heard.

COUNCILMEMBER ORLANDO read the following response to City Manager Mark Pentz from Mr. Doss with Allied regarding a meeting they participated in on May 3rd, into the record:

“Thank you for taking the time meeting with us. I did not know whether I mentioned I would be out of the office for the balance of the week, but when I returned to my office Monday the 7th, I received a letter from Councilmember Orlando during my absence. In his letter, Councilmember Orlando requested Allied Waste attend a City Council meeting on either the 7th or 10th. I am writing to let you know that Allied Waste respectfully declined the Councilmember’s request. Although the Councilmember’s letter is dated the 27th, he mailed it to our old address, so I did not receive it until the end of the week. I imagine when Councilmember Orlando sent the letter, he did not know we would be sitting down with your staff on May 3rd. I think our discussion on May 3rd addressed all remaining issues the City has regarding our site plan. In fact, no mention was made of the fact that we were going to meet with a Councilmember. “

The letter continues by addressing the ordinance proposed by Councilmember Caccamo.

“I believe these discussions have resulted in sound input regarding our site plan and have assisted in crafting the appropriate stipulations as set forth in our email of May 5th following our meeting. I also believe that some of these meetings have allowed citizens and elected officials to voice their opposition to our land use. As you know, our land use is legally allowed on the subject property. As such, these discussions are both inappropriate and as we have consistently maintained throughout the process, misleading to citizens who want to contribute possibly to our site planning. Against this background, I do not think appearing before the City Council would be fruitful to either Allied or the City. I’m confident the Council will reiterate their remaining concerns when we have our May 16th hearing.

Again, thank you for your time. Steve Doss.”

COUNCILMEMBER ORLANDO expressed his disappointment with Allied’s response.

RAMAMURTHY (RAM) KRITHIVAS, 1072 E. Coconino Drive, expressed concern with the proximity of the proposed transfer station to parks, residential property and places of worship. He stated that temples, churches, mosques and synagogues are 24/7 centers of peace and spiritual progress. In contrast, the proposed transfer station will be a perpetual source of distraction to the serenity of these places of worship. He clarified that he is not speaking on behalf of any of these congregations, as he is Hindu. He asked Allied Waste not to proceed with their transfer station in such close proximity to places of worship.

WELDON KNAPE, 1013 E. Coconino Drive, said that he drove to Allied Waste’s Paradise facility to see if they police the area around their facilities as they said they did at their meeting on March 20th. He displayed photos of land directly across the street from Allied’s facility on Lower Buckeye Road. He indicated the blowing trash that shows that they do not police the area of their existing facilities. As he approached the facility from the east, he said he started to smell the odor approximately .7 of a mile away. He questioned what the odors would be like during the monsoon season with high temperatures, high humidity and wind. Mr. Knape urged Council to take all measures possible to stop the construction.

COUNCILMEMBER CACCAMO asked Mr. Knape to e-mail the photos to him so he can present them at the County meeting.

COUNCILMEMBER SEPULVEDA asked Mr. Knape if there were any other transfer facilities or other facilities in the area that might have contributed to the smell. Mr. Knape responded that he was not aware of any. The breeze was coming directly from the transfer station and there is nothing between 27th Avenue and the transfer station. COUNCILMEMBER SEPULVEDA asked Mr. Knape if he has seen the facility. Mr. Knape said he has driven by it. COUNCILMEMBER SEPULVEDA said that the Council had forwarded a resolution to the County in opposition, but the does not have the authority to make the final determination on the siting of the facility. Mr. Knape said he is aware of that, but is asking Council to "be creative" to prevent the facility from being built.

GAYATHRI PATTABHIRAMAN, 1072 E. Coconino Drive, spoke on behalf of Scott Tidemann who lives across the street from her and is unable to attend the meeting. Reading Mr. Tidemann's comments, Ms. Pattabhiraman said that the proposed transfer station would not be transferring the garbage, but rather transforming it by compacting it by squeezing the pungent odors out. The compacted garbage will be hauled out, but the odor will remain. Allied has stated that they will use extreme odor control measures at this facility.

MIKE TURLEY, 4322 S. 80th Street, Mesa, spoke about the proposed weight restrictions on Germann Road (Item #54). He is a business owner across the street from the proposed Allied Waste facility. He has another business on Sossaman on Warner and there is a waste transfer station approximately 600' from his property operated by Waste Management and he has never had any problems with odor. Mr. Turley said that from what he has seen of Allied's proposal, they have done all they can to make their facility aesthetically pleasing. He noted that Allied was prohibited from erecting a tin shed, but metal buildings are in Tumbleweed Park across the street.

COUNCILMEMBER SEPULVEDA asked how long Mr. Turley has been in business near the proposed facility. Mr. Turley responded that he has been there two years. He was not noticed of the hearing on weight restrictions, but read about in on the Internet and notified other business owners in the area. COUNCILMEMBER SEPULVEDA asked the City Manager if any businesses or residences were publicly noticed on the hearing. Mr. Pentz responded "no" as this issue had been moving quickly.

MICHELLE DALY, 1710 E. Redwood Place, thanked the Council for their efforts in trying to stop the facility. She said that safety is an issue with children. The number of trucks going through the facility is not worth the risk. Property rights have been discussed and Tumbleweed Park is a property owned by the citizens of Chandler and is used by all citizens in Maricopa County. Allied's facility will not be processing Chandler's trash, but trash from other municipalities. The trash comes to Chandler and leaves from Chandler with no benefit to Chandler citizens. Citizens have the right to use the park and enjoy the facility without risk.

COUNCILMEMBER SEPULVEDA said that the biggest safety risk is the truck traffic down Germann from McQueen to Hamilton. He asked Ms. Daly asked if she would be more comfortable if an alternate ingress/egress were implemented. She responded that it would create a safer, but not safest situation. All of the truck traffic would still be coming through southeast area. Allied has stated that they can only control the trucks that they own and operate. There will be other truck traffic using the facility they do not have control over. Ms. Daly said that they have met with Allied and the only thing they will offer is more mature trees.

COUNCILMEMBER SEPULVEDA commented that if the best the Council can do to impact the safety issue is to get the alternate ingress/egress off of Germann Road, he will continue to pursue it.

UNSCHEDULED PUBLIC APPEARANCES:

URSULA JOHNSTON, 2265 E. La Costa Place, spoke regarding the proposed relocation of the Gila River casino to Hunt Highway and Gilbert Road. She said that residents of south Chandler have formed a committee and received a call that the Gila River Indian Community was holding a public meeting to discuss the casino. There was a record crowd at the meeting and they were surprised that the residents of the Indian Community are also against the relocation. She thanked the Mayor for his efforts in establishing open lines of communication with the Indian Community.

GARY CARPENTER, P.O. Box 16876, Phoenix, spoke regarding a petition for a proposed Cesar Chavez holiday. He attended a function at Carl Hayden High School and was "strong-armed" into signing the petition. He said that groups are getting signatures on petitions from non-registered voters and even non-citizens and sending them to local and national petitions.

ROB HOOD, 3090 E. Runaway Bay Place, spoke regarding the recent public meeting about the casino. He was surprised to see the dissention among the Gila River Community regarding the casino. He gave a summary of what transpired at the meeting. The majority of those in attendance were in favor of the land remaining agricultural and that the casino relocate to the I-10/387 interchange.

JOHN JOHNSTON, 2265 E. La Costa Place, said that he attended the casino meeting and spoke with Mr. Guttensen with the Gila River Community regarding their site selection process. The three factors for their choice were proximity to a population density, proximity to an interstate exchange and tourism in the area. Obviously, all of these were financial choices and not social, safety or risk impacts. Since there is no tourism in the area and it is not in close proximity to an interchange, the driving factor had to be population density. Mr. Guttensen was quoting from a consultant and Mr. Johnston asked the Council to help in obtaining a copy of the report to help them understand their reasoning. He reiterated that the chosen location is directly across from residences. Residents have made an investment in their homes just as the Indian Community has made an investment for economic development.

CONSENT:

MAYOR DUNN commented on the rezoning for The Serrano Building (item #14) that will bring an opportunity for more retail businesses. He also thanked Staff for bringing forth the contract to begin construction on the Mesquite Groves Aquatic Center in southeast Chandler (item #37).

COUNCILMEMBER CACCAMO explained his request for annexation in item #15. There will be a park and ride at the corner of Germann and Hamilton and there is a section across the road that, if annexed, the City could maintain. Because of the possible increase of car and truck traffic in the area, it will probably need to be changed to a concrete configuration. There is no intention of limiting traffic from Hamilton to Arizona Avenue or limit weight limits on trucks. It is strictly for maintenance control.

CLINT RANDALL, 4490 E. Shetland Dr., Queen Creek, a business owner in the area, said he thinks this is a "personal vendetta" on behalf of COUNCILMEMBER CACCAMO. He questioned how the annexation could take place without public notification. He does not believe that this annexation has nothing to do with the proposed Allied Waste. It is all about control. He is opposed to the annexation and will express opposition at the County Board of Supervisor's

meeting. The County currently maintains the road. Allied has agreed to help the City pay for, install and maintain their portion of a light.

COUNCILMEMBER SEPULVEDA clarified with Mr. Randall that he was not publicly noticed and found out about the annexation through the newspaper. Mr. Randall said that a reporter called him.

COUNCILMEMBER SEPULVEDA asked the City Attorney about the required public notification in this instance. Mr. House responded that State law governing annexation of right-of-way only, as is this case, does not require notification or any other annexation procedures. All that is required is that there be an ordinance of intent to annex adopted by the City Council and sent to the Board of Supervisors for approval.

COUNCILMEMBER SEPULVEDA asked Mr. Randall if his property would be adversely affected by this annexation. Mr. Randall replied that it would.

COUNCILMEMBER CACCAMO clarified that the City is annexing the land for maintenance purposes. He does not believe the annexation will adversely affect Mr. Randall's property. Allied Waste has also told the City they will not install a streetlight. There was discussion regarding Mr. Randall's request for annexation of his property.

MAYOR DUNN said that item #45, Use Permit for Helen's Assisted Living Home, has been withdrawn. Doug Ballard explained that the applicant currently has a facility with 5 residents and 2 caretakers who do not live in the home. The State was under the impression that the caretakers were living in the home and informed the applicant that they would need to get a use permit from Chandler because there were more than 5 residents living in the home. The applicant decided that if they had to go through the use permit process, they would ask for 10 residents to have the flexibility of having more residents if they choose to, but only intended to have 5. Staff clarified with the applicant that if no one else was living in the home, it would meet the definition of family and a use permit would not be required.

KENNETH BROWN, 5296 S. Red Yucca Lane, Gold Canyon, Vice-President and co-owner of RU2 Systems, spoke on item #28 (speed display signs). They filed a letter of protest on the awarding of the bid that was rejected by City Staff and feel it is necessary to clarify inaccuracies of the bids. He asked that this item be moved to Action.

MOVED BY COUNCILMEMBER ORLANDO, SECONDED BY COUNCILMEMBER WENINGER, to approve the Consent Agenda as amended with the withdrawal of Item #45 and moving Item #28 to Action.

COUNCILMEMBER CACCAMO stated the he would be voting nay on Item #7 (Montage By Charlevoix).

COUNCILMEMBER WENINGER complimented the Serrano's on their proposed building in downtown Chandler (Item #14).

COUNCILMEMBER SEPULVEDA stated the he would be voting nay on Item #15 (Germann right-of-way annexation) and would like more information from the City Manager or City Attorney regarding public notification on any type of annexation.

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

1. MINUTES:

APPROVED, as presented, the minutes of the Council Special meetings of April 23 & 26, 2007, and the Regular meeting of April 26, 2007.

2. AGREEMENT: AGL Networks, LLC Ord. #3786

ADOPTED Ordinance No. 3786 authorizing an Agreement with AGL Networks, LLC, authorizing the use of public property for the establishment of a Class 5 Communication System.

3. RIGHT-OF-WAY VACATION: Germann Road Ord. #3827

ADOPTED Ordinance No. 3827 authorizing the vacation of a portion of the Germann Road right-of-way at the intersection of Germann Road and the new Germann Road alignment near the SWC of Gilbert Road and the abutting tax parcel for a fee of \$6,621.00.

4. REZONING: Vina Escondida Ord. #3850

ADOPTED Ordinance No. 3850, DVR06-0010 Vina Escondida, rezoning from AG-1 to PAD on approximately 12.23 acres for a 16-lot custom single-family residential subdivision.

5. CITY CODE AMENDMENT: Chapter 44 Ord. #3886

ADOPTED Ordinance No. 3886 amending City Code Chapter 44, Sections 44-1, 44-2, 44-4 through 44-10 and Chapter 50, Sections 50-15 and 50-16 relating to Solid Waste Services and amending the fee schedule.

6. IRRIGATION EASEMENT: SRP Ord. #3907

ADOPTED Ordinance No. 3907 granting a no-cost irrigation easement to Salt River Project to accommodate the underground construction of relocated irrigation facilities due to road improvements for the Cooper Road and Pecos Road Project.

7. REZONING: Montage By Charlevoix Ord. #3914

ADOPTED Ordinance No. 3914, DVR06-0061, Montage By Charlevoix, rezoning from PAD to PAD amended to allow increased lot coverage, eliminate certain two-story restrictions and eliminate the requirement for copper plumbing on an approximate 35-acre site north of the NEC of Chandler Heights and Lindsay roads.

COUNCILMEMBER CACCAMO voted nay on this item.

8. WITHDREW AGREEMENT: Verizon Wireless Ord. #3917

WITHDRAWN as requested by Staff, adoption of Ordinance No. 3917 amending a Wireless Telecommunications Use agreement between Verizon Wireless (VAW) LLC, dba Verizon Wireless and the City of Chandler for a site at Snedigar Sportsplex for additional clarifications to the language. It will be reintroduced at a future meeting.

9. PROPERTY VACATION: Old Germann Road Ord. #3810

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 3810 authorizing vacation of a portion of the Old Germann Road right-of-way alignment at the SWC of Old Germann Road at Stearman Drive for a fee of \$48,083.00.

Germann Road from Airport Boulevard to Gilbert Road was realigned as a part of a recently completed road project. The City of Chandler has received a request from Mammoth Equities, LLC that a 48,083 square foot area be vacated for a fee of \$48,083.00 as just compensation to the City. The old roadway vacation area is no longer needed as public roadway because of the new road alignment. Vacating this roadway will allow land south and west of the old roadway to assemble with and accommodate the development of Chandler Airport Business Park at the SWC of Old Germann Road and Stearman Drive.

Mammoth Equities is responsible for compensation to the City of \$48,083.00, an amount that reflects Mammoth Equities' letter of agreement to bear the cost of any future liability, maintenance costs including the relocation, removal and disposal of existing improvements within the vacation area. Real Estate has contacted the appropriate City departments and outside utilities. Each has reviewed this request and has no objections. The vacation reserves all existing easements. The published, separate fee for processing a vacation request was previously paid.

10. POWER DISTRIBUTION EASEMENT: SRP Ord. #3902

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 3902 granting a no-cost power distribution easement to Salt River Project (SRP) for electrical service to the new recreation center at Tumbleweed Park at Germann and McQueen roads.

11. AERIAL EASEMENTS: SRP Ord. #3909

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 3909 authorizing the assignment to Salt River Project (SRP) of certain aerial easements acquired by the City of Chandler for the Riggs Road (Arizona Avenue to Gilbert Road) improvement project.

In connection with a City road project for the widening and improvement Riggs Road from Arizona Avenue to Gilbert Road, the City acquired roadway and easements needed to the project which also included acquisition of aerial easements ultimately intended for use by SRP. The aerial easements are needed to assure clear space to accommodate SRP's 69 KB transmission lines and supporting structures required to be located as a consequence of the project.

Upon recording the assignment, the City would have no further obligation, responsibility or liability and no further rights pursuant to or because of the easement.

12. PROPERTY EXCHANGE: Chandler Airport Property Investors LTD Ord. #3913

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 3913 authorizing the exchange of approximately 44.48 acres of land between the City of Chandler and Chandler Airport Property Investors Limited Partnership at the SEC of Queen Creek and McQueen roads and authorized an amount of approximately \$75,000.00 for expenses related to this agreement.

In 2003, the City of Chandler and the Flood Control District of Maricopa County (FCDMC) each purchased one-half of approximately 70 acres of land at the SEC of Queen Creek and McQueen roads. The property was purchased as a retention basin that is on part of the recommended regional drainage plan identified in the Higley Area Drainage Master Plan. The parcel purchased is known as the Queen Creek Road Basin. The basin will be designed to retain 204 acre-feet of storm water runoff from the 100-year storm identified in the Higley Area Drainage Master Plan. In 2005, the City and the FCDMC approved an Intergovernmental Agreement for the development of the Queen Creek Road Basin as a retention basin with a secondary use as a City park. The City would be the lead agency for the design and construction of the improvements, and will be responsible for the ongoing operation and maintenance of the basin. The FCDMC would participate financially in the design and construction of the improvements.

The parcel of land adjacent to the east side of the Queen Creek Road Basin is an approximately 80-acre parcel owned by Chandler Airport Property Investors Limited Partnership (CAPI). In 2005, the City and CAPI started working an exchange of approximately 44.48 acres of land that would result in a benefit to the City and CAPI. The main benefits include the creation of a 300-foot buffer between the developer's proposed light industrial development and the single-family neighborhoods to the south and to the east and the City obtaining control of the land beneath the Runway Protection Zone for the southwest end of the Airport runways.

As part of the land exchange, the City of Chandler agrees to provide to CAPI's property no more than 55,000 cubic yards of excavated material from the proposed basin. The remaining approximately 250,000 cubic yards of excavated material will be hauled to the proposed landfill park. Additionally, the City and CAPI agree to equally share in the cost of a new local roadway through the Queen Creek Road Basin that will serve as an access point to the City park and the Paseo Trail system and a secondary access to the CAPI's property.

Both the City and CAPI conducted public informational meetings that presented the proposed land exchange. The residents of both Lantana Ranch to the south and Twin Acres to the east were at the meetings and in support of the proposed land exchange.

The Flood Control District of Maricopa County must also approve of this land exchange based on the proposed parcel for the Queen Creek Road Basin meeting the original intent of the parcel. The proposed parcel for the basin will accommodate the required 204 acre-feet of storm water retention storage.

An appraisal of the City-owned parcel, the Queen Creek Basin, both before and after the land exchange, was conducted by an independent appraiser. The appraiser determined that there is no difference in value between the existing configuration of the Queen Creek Basin and the configuration after the land exchange.

As part of the appraisal, the appraiser did not consider the value of a future easement for the airport Runway Protection Zone (RPZ) at the southwest end of the airport runways. In the existing parcel configuration, approximately 8 acres of the developer's parcel, based on the 2007 Airport Master Plan Update, would be impacted by the RPZ, thus possibly limiting development or restricting airport runway operations. With the land exchange, no part of the developer's new parcel will be within the RPZ. There is a value to the City of having the RPZ being located over the Queen Creek Basin and the future park development; however, the appraiser did not assign a value to the City obtaining control of the RPZ area in the appraisal.

The City's costs associated with the completion of this agreement are approximately \$75,000.00 for normal closing costs, title insurance, ALTA survey and remediation of any environmental concerns.

13. TRANSMISSION AND AERIAL EASEMENTS: SRP Ord. #3918

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 3918 granting no-cost transmission and aerial easements to Salt River Project (SRP) to accommodate the relocation of 69 kilovolt (kV) electrical facilities along Pecos Road for the Cooper Road/Pecos Road Improvement Project.

14. REZONING: The Serrano Building Ord. #3919

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 3919, DVR07-0008 The Serrano Building, rezoning from City Center District (CCD) to CCD with a PAD overlay for additional building height for a new building at the SWC of Boston and Washington streets. (Applicant: Michael S. Flanders, Architect; Owner: Serrano's Mexican Restaurants.)

A zoning application for a PAD overlay is required to allow the building height to extend above 30 feet, the maximum height permitted at the CCD zoning district. The proposed building is approximately 40 ft. tall to the top of the parapet. The architectural building design has been reviewed and approved by the Downtown Architectural Review Committee (ARC). A similar zoning action was approved for another property in 2005 for a CCD zoned portion of the planned San Marcos Commons development at the NWC of Arizona Avenue and Buffalo Street whereby a PAD overlay was granted for three-story buildings up to 45 feet in height.

The site is located within the City Center District (CCD). The property is currently vacant, except for a sidewalk along Boston Street, utility boxes along Washington Street and a remnant concrete pad from a former building area. The site was originally occupied by the first Bashas grocery store. The new building will be constructed directly adjacent to the Inspirador building (former Daymart).

The proposed development features a three-story retail and office building with pedestrian colonnades and balconies. The ground floor will occupy 90 percent of the site area, with the south side (alley) of the building housing areas for deliveries, trash enclosures and screened areas for electrical equipment. Consistent with uses allowed in the CCD zoning, retail and potential restaurant space will occupy the first floor with office space above on the upper floors. The site is located in a transitional area between existing historical and planned developments. The lot is located at the southeast boundary of the Downtown Historic Square along Boston Street and adjacent single-story buildings. The 75-foot tall, five-story First Credit Union building (Rocky Mountain Financial Center) and four-story parking garage is located to the north. The vacant site located to the east across Washington Street is planned for the future Fire Administration complex and may potentially include multi-story buildings and parking. The future City Hall complex is planned to the south and may include up to five-story structures and an associated parking garage.

This request was noticed according to the provisions of the City of Chandler Zoning Code. Staff has received one phone call inquiring about the project.

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

15. ANNEXATION: Germann Road Right-of-Way

Ord. #3923

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 3923 annexing portions of the Germann Road right-of-way between Arizona Avenue and Hamilton Street.

Germann Road running east from Arizona Avenue is partly within Chandler's city limits and partly within a county island under the jurisdiction of Maricopa County. The subject property consists of two parcels that are part of Germann Road. They are in the county island area, but each parcel is adjacent to the City of Chandler along their entire length. Each parcel consists of approximately half of the roadway at their respective locations; the other half of the roadway at each location already being within the City limits. The annexation of these parcels will place them fully within Chandler's control and responsibility.

The annexation process available under A.R.S §9-471(N) requires that the City adopt an "ordinance of intent" to annex the right-of-way. Upon approval by the City, a request for annexation, together with a copy of the ordinance, will appear as a published agenda item at a regular meeting of the Maricopa County Board of Supervisors. If the County approves annexation, the right-of-way parcels will be annexed into the City.

COUNCILMEMBER SEPULVEDA voted nay on this item.

16. IGA AMENDMENT: Flood Control District of Maricopa County

Res. #4058

ADOPTED Resolution No. 4058 authorizing an amendment to an intergovernmental agreement with the Flood Control District of Maricopa County for the design, utility relocation, construction, construction management, and operations and maintenance of the Queen Creek Road Basin, to extend the completion date and increase the County funding by \$700,000.00 to the amount of \$2,200,000.00.

In 2002, the City and the Flood Control District of Maricopa County (FCDMC) jointly purchased approximately 70 acres of land south of Queen Creek Road and east of McQueen Road. This land was designated to be a basin as part of the Higley Area Drainage Master Plan.

In April 2005, Council approved an agreement between the City and FCDMC for design and construction of the retention basin, with FCDMC to provide \$1,500,000.00 towards the design and construction of the project. The April 2005 agreement also required the City to complete construction of the basin by June 30, 2007. On June 6, 2006, Staff sent a letter to FCDMC requesting that the intergovernmental agreement be amended to give the City until December 31, 2010 to complete construction of the basin. Also, Staff asked that the FCDMC funding be increased from \$1,500,000.00 to \$2,200,000.00 due to increases in excavation and construction costs since the original agreement was signed. The FCDMC staff will make a recommendation for approval to the Maricopa County Board of Supervisors.

The primary reason for the delay of the project is a pending land transfer with an adjacent landowner. The City also negotiated increased funding because construction cost increases exceeded the amounts in the original agreement with FCDMC. The CIP was updated for FY 06/07 to increase funding for the project. The original IGA allowed for the possibility of the land exchange so the exchange does not require an IGA amendment.

A design consultant for basin excavation and park design should be on board within the next few months. Construction of the basin should start in late 2008.

17. AMENDMENT: Personnel Rule 19

Res. #4061

ADOPTED Resolution No. 4061 amending Personnel Rule 19 pertaining to the Employee Council.

The Employee Council is a group of City employees elected into the Council by employees in their respective Departments. This group meets on a regular basis to discuss mutual concerns among departments in the City and to make recommendations on personnel rules and procedures.

Since the City adopted the Meet and Confer Ordinance, it became necessary to redefine the role of the Employee Council. The Mayor and City Council approved changes to this rule in March of 2005 that were adopted by Resolution No. 3834 and intended to clarify the role of the Employee Council. The Employee Council believes that language should be included to specify the groups of employees that are represented by the Employee Council. In addition, a minor change is included which provides for two primary and two alternate positions for departments that have more than 100 eligible employees in order to ensure appropriate representation.

The proposed key changes submitted by the Employee Council are summarized as follows:

Section 3. Representation

- A. Employees that reside in a job class designated as professional, supervisory or confidential and who are not otherwise represented by a designated employee organization through a negotiated Meet and Confer agreement, are considered qualified and eligible to submit their concerns and ideas to their appropriate representative for discussion with the City of Chandler Employee Council.
- B. For representation purposes, the Departments of the City Clerk, City Magistrate, Law, Communications and Public Affairs and City Manager shall be combined and will be considered as one department and will be referred to as General Services. Each department shall have a minimum of one primary and one alternate representative. Departments that have more than 100 eligible employees shall have two primary and two alternate representatives in order to ensure appropriate representation.

Section 4. Eligibility and Terms

- A. Any full-time regular employee that is eligible for representation as outlined in Section 3A of this rule is eligible to hold the position of employee representative and may participate in the election of the representative.

18. PROPERTY PURCHASE: Valencia II

Res. #4065

ADOPTED Resolution No. 4065 authorizing and approving the purchase of a 9.3-acre, vacant property in the Valencia II Subdivision for a future, planned park site located at Lindsay and Cloud roads at a cost of approximately \$1,189,189.00 plus closing costs of approximately \$7,500.00.

The owner-developer of Valencia II has agreed to sell this property to the City of Chandler for compensation that includes the developer's acquisition basis plus developer's offsite improvements, for a total cost of \$1,189,189.00 plus estimated closing costs of \$7,500.00. The developer will continue to use a portion of this property for its meeting trailer, sales, vendors and construction Staff, until development of the park site begins as tentatively scheduled in FY 09/10. The acquisition of this parcel is necessary for the planned, future city park facilities intended to serve citizens in a one square mile area. Acquiring this property now will enable the City to avoid future price increases and a diminishing availability.

19. CONTINUE AREA PLAN AMENDMENT / REZONING: Pinelake Condominiums

CONTINUED TO MAY 24, 2007, Area Plan, AP05-0003, Pinelake Condominiums, amendment from business park to multi-family residential land use at the SEC of Pinelake Way and Ocotillo Road.

CONTINUED TO MAY 24, 2007, Rezoning, DVR05-0040, Pinelake Condominiums rezoning from PAD for business park and AG-1 to PAD for residential condominiums with PDP approval to allow a residential condominium development for property at the SEC of Pinelake Way and Ocotillo Road. (Applicant: Whitneybell Perry, Inc.; Owner: South Chandler Investment Property LP.)

20. WITHDREW ZONING AMENDMENT: Motoworks

WITHDREW, as requested by the Applicant, Zoning Amendment, DVR06-0037, Motoworks, for existing Planned Industrial District with Planned Area Development Overlay (I-1/PAD) zoning to allow certain motorcycle service and customization at 224 E. Chilton Drive, north and east of Elliot Road and Arizona Avenue because the applicant has moved out of the building.

21. SUBORDINATED: 684 E. Monterey Street

SUBORDINATED the Housing Rehabilitation Lien on Project No. RH07-0004 at 684 E. Monterey Street in the amount of \$17,488.31. (Azcona.)

The single-family, owner-occupied home at 684 E. Monterey Street was rehabilitated under the City of Chandler's Housing Rehabilitation Program in 2007. The City has placed a lien against the property for \$17,488.31. This lien is in the form of a 10-year forgivable loan. The balance of \$17,488.31 will be forgiven in 2017 per the original loan agreement.

The owner is now requesting a refinance in order to lower their interest rate and is not receiving any cash out. The now loan is for \$119,000.00. In order to obtain the loan, a subordination of the City's lien is required by the lending institution.

The City's lien is currently in second position and would remain in second position after the new loan. The City's lien will not be released until the term of affordability expires in 2017. The property is currently valued at approximately \$215,000.00, which is more than the combined encumbrances of the City's lien and the new first mortgage.

22. AGREEMENT/MOU: Housing Our Communities

APPROVED an Agreement / Memorandum of Understanding (MOU) to allocate \$94,162.00 to Housing Our Communities for the provision of Down Payment Assistance and Housing Counseling to 14 moderate income, first-time homebuyers.

The City of Chandler has been awarded funding from the federal Ameridream Down Payment Assistance (ADDI) Program. ADDI funds are received through the Maricopa HOME Consortium from the U. S. Department of Housing and Urban Development. The City of Chandler has funds available that, if unencumbered by the end of the fiscal year, must be returned to the federal government. Because of recent trends in the housing market, particularly loans to families with little or no credit history, the City's existing down payment assistance program is seeing little to no activity.

Housing Our Communities (HOC) is an East Valley Based non-profit agency with over fifteen years in housing counseling and homebuyer assistance. Because of their experience and established relationships with lenders, HOC has a waiting list of qualified, moderate-income families many of whom are Chandler residents. HOC proposes to use the ADDI funds to provide up to \$6,000.00 in assistance per family. HOC will provide required homebuyer counseling and handle all necessary administrative tasks. Any funds provided for a homeowner will be secured as a second lien and in the City's name.

23. AGREEMENT EXTENSION: Spanish Translation Services

APPROVED the final one-year Agreement extension with Topete/Stonefield, Inc., HispanoAmerican Communications and Spanish Media Services for Spanish translation services in an amount not to exceed \$20,000.00.

The purpose of this contract is to provide written translation services of various materials provided by the City from English to Spanish. These materials may include, but are not limited to, newsletters, brochures, flyers, announcements, video scripts, web site text and other official municipal communication items. These translations are on an as-needed basis. The translation of a four-page citizen newsletter (City Scope) is required on a monthly basis.

24. AGREEMENT EXTENSION: VIP Window Cleaning

APPROVED the final one-year Agreement extension with VIP Window Cleaning for window cleaning services in an amount not to exceed \$20,000.00.

25. AGREEMENT: IntelliTime Systems Corporation

APPROVED an Agreement with IntelliTime Systems Corporation for a timekeeping and absence management solution, implementation services and necessary hardware in an amount not to exceed \$250,000.00.

The City's payroll system was implemented in 1999 and since that time, the City has seen considerable growth to the employee population. The Time Labor/Absence Management Project will enable the City of Chandler to modify their current process in an effort to use standard functionality within the Oracle environment and enable absence-reporting functionality. The project will enable the City to track hours worked for compliance with federal and state laws. The project will also provide an automated process to record time that will enable the efficient management of the City's leave and time reporting for payroll purposes.

26. AGREEMENT EXTENSION: G & G Construction

APPROVED the second one-year Agreement Extension with G & G Construction for asphalt paving in an amount not to exceed \$1,200,000.00.

This contract will be used as needed for the repair of arterial, collector and local streets. The projected number of asphalt paving repairs to be completed by the Streets Division exceeds the capacity of existing crews; therefore, the contract will be used to complete the overflow asphalt paving work. This contract will also be used to apply an asphalt cap on older arterials streets that need maintenance and for larger patch repairs as needed.

27. AGREEMENT EXTENSION: G & G Construction

APPROVED the third one-year Agreement Extension with G & G Construction for concrete curbs, sidewalks and handicap ramps in an amount not to exceed \$1,800,000.00.

Concrete repair work is required prior to initiation of scheduled street repaving. Concrete work includes repair of damaged existing curbs, gutters and sidewalks, and upgrading of existing handicap ramps to current standards required by the Americans with Disabilities Act Accessibility Guidelines. Streets are selected for rehabilitation based on a pavement rating system and are typically more than 20 years old.

28. Moved to Action.

29. AGREEMENT EXTENSION: Southwest Slurry Seal

APPROVED the first one-year Agreement Extension with Southwest Slurry Seal to provide asphalt emulsion slurry seal and micro seal in an amount not to exceed \$1,500,000.00.

30. AGREEMENT EXTENSION: Trafficade Service, Inc.

APPROVED the first one-year Agreement Extension with Trafficade Service, Inc. for the rental and purchase of barricades in an amount not to exceed \$85,000.00. By using this contract, the City reduces the need to keep a large inventory of barricade equipment and spare parts as well as saving on labor on the set-up takedown and repair of the various traffic control devices.

31. AGREEMENT EXTENSION: B & F Contracting, Inc.

APPROVED the first one-year Agreement Extension with B & F Contracting, Inc. for the replacement of damaged streetlights and the installation of miscellaneous new streetlights in an amount not to exceed \$149,000.00.

This contract is for the replacement of damaged streetlights as a result of traffic accidents or corrosion, and for miscellaneous streetlight installations to increase lighting levels in older developed areas. It will be used on an as-needed basis; therefore, the quantities are estimates based on the previous two-year history. Staff has estimated that approximately 74 streetlights may be replaced and/or upgraded during the term of the contract, June 1, 2007 through May 30, 2008. Risk Management recovers approximately 80% of the cost for damaged poles through insurance companies and/or persons involved. The remainder will be funded from the City's self-insurance. Rusted streetlight pole replacements and the miscellaneous new installations are funded from the Capital Improvement Program as needed.

32. AGREEMENT EXTENSION: Vulcan Materials Company

APPROVED the first one-year Agreement Extension with Vulcan Materials Company to provide ready mix concrete and aggregate slurry in an amount not to exceed \$110,000.00.

Concrete ready-mix is used by the Streets Division for sidewalk construction, curb and gutter repair and miscellaneous concrete repairs. Aggregate slurry is used for sub-grade replacement.

33. GRANT APPLICATION: Seton Catholic High School Res. #4063

ADOPTED Resolution No. 4063 authorizing Seton Catholic High School, serving the East Valley high school student population, to submit a grant application to the Gila River Indian Community's State-Shared Revenue Program in the amount of \$1,500,000.00 for a capital campaign to increase access to Catholic and private education in the east valley communities.

34. CONTRACT: B&F Contracting, Inc.

APPROVED Contract #ST0016-401 to B&F Contracting, Inc. for the 56th Street and Chandler Boulevard stormwater drainage and roadway repaving in an amount not to exceed \$2,600,000.00.

The stormwater drainage projects are part of a continuing program to alleviate existing drainage problems and preclude future drainage problems. The Stormwater Master Plan, adopted by Council in 1999, recommended these improvements.

The north side of Chandler Boulevard drains into an existing retention basin, which is undersized. During storms, a roadway obstruction is created by water that ponds in the travel lanes on Chandler Boulevard and at the intersection of Chandler Boulevard and 56th Street. In addition, the pavement condition of the roadway has deteriorated significantly, requiring a complete roadway surface reconstruction.

35. CONTRACT: Pulice Construction, Inc.

APPROVED Contract #ST0623-251, to Pulice Construction, Inc. for pre-construction services for reclaimed water main installation on Queen Creek Road (McQueen Road to Old Price Road), and roadway reconstruction for Queen Creek Road (McQueen Road to Arizona Avenue), in an amount not to exceed \$111,912.00.

36. CONTRACT CHANGE ORDER: Ashton Company

APPROVED Contract #WW0406-401RB, Change Order No. 1, with The Ashton Company for the Ocotillo Recharge Facility Expansion in an amount not to exceed \$194,757.92 for a revised contract amount of \$5,023,357.92.

Council awarded the construction contract to The Ashton Company in 2006. The Ocotillo Recharge Facility was re-permitted to a recharge rate of 10.0 MGD on an annual basis. This facility expansion includes re-equipping the four existing aquifer storage and recovery (ASR) wells with larger pumps, adding pumps to the effluent pump station at the Ocotillo Water Reclamation Facility (WRF), installing a 30-inch diameter transmission line from the Ocotillo WRF

to the recharge facility, and upsizing the on-site recharge infrastructure to handle the larger permitted capacity.

This change order reflects additional costs for a new primary power feed for the site, items to enhance existing plant operations, unforeseen conditions due to underground conflicts not shown on the plans, and design modifications needed to reflect field conditions found during construction.

37. CONTRACT: Low Mountain Construction

APPROVED Contract #CA0502-401 to Low Mountain Construction for Mesquite Groves Aquatic Center in an amount not to exceed \$8,789,000.00.

The Community Services Department has conducted several public meetings to develop and present conceptual plans for the Mesquite Groves Park site, which will include the City's sixth aquatic center. On May 3, 2005, the Parks and Recreation Board approved the park site's conceptual master plan. On March 7, 2006, the Parks and Recreation Board approved the aquatic center conceptual design plan. The aquatic center will sit on six (6) acres of this 100-acre park site and will be located at 5901 S. Hillcrest Drive on the southwest quadrant of the park.

This is a joint-use facility with the Chandler Unified School District. The Community Services Department has a signed Intergovernmental Agreement with the School District for the Aquatic Center, which includes a contribution of \$694,000.00 to the project construction budget and the reimbursement of utilities estimated at \$171,000.00 annually.

Sun Eagle Corporation was initially hired to perform the Construction Manager at Risk Preconstruction Services; however, preliminary cost estimates did not match the City's reconstruction budget. Repeated attempts to negotiate a preliminary GMP failed because the suggested recommendations attacked the program elements, project scope and quality of the facility. In October 2006, City Staff hired Low Mountain Construction, Inc. to continue performing the preconstruction services and value engineer the project. Approximately 74 value engineering items were presented and accepted in the GMP at a total savings of \$658,195.00. The accepted value engineering items did not impact the program elements or the quality of the facility.

38. PURCHASE: West Coast Equipment

APPROVED the Purchase of street sweeper brooms from West Coast Equipment, utilizing the City of Tempe contract, in an amount not to exceed \$50,000.00.

39. PURCHASE: Crafc0, Inc.

APPROVED the Purchase of asphalt rubber crack sealant material from Crafc0, Inc., utilizing the Arizona Department of Transportation (ADOT) contract, in an amount not to exceed \$175,000.00.

40. PURCHASE: Batteries Plus

APPROVED the Purchase of batteries and related sundries from Batteries Plus, utilizing the City of Tempe contract, in an amount not to exceed \$20,000.00.

41. PURCHASE: Digital Aerial Images

APPROVED the Purchase of digital aerial images from the County, utilizing the Maricopa County contract, in an amount not to exceed \$32,471.38.

Aerial imaging services are required to create the Citywide aerial photograph and update the associated geographic information system (GIS) control data. These services are used to support the City's GIS, provide planning data for studies such as flood control, city growth, utilities systems, as well as data for CIP projects, emergency services and master planning and update the aerial information for the City's Infomap.

42. PURCHASE: Artwork

APPROVED the Purchase of 15 original artworks selected by the Arts Commission during curatorial review in an amount not to exceed \$57,500.00.

The Chandler Arts Commission was established in 1983 in order to create and administer a public art program for the enjoyment of citizens and visitors to Chandler. Over the years, more than 143 unique works of art have been commissioned or purchased and placed in municipal buildings, parks and street corners. Funding for these public artworks is made available through a City ordinance that allocates 1% of eligible capital improvement projects such as new buildings and parks.

In 2006, the Chandler Arts Commission released a Call to Curators and hired fine art curator Martina Shenal to evaluate and recommend purchases for the City of Chandler's public art collection. With the mission to continue to strive for artistic excellence and maintain a diverse public art collection, the Chandler Arts Commission spent over one year evaluating artworks owned by the City. Through this process, the Arts Commission members worked to develop a strategy for refining the public art collection by looking to acquire artworks that are viable and will offer stability in investment. The curator who was hired recommended two-dimensional mediums due to their lack of representation within the collection. The artworks submitted for consideration are by a range of southwester, culturally diverse artists who have a significant presence through galleries, museums, and representation. The final 15 artworks selected by the Chandler Arts Commission represent national, as well as regional artists, and will bring to Chandler a significant and diverse addition to the City's public art collection.

The total cost for 15 two-dimensional artworks is \$57,500.00 and the expenditure will be charged to the Municipal Arts Fund. The artists Mayme Kratz, Emmi Whitehorse, Hamlett Dobbins, Carrie Seid, Don Estes, Joseph Scheer, Lucinda Young, Kate Breakey, Willie Cole, Vernon Fisher, Michael Kenna, Alison Dunn, Richard Misrach, Lawrence Gipe and Rana Rochet.

43. PURCHASE: NEC

APPROVED the Purchase of Cisco network equipment from NEC, utilizing the City of Tempe contract, in an amount not to exceed \$170,000.00.

This request includes complete network system for the Chandler Police substation, Environmental Education Center and maintenance buildings at the Chandler Heights Community Facilities Project, upon completion of construction. This request includes fiber optic cable connections and equipment, network equipment and connections to include plugs, switches, modules, ethernet connections, links, routers, switches, cards, console, license and associated networking items.

The City of Chandler Information Technology Department will design, install and activate the system to provide City of Chandler intranet, internet and data service to the substation, education center and maintenance buildings.

44. PURCHASE: Sagem Morpho, Inc.

APPROVED the Purchase of one ILS-2 Livescan system and one-year extended warranty from Sagem Morpho, Inc., utilizing the Arizona Department of Public Safety (DPS) statewide contract, in an amount not to exceed \$43,000.00.

The Police Department uses Livescan systems to electronically record fingerprints of suspects and the public. The fingerprints are entered into the Arizona Automated Fingerprint Identification System (AZAFIS). AZAFIS entry enables a search of the State database of recorded known fingerprints. The Police Department currently utilizes four Livescan systems for different purposes. The current systems are located in the main Police holding area, main Police lobby, Desert Breeze substation and the City Court Jail. The new system will allow officers at the Chandler Heights Police substation to fingerprint individuals without having to travel to the main station.

45. WITHDREW USE PERMIT: Helen's Assisted Living Home

WITHDREW Use Permit, UP06-0063 Helen's Assisted Living Home, to operate an assisted living facility for up to eight residents within an existing residential home at 1151 S. Sean Drive. (Applicant: Helen Gutierrez, Owner/Administrator.)

Doug Ballard explained that the applicant currently has a facility with 5 residents and 2 caretakers who do not live in the home. The State was under the impression that the caretakers were living in the home and informed the applicant that they would need to get a use permit from Chandler because there were more than 5 residents living in the home. The applicant decided that if they had to go through the use permit process, they would ask for 10 residents to have the flexibility of having more residents if they choose to, but only intended to have 5. Staff clarified with the applicant that if no one else was living in the home, it would meet the definition of family and a use permit would not be required.

46. USE PERMIT: Lenz Motors

APPROVED use Permit UP07-0006 Lenz Motors, for a time extension for an auto broker/used car wholesaler within Planned Industrial District (I-1) zoning at 500 N. 56th Street, Suite 9. (Applicant: Michael St. George, Attorney for Celunnious Jones, Jr.)

A Use Permit to allow an auto broker business was approved by City Council in January 2006 for one year. The application requests a time extension for an additional three years. The subject site is zoned Planned Industrial District (I-1). The business is located within a multi-tenant industrial building.

The I-1 zoning district allows a variety of storage, wholesale, warehousing, manufacturing, assembly type uses, and accessory/incidental office and retail sales. Since the late 1980's, there have been several Use Permits granted for commercial uses within this industrial development including a wholesale auto dealership, an auto detail shop, an equipment rental store, a lawnmower sales and repair store, and a swim school. In 1988, an auto wholesaler with a car

detail business was granted Use Permit approval in this development. The auto wholesaler occupied four tenant spaces. The Use Permit was in effect until 1993. A condition was added to ensure there would be no outside storage of vehicles. This business no longer occupies the site.

The proposed auto wholesaler specializes in pre-owned vehicles. The business functions as a car brokerage firm. The hours of operation are from 9:00 a.m. to 5:00 p.m. Monday through Friday. Vehicles kept on-site include business owner and employee vehicles and vehicles purchased by customers that need to be picked up. In addition, The Arizona Department of Transportation Motor Vehicle Division requires two wholesale vehicles to be kept on-site at all times.

The proposed auto wholesaler includes an office space with an attached warehouse. Two vehicles will be stored in the warehouse. Any outside storage of vehicles is limited and typically occurs when a customer has yet to pick up a vehicle. This type of auto-related use has little on-site customer contact in that there are no for-sale vehicles stored daily. There will be no auto mechanical work, auto body, auto detailing or washing of vehicles outdoors. Any interior cleaning of vehicles or exterior detailing without water will occur within the warehouse area.

Staff received phone calls from tenants in the business park stating vehicles were being washed and cleaned within the rear drive aisle between buildings. There was a mobile carwash company visiting the business park offering auto washing and/or detailing. Lenz Motors was one of the businesses that had vehicles washed. The tenants complained of the soapy water and foam, noise from the generator and blocking business exit and warehouse doors. Lenz Motors has been advised no cleaning of vehicles is permitted outside, only interior cleaning and exterior detailing of vehicles without water is allowed within the warehouse area.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on April 4, 2007. There were no residents or business owners in attendance. Staff has received two telephone calls from other tenants that do not want outdoor car washing and detailing to occur in the rear drive aisle.

Upon finding consistency with the General Plan and I-1 zoning, the Planning Commission and Staff recommend approval subject to the following conditions:

1. Development shall be in substantial conformance with exhibits and representations.
2. Expansion or modification beyond the approved exhibits (Floor Plan, Site Plan, Narrative) shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit shall remain in effect for three (3) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
4. On-site washing of for-sale vehicles is prohibited.

47. USE PERMIT: El Rancho Market

APPROVED Use Permit UP07-0007 El Rancho Market to conduct outdoor grilling adjacent to an existing grocery store located at 1076 N. Arizona Avenue within the Pollack North Park Plaza. (Applicant: El Rancho Market, Phillip Vigil.)

The subject site is adjacent to the El Rancho Market grocery store located within the Pollack North Park Plaza at the northwest corner of Ray Road and Arizona Avenue. The application

requests that outdoor grilling be permitted three days per week – Friday, Saturday and Sunday. Outdoor grilling has been conducted occasionally at this location under Special Event permits, but the proposed expansion in the grilling frequency now requires Use Permit approval by City Council.

The proposed grilling takes place within two fenced-off parking spaces south of the main grocery store entrance, occupying approximately 400 square feet. The fences are portable metal fences that are removed when grilling does not occur, thereby leaving the spaces to function for parking. The grilling follows all state and local regulations, including provisions for distance from the building and presence of fire extinguishers and a hand-washing sink. Within the fenced grilling area, there is also a temporary canopy provided above a preparation table for the workers' benefit. The grilling area does not encroach upon the sidewalk under the colonnade. All food sales occur inside the grocery store – grilled items are not sold nor picked up outdoor.

The grilling uses occasional presence through special events in the past has proven to be a benefit to the center without significant detriment and expansion of the grilling frequency will further benefit the center while not significantly causing negative effects. The Planning Commission and Staff assessed the uses effect on parking and site function, finding the grill location to be ideally situated – sandwiched between two landscaped islands, displacing only two parking stalls and not hindering pedestrian flow. Additionally, the center appears to have a high level of pedestrian walk-in traffic, alleviating parking problems.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on April 9, 2007. Two neighbors attended and expressed concerns with noise during a special event last year. Upon finding that the Use Permit is not related to that special event, the neighbors were not in opposition. The business owner and neighbor agreed to communicate by telephone for any future noise issues. Staff has not received any correspondence in opposition to this request.

Upon finding consistency with the General Plan and Regional Commercial (C-3) zoning, the Planning Commission and Staff recommend approval subject to the following conditions:

1. Substantial conformance with approved exhibits (Site Plan, Narrative) except as modified by condition herein. Expansion or modification beyond the approved exhibits shall void the Use Permit and require new Use Permit application and approval.
2. The Use Permit is non-transferable to any other location.
3. The Use Permit shall remain in effect for one (1) year form the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
4. Food may not be paid for nor picked up outdoors. All transactions must occur inside the store.

48. USE PERMIT: Michaels & Associates

APPROVED Use Permit UP07-0009 Michaels & Associates for the conversion of a residential home into a commercial business at 200 N. Nebraska Street. (Applicant: Kevin Michaels.)

The site is located at the NWC of Chandler Boulevard and Nebraska Street approximately 220 feet west of Chandler High School. It is surrounded by residential homes to the north and east. Directly west, adjacent to the site and along Chandler Boulevard, are five residential homes that

are converted to commercial businesses with Use Permits. South, across Chandler Boulevard is the San Marcos Golf Course.

Currently, there are six residential homes along Chandler Boulevard as part of this residential block. Five of the six homes have been approved with Use Permits for conversion. The home is approximately 2,500 square feet on a 9,400 square foot lot and will provide a parking area for three vehicles with an additional two parking spaces in the garage. The home is the last remaining residential home to undergo a residential conversion for commercial purposes.

The Residential Conversion Policy (RCP) was established in 1989 to allow single-family homes the opportunity to allow small commercial businesses to operate within a residential zoning district with the approval of a Use Permit. Such homes must have direct frontage or access to an arterial street and propose a business compatible with the existing neighborhood. Within this policy, criteria were established to accommodate the conversion of homes into professional offices for like businesses. Such criteria include the requirement of an improved parking lot, preservation of front yard landscaping for the aesthetic streetscape setting of the home and buffering from adjacent residences.

The office is going to be used as an administrative office for an insurance agency specializing in life insurance. The business currently has a total of three employees. The hours of operation are generally 8 a.m. to 4:30 p.m. and closed on weekends. Approximately one to two clients visit the business per day, although the applicant generally visits clients at an off-site location. The applicant has operated his business for approximately 20 years in Chandler and would like to move his current operation from the NWC of Alma School Road and Chandler Boulevard to this location. A monument sign perpendicular to Chandler Boulevard is proposed. The monument sign meets the standards provided in the RCP.

When residential homes are converted to businesses, there are a number of improvements that the conversion is to provide. Ingress/egress in a forward motion from the site is required under general commercial circumstances. With this particular site, due to the site layout and size of home, there is no possible way to create an access point along Chandler Boulevard. Without direct access into a parking lot from Chandler Boulevard, the site is not able to provide an area large enough for a turnaround to allow for ingress and egress in a forward motion, as the existing businesses on this block are able to provide. In addition, to allow for ingress/egress use of the alleyway, it is required that the alleyway be a minimum of 20' wide and paved. The alleyway is approximately 16' wide. Paving of the alleyway is required if the alleyway is to be utilized as an access point. The applicant is requesting not to pave the alleyway.

Staff supports the application, but is not in support of the request for relief of paving the alleyway. Due to site layout, it was determined that to keep consistent with the residential character of the neighborhood, access to parking from the alleyway would provide the best alternative. Staff reviewed various layouts for parking of the site and felt that all other alternatives created a character that was not consistent with the neighborhood. The second concern of using the alleyway as a means of ingress/egress is supportable due to the location of the site. Since the site is a corner lot, it was determined that the use of the alleyway would not create a negative impact to the surrounding neighborhood.

This request was noticed in accordance with the requirement of the Chandler Zoning Code with a neighborhood meeting being held on April 2, 2007. There were no neighbors in attendance. Staff has received no correspondence in opposition to this request.

Upon finding consistency with the General Plan, SF8-5 zoning district and the Residential Conversion Policy, the Planning Commission and Staff recommend approval subject to the following conditions:

1. The Use Permit shall be effective for one (1) year from the date of Council approval. Use Permit extensions, for similar or greater time periods, shall be subject to re-application to and approval by the City of Chandler.
2. Any expansion or modifications beyond the approved exhibits shall void the Use Permit.
3. The Use Permit is non-transferable to any other location.
4. Increase in on-site employment over that represented (3), or the expansion of the home to provide additional office space, shall require Use Permit amendment and approval by the City of Chandler.
5. The applicant shall be required to pave the existing alleyway for the width of the parking lot area.

49. LIQUOR LICENSE: Garcia's Mexican Restaurant, 4210 S. Arizona Avenue

APPROVED a Series 12 Restaurant Liquor License (Chandler #113341 L12) for H. J. Lewkowitz, Agent, Fiesta Fulton Ranch LLC, dba Garcia's Mexican Restaurant, 4210 S. Arizona Avenue. A recommendation for approval of State Liquor License #12077053 will be forwarded to the State Liquor Department. 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. Planning and Development advises that a new Use Permit is not required as this will be a continuation of the location's previous use as Garcia's Mexican Restaurant.

50. LIQUOR LICENSE: Garcia's Mexican Restaurant, 2394 N. Alma School Road

APPROVED a Series 12 Restaurant Liquor License (Chandler #113374 L12) for H. J. Lewkowitz, Agent, Fiesta Fulton Ranch LLC, dba Garcia's Mexican Restaurant, 2394 N. Alma School Road. A recommendation for approval of State Liquor License #12077058 will be forwarded to the State Liquor Department. 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. Planning and Development advises that a new Use Permit is not required as this will be a continuation of the location's previous use as Garcia's Mexican Restaurant.

51. CONTINUED LIQUOR LICENSE: Fresh & Easy Neighborhood Market

CONTINUED to JUNE 14, 2007, Liquor License, Series 10, for Randy Nations, Agent, Fresh & Easy Neighborhood Markets, Inc., dba Fresh & Easy Neighborhood Market at 3000 N. Alma School Road to allow the applicant time to complete the requirements for a new Use Permit.

52. LIQUOR LICENSE: Blue Diamond Fuel and Food Mart

APPROVED a Series 10 Beer and Wine Store Liquor License (Chandler #112720 L10) for Jawed P. Jessani, Agent, JSJS Inc., dba Blue Diamond Food and Fuel Mart, 2997 N. Alma School Road. A recommendation for approval for State Liquor License #10075390 will be forwarded to the State Liquor Department. 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. Planning and Development advises that a new Use Permit is not required as this will be a continuation of the location's previous use as Blue Diamond.

53. SPECIAL EVENT LIQUOR LICENSE: St. Andrew's Apostle Catholic Community

APPROVED a Special Event Liquor License for St. Andrew's Apostle Catholic Community for a Parish-Wide Reception for their Pastor's Retirement on June 16, 2007, at 3450 W. Ray Road. The Police Department reports no objections to the issuance of this license. As this applicant is a non-profit organization, no sales tax license is required; however, the special event liquor fee has been paid.

ACTION:

54. WEIGHT RESTRICTIONS ON GERMANN ROAD

MIKE MAH, CITY TRANSPORTATION ENGINEER said that at the April 26, 2007 City Council meeting, Staff was directed to study and make recommendations regarding possible vehicular weight restrictions on Germann Road between McQueen Road and the Hamilton Street alignment.

Based upon Staff's review of the situation on Germann Road, Staff has determined that reducing the volume of heavy trucks in front of Tumbleweed Park and the future Park-and-Ride lot along Germann Road can be beneficial, and may be accomplished by restricting the movement of tractor-trailer units and other heavy vehicles along this section of roadway. A number of valley cities do have weight restrictions on certain roads. The cities of Phoenix, Scottsdale and Peoria have weight restrictions on some of their arterial roads. Tempe and Mesa do not.

To minimize the negative impacts of this weight restriction on businesses located on Germann Road between Hamilton Street and McQueen Road, it is recommended that a weight restriction be set sufficiently high to permit typical service trucks, farm vehicles, and lighter trucks to continue to drive Germann Road without the need to obtain a permit for each individual delivery. The use of a permit system is very onerous on citizens and truck drivers due to the need to plan ahead and having to await approval before using that section of Germann Road. It is also onerous on City Office Staff and police officers in having to issue and enforce such permits and may require additional full-time staffing. In all cases involving truck restrictions that do not grant exemptions for local deliveries, permitting would be necessary for special one-time trips, construction of new buildings, or deliveries of materials to those properties within the restricted area.

Below are options for truck route restrictions on Germann Road from the most stringent to the most relaxed:

Option 1: No commercial vehicles over 26,000 lbs. G.V.W. – except vehicles contracted to the City, buses and service vehicles incidental to abutting businesses.

Option 2: No commercial vehicles over 40,000 lbs G.V.W. – except vehicles contracted to the City, buses and service vehicles incidental to abutting businesses.

Option 3: No commercial vehicles over 50,000 lbs. G.V.W., except vehicles contracted to the City, buses and service vehicles incidental to abutting businesses.

Option 4: No Change.

It has been determined that Option 1, a 40,000 pound restriction on commercial vehicles only, would achieve the objective of eliminating tractor-trailer units and other heavy vehicles along Germann Road between Hamilton Street and McQueen Road, while at the same time, allow such vehicles as rental moving vans, delivery vans and large motorhomes to continue to use Germann Road without any further action on their part. By setting a relatively high weight limit, it will reduce the amount of manpower required to conduct vehicle inspections.

Truck restriction signs could be placed at the beginning and end limits of the weight restrictions, as well as up to one mile in advance so that drivers are able to detour at the nearest upstream arterial road prior to reaching the restricted section of Germann Road. These restrictions should apply to the section of Germann Road up to but not including the intersections of Hamilton Street and McQueen Road. This will ensure that truck movements at these two intersections are not unduly restricted. The wording of the signs will read "No Commercial Vehicles Over 40,000 lbs. G.V.W. – except vehicles contracted to the City, buses and service vehicles incidental to abutting businesses". These signs may be installed under the direction of the City Transportation Engineer, as authorized by City Code and does not necessarily require a motion by City Council.

The Chandler Police Traffic unit has a limited capacity to conduct commercial vehicle inspections and enforcement. The department received a grant for a commercial vehicle enforcement vehicle in 2006, which included a set of portable scales. Prior to this, commercial vehicle enforcement only occurred when DPS was able to assist the Traffic Unit with the proper equipment. Currently, there are three traffic officers qualified to conduct commercial vehicle inspections that includes weighing the vehicle with portable scales. These officers focus primarily on construction vehicles as they pose the greatest risk to drivers due to their weight and type of loads. The unit is able to conduct approximately 4 commercial vehicle inspections a day. This limited number of inspections is due to the required logbook inspection, full brake inspection, additional 100+ potential equipment violations and accompanying documentation. Utilization of this resource at a specific location for weight enforcement would reduce its contribution to the traffic unit's comprehensive accident reduction plan.

Mr. Mah showed slides depicting common weights of various vehicles. Slides were also shown listing the properties on the north side of Germann between Hamilton and McQueen. A number of the properties are vacant and proposed to be industrial and commercial uses. There are three existing properties that are occupied – Paul's Car Care, one residence and a mini-storage.

Staff is recommending that no change be made to the current system for three reasons:

1. Efficiency – Any time traffic is restricted on one road, it creates an increase on other roads from vehicles having to go around. It increases vehicle travel, fuel consumption, air pollution, etc.
2. Enforcement - There are problems for the police department in enforcing these restrictions. When PD pulls over vehicles for inspections, there are over 100 items they need to inspect. They are only able to inspect 4-6 vehicles per day.
3. Economic Development – There is a possibility that some businesses may choose not to move into the Airpark area because of restrictions along Germann because it is an arterial road.

If Council decides that they would like a weight restriction, Staff recommends Option 2.

COUNCILMEMBER CACCAMO explained that his intent is to limit the amount of traffic that will be going in front of the park and not eliminate business traffic. He was watching the traffic from the park and there was a lot of traffic coming out of what would be Hamilton Street on the north side of Germann. There were a lot of left turns and a lot of truck traffic. If more businesses and more traffic are added, there will be a large amount of traffic in front of the park. From a safety point of view and not impacting Paul's Car Care and the mini storage, what is the best option? Access will not be limited to the county island, but traffic will be directed west on Germann to Arizona Avenue, from Arizona Avenue east as far as the Hamilton intersection.

MR. MAH responded that there are two impacts. One to the businesses within the area and the other to through traffic to businesses farther out. Implementing the weight restrictions causes that traffic to divert to the freeway or Queen Creek Road. COUNCILMEMBER CACCAMO said that if the restriction were limited only to commercial vehicles, RV's would not be impacted. Mr. Mah said that the wording proposed by Staff exempts such uses as motor homes and incidental uses.

COUNCILMEMBER SEPULVEDA asked Mr. Mah if there are any safety issues on Germann Road. Mr. Mah replied that they do not see any safety issues. Volumes are relatively light on Germann, but the airpark area is growing quickly. COUNCILMEMBER SEPULVEDA asked Mr. Mah if an alternate ingress/egress would mitigate some of his safety concerns. Mr. Mah responded that it would.

COUNCILMEMBER SEPULVEDA said that since City vehicles (trucks) would be exempt for the weight restrictions, what is the difference between a City and non-City vehicle in relation to weight restrictions. Mr. Mah said that City vehicles would be spread out throughout the City and not concentrated in this one area.

COUNCILMEMBER SEPULVEDA asked if this proposal had been brought before the Transportation Commission. MR. COOK said that typically it would have been, but because of the fast-tracking of the item, there was not an opportunity to bring it before the commission.

In addressing the financial implications brought forward in Mr. Mah's memo, COUNCILMEMBER SEPULVEDA asked about other costs such as police. CHIEF KIYLER explained that they have limited resources that can do commercial vehicle inspections. Those inspections are currently focused on the areas where there are high accident rates. New weight restrictions would mean transferring resources from the high incident areas to enforce the restrictions on Germann Road.

VICE-MAYOR HUGGINS asked if trucks still have a requirement to have the gross vehicle weight printed on the side. Chief Kiyler responded that they do and that the gross vehicle weight fully loaded.

COUNCILMEMBER CACCAMO asked about the projected increase of vehicular traffic on Germann Road once Tumbleweed Park is fully functional and a potential safety issue. Mr. Mah said that the current traffic volume on Germann is approximately 10,000 vehicles per day. With the fast growth of the airpark area, the traffic volume on Germann is expected to increase to approximately 40,000 vehicles per day. COUNCILMEMBER CACCAMO asked if safety would be a concern with the possibility of adding 700 trucks in and out. Mr. Mah said it would.

COUNCILMEMBER CACCAMO asked if the weight restriction on Hunt Highway went to the Transportation Commission. MR. MAH said it did not. Councilmember Caccamo asked if there would be an impact on economic development at the airport if there were trucks going up and down Germann Road. Mr. Mah said it could impact businesses wanting to locate on Germann if they are not able to use it. He does not see the increase in truck traffic affecting the businesses in the airpark area.

COUNCILMEMBER WENINGER asked if Staff is proactive or reactive with traffic issues. Mr. Mah said that we try to be proactive.

COUNCILMEMBER SEPULVEDA asked about notification in the future when this situation arises. MR. COOK said that in this instance, the weight restriction impact on Germann is limited to the businesses between Hamilton and McQueen. Any businesses to the west are not impacted because they can go to and from the west. They would be restricted from going to and from the east.

MR. MAH compared the restriction on Hunt Highway to that being proposed for Germann Road. Hunt Highway is a collector road with a 5-ton weight limit. It provides secondary access to abutting properties. There are no direct driveways off of Hunt Highway. All of the residents have an alternate route of Riggs Road to Cooper, McQueen or Gilbert. Being residential, not a lot of truck traffic is expected. Germann Road is an arterial road which provides primary access and, in some cases, the only access for some businesses. It is a commercial/industrial area and Staff felt that if a weight restriction were to be implemented, it should have a higher weight limit.

COUNCILMEMBER DONOVAN asked why Staff is recommending 40,000 instead of 50,000. MR. MAH said that a weight restriction on Germann will help Germann, but Staff is unsure of the implications of other roads in the City from the re-direction of traffic. COUNCILMEMBER DONOVAN said the Staff does not want a restriction, but if Council chooses to implement one, why not recommend the less restrictive option. Mr. Mah said that the difference between 40,000 and 50,000 is not that great. COUNCILMEMBER DONOVAN clarified that 50,000 would be harder to enforce because it would be harder to tell the weight more than 40,000.

MICHELLE DALY, 1710 E. Redwood Place, asked how much airport traffic uses Germann Road as opposed to the 202. The trip-per-day numbers on Germann have decreased significantly since the 202 opened. She would like more data on the impact to the airport if the weight restrictions were put in place. She also expressed concerns with the increase on police resources in performing these inspections. She supports an option that minimizes the impact to the existing businesses and best protects the citizens.

COUNCILMEMBER SEPULVEDA asked Ms. Daly if there were a way to get the Allied trucks off of Germann and get them on Armstrong to Hamilton, right out west of Hamilton onto Arizona Avenue, if she would support that alternative. MS. DALY said that it would be a safer, but not the safest. If there has to be a transfer station at that location, she would support it.

MAYOR DUNN asked staff about the primary transportation routes to the airport. Mr. Cook said he believes the freeway is the primary access; however, the arterial streets around the airport are also used.

R. H. BRYANT, 11331 E. Germann, owner of Amber Steel on the west side of the railroad tracks, said that the weight restrictions as presented do not affect him. He is concerned with how trucks will get to his business if they miss his turn-in off of Arizona Avenue. Nothing has been

addressed as to how the trucks get back if they miss the road. Having to make a u-turn across all 6 lanes of traffic is a great safety risk. All of his business is over the weight limit being proposed. He is concerned with safety, but he has to support his family as well as those who work for him. He feels he has been blind-sided. He opposes the weight restriction and the annexation.

CLINT RANDALL, 4490 E. Shetland Dr., Queen Creek, property manager for SCS Landholdings who owns the property, expressed concern with safety. The most dangerous maneuver made in traffic daily is a left-hand turn. The normal flow of traffic for trucks coming to their facility (a railroad off-loading business) is the 202, south on McQueen and make a right turn. They stay in the slow lane and do not affect traffic going to or from the park. When the trucks are loaded, they exit on Hamilton or a private exit by the railroad tracks and turn right to go to Arizona Avenue. The City's proposal states that trucks cannot use McQueen because they cannot travel west on Germann. Those same trucks will have to go south on Arizona Avenue and make a left turn to reach his facility. Arizona Avenue is much busier than Germann. They head west on Germann to reach his facility and will affect those on the south side of Germann going west to the park. They then have to make a left turn on Hamilton.

COUNCILMEMBER SEPULVEDA asked Mr. Cook if a right-in-right-out access would be safer for trucks. MR. COOK said that the problem is when the trucks make the turn because they cannot make a right turn without encroaching into two or three other lanes, which has been known to cause accidents.

JIMMY FOX, 5042 E. 16th Avenue, Apache Junction, co-owner of Evergreen Turf, 11407 E. Germann, said they chose this location for their business because of the zoning and access to Germann Road since their business involves primarily tractor trailer hauling. Their business is on the south side of Germann with a median in front of their driveway prohibiting left turns. They can only turn right, down Germann east to McQueen. He questioned how they would exit if there is a weight restriction imposed. He noted that Tumbleweed Park also has an entrance on McQueen, but the focus is entirely on the Germann entrance. He stated that if these weight restrictions were imposed, they would have to move their business.

COUNCILMEMBER CACCAMO said he was not aware of Mr. Fox's situation and asked Mr. Cook if the City could do something about egress and possibly remove the median to allow for left turns. MR. COOK said an opening in the median could be provided. Although it is under County jurisdiction, they have been very cooperative with any changes we have requested. COUNCILMEMBER CACCAMO said that when the motion is made, it should reflect that no weight limits would be instituted until Mr. Fox's problem is mitigated.

MAYOR DUNN asked what the cost would be and who would be responsible for the cost. MR. COOK responded that an estimate would be less than \$25,000 and would probably be the responsibility of the City. It would be proposed to be left turn only. The median would have to be removed, curb added with no turn bay. MAYOR DUNN asked Mr. Fox if there were other businesses in his situation. Mr. Fox responded that as far as he knew, just the steel company.

COUNCILMEMBER SEPULVEDA asked what the legal exposure would be if the weight restrictions were implemented. MR. HOUSE said that the City could not impose limitations that would block access to a business as Mr. Fox has described. There would have to be a solution that would provide "reasonable access" into all of the properties. COUNCILMEMBER SEPULVEDA expressed concern with how fast this is moving and what some of the unintended consequences may be. He asked how the stakeholders are notified when something of this nature is being proposed.

JEFF NETTLETON, 333 W. Lewis Way, Tempe, co-owner of Evergreen Turf, reiterated what Mr. Fox said about only making right turns. MAYOR DUNN asked how their insurance carrier would react to making left turns out of their business. Mr. Nettleton said they would have to check with them. One of the things they liked about this location is that their drivers could not be "tempted" to make the left turn.

MARK TURLEY, 4322 S. 80th Street, said he purchased his property because of the zoning. He had a 34-acre parcel and sold 11 acres to Allied. All activity from his property is entirely done with tractor-trailers that could weigh up to 80,000 pounds. He expressed concern that the restrictions and proposed annexation of a portion of Germann Road would lock them out of their facility. COUNCILMEMBER CACCAMO responded that the City would not be allowed to block access to any business. Mr. Turley inquired about the City planning and building Tumbleweed Park in an industrial area. COUNCILMEMBER CACCAMO responded that a park was designated in the area in the mid-80's. At that time, the County islands were shrinking and the hope was that the County would also change their zoning to I-2 to fit in with the greater plan.

COUNCILMEMBER SEPULVEDA commented that a park was built in a heavy-industrial area and planning should be looking into purchasing the industrial to mitigate the issue. He noted that since this is moving so quickly, there could be more issues arising.

MAYOR DUNN commented that the only comparison he can make is with Kiwanis Park in Tempe that was purposely built against industrial uses to serve as a buffer to the residential area.

Mr. Cook responded to an earlier question about the access of DSC Contracting and they do have a median break in front of their property and can make left turns out.

JERRY BUESING, 3045 S. 7th Street, Phoenix, Buesing Corp., said that he was notified of this issue last week via a phone call from a Republic reporter. Approximately 7 years ago, they started a concrete recycling business in Chandler and have recycled several hundred thousand tons of concrete and asphalt. If there were a weight restriction on Germann to Hamilton, it would restrict approximately 50% of the tractor trailer units entering and exiting their business and could be a big economic factor. No one asked him if they would be affected.

COUNCILMEMBER SEPULVEDA asked the City Attorney what the City's liability would be in this instance. Mr. House said he did not feel the City would face any liability by prohibiting trucks from traveling east from this property on Germann. The fact that it may require a longer distance to go in another direction would not create any liability for the City.

COUNCILMEMBER SEPULVEDA said that there are numerous issues with various entities including businesses and the Police Department concerning the proposed weight restrictions.

MOVED BY COUNCILMEMBER SEPULVEDA TO CONTINUE THIS ITEM MAY 24TH, AND DIRECT STAFF TO WORK WITH THE TRANSPORTATION COMMISSION, CITY STAFF, THE POLICE DEPARTMENT, LAW AND BUSINESSES AND COME BACK WITH A RECOMMENDATION BASED ON TONIGHT'S DISCUSSION.

THE MAYOR DECLARED THAT THE MOTION DIED DUE TO A LACK OF A SECOND.

MOVED BY COUNCILMEMBER CACCAMO, SECONDED BY COUNCILMEMBER ORLANDO, THAT THE CITY COUNCIL DIRECT THE CITY TRANSPORTATION ENGINEER TO

IMPLEMENT OPTION 2, A 40,000 POUND WEIGHT RESTRICTION ON COMMERCIAL VEHICLES ALONG THE SECTION OF GERMANN ROAD, UP TO, BUT NOT INCLUDING THE INTERSECTIONS OF HAMILTON STREET AND MCQUEEN ROAD, BUT NOT IMPLEMENT IT UNTIL THE CITY HAS MITIGATED ENTRANCE AND EXIT FOR THE BUSINESSES SO THAT WE ARE NOT IMPACTING THEM. THIS IS ALSO TO GO BEFORE THE TRANSPORTATION COMMISSION FOR A RECOMMENDATION.

MR. HOUSE asked what would be the affect of sending it to the Transportation Commission. COUNCILMEMBER CACCAMO responded that he would like them to be informed and make a recommendation to Council.

MAYOR DUNN said that a policy is potentially being adopted that is contingent on another action before it is implemented which would mean coming back before the Council to address the ingress/egress issue that may involve City funds. Mr. House concurred.

COUNCILMEMBER WENINGER asked about the ingress/egress into the Allied site. COUNCILMEMBER SEPULVEDA said that the County has placed some conditions on the site approval. CITY MANAGER PENTZ said he was in receipt of some proposed stipulations and the City has recommended some additional ones to the County Board of Supervisors. Condition "q" refers to an alternate access route north to Loop 202 along Hamilton Street and/or Armstrong Way and Willis Road. There have been discussions about traffic mitigation since December and there are some solutions. The County and City Staff have worked with Allied.

COUNCILMEMBER ORLANDO asked if Staff has made other recommendations for traffic mitigations to the County and if the County has adopted them. ASST. CITY MANAGER MCDERMOTT responded that the City proposed a proactive construction of an Armstrong/Hamilton alternate route as referenced in the stipulations. He said that Allied's response was when it becomes available, they would consider using it. Staff's stipulations would require those improvements be made proactively as part of the Allied Waste facility. COUNCILMEMBER ORLANDO clarified that the City has made recommendations to help mitigate traffic on Germann, but is unsure if the County will adopt them.

COUNCILMEMBER SEPULVEDA asked about the proposed stipulations. MR. MCDERMOTT explained that there were approximately 13-14 stipulations recommended. Prior to the County Planning Commission hearing the case, 2 more stipulations were added. County staff prepared more stipulations. City staff also recommended amending some of the stipulations and adding more. The total package has been submitted to the County Supervisors for consideration and it is unknown if the County will change any of their stipulations based on the City's request.

When the vote was called for, THE MOTION CARRIED BY MAJORITY (6-1) WITH COUNCILMEMBER SEPULVEDA VOTING NAY.

RECESS: The meeting was recessed at 9:43 P.M. and reconvened at 9:54 P.M. Mayor Dunn left the meeting during the recess and Vice-Mayor Huggins presided over the remainder of the meeting.

55. DISCUSSION and possible action to direct Staff to initiate a competitive selection process for City facilities refuse collection.

COUNCILMEMBER CACCAMO said that the City has a multi-year contract with Allied Waste that is renewable each year. He would like Staff to put out an RFP to create some competition.

Purchasing and Materials Manager ROBERT COMBS said that the current contract with Allied Waste expires July 31, 2007. If a bid was issued in mid-May, there would be a pre-bid conference on the 25th, bid opening on the 6th of June, and could be on the agenda for Council approval as early as June 28th. Assuming that Allied did not win the bid, it would allow 30 days for changing out the containers. COUNCILMEMBER CACCAMO asked if it could be done by RFP rather than a bid. Mr. Combs said it has traditionally been done by invitation to bid which expedites the process. An invitation to bid can be evaluated faster by a procurement officer with input from a supervisor or himself. An RFP involves convening an evaluation committee and possibly negotiations, which could add an additional 2 to 3 weeks.

COUNCILMEMBER SEPULVEDA asked how long Allied has been contracted with the City. Mr. Combs responded that they have had the contract for one year with four one-year options for renewal. They have provided excellent performance. Over the past few months, all contracts with automatic extensions have been approved.

COUNCILMEMBER SEPULVEDA asked for justification in going forward with an RFP or IFB when the current vendor has provided excellent service. COUNCILMEMBER CACCAMO replied that businesses typically do not do business with companies they have adversarial relationships with. Chandler is currently in an adversarial position with Allied Waste because they want to build where they know is not consistent with the City's area plan. He said that Waste Management looked at the same location, checked with the City's Economic Development Department, saw what the City's development plans were and walked away from it. He felt Allied Waste went in taking advantage of being in a County island and building to specifications less restrictive than the City's and avoiding impact fees. Since Allied is adversarial, he suggested consideration of an RFP to find a better bid and working relationship.

MR. MANDT, Procurement Officer, clarified that an instance like this has happened before with Cactus Towing. An Invitation for Bid was issued and the contract was ultimately awarded to Cactus Towing.

COUNCILMEMBER SEPULVEDA asked the City Attorney about legal exposure. MR. HOUSE explained that the City is under no legal obligation to extend the existing contract and have the ability to go out for bid.

COUNCILMEMBER WENINGER asked if there would be a cost to the City for an RFP. MR. COMBS responded that it would be more expensive in "soft dollars" to conduct an RFP due to the personnel time of the evaluation committee.

COUNCILMEMBER ORLANDO asked if an Invitation for Bid and RFP both have to provide pricing, scheduling, etc.. Mr. Combs responded that they do. COUNCILMEMBER ORLANDO asked why the RFP would take longer. MR. COMBS explained that an invitation to bid is only evaluated on low price meeting specifications. An RFP has various evaluation criteria each weighted separately. The current contract with Allied was an invitation to bid. MR. MANDT recalled that the bid from Allied was \$70,000 with the next lowest being from Waste Management at \$101,000.

COUNCILMEMBER CACCAMO asked if Staff could come back to Council at the next meeting with what would be expected from companies responding to the RFP. MR. MANDT replied that if action was not taken until the next meeting to issue an RFP, which is a longer process, a contract could not be awarded in time. COUNCILMEMBER CACCAMO said he is more concerned with

the criteria coming to the Council. ACTING MGMT. SERVICES DIRECTOR O.D. BURR said that Staff could present the criteria to be used for an Invitation for Bid and an RFP to the Council at their next meeting. COUNCILMEMBER CACCAMO said that would help Council to make an informed decision even if it put us two weeks behind. MR. MANDT expressed concern with the time frame. There is only one Council meeting the end of July and the contract expires July 31st. There is some "gear up" time in changing contractors if that becomes necessary. He can meet with Allied to see if they would be willing to continue on a month-to-month extension and could also explore it with another provider.

COUNCILMEMBER SEPULVEDA said it appears Council is directing Staff to do something out of the ordinary. He clarified with Mr. Mandt that Staff would not be requesting an RFP or invitation for bid if not requested by Council. The last time this contract was awarded, it was awarded through an IFB; Council has expressed an interest in issuing an RFP which has different criteria.

CITY ATTORNEY HOUSE explained that Staff would need some guidance from Council as to what type of criteria they would like that is different from what has been used in the past to award the contracts. COUNCILMEMBER CACCAMO said he did not feel Council should "micro-manage" Staff by telling them what the criteria should be and he would not add the adversarial relationship. His vote, however, would partially be based on that. He does not want to do business with an adversarial business. He would like to see if Staff could make some recommendations to improve what we have at this point and present what they feel the criteria should be.

CITY MANAGER PENTZ interjected that the Purchasing Staff has made a recommendation to the Council and suggested Council make a decision. COUNCILMEMBER SEPULVEDA clarified that staff would be recommending to grant the extension to Allied Waste. Mr. Combs agreed and said that would be presented to Council in May.

MICHELLE DALY, 1710 E. Redwood Place, said that she and 6 other citizens met with Allied Waste on three different occasions and they were rude, condescending and threatening.

28. AGREEMENT: Speed Check

APPROVED an Agreement with Information Display Company dba Speed Check for the purchase and installation of speed display signs, in the amount of \$295,587.15 and transfer appropriation of \$295,588.00 from General Fund, Non-Departmental, Contingency to General Fund, Non-Departmental, Photo Red Light.

MR. COMBS said that Staff issued an RFP for speed display signs as requested by COUNCILMEMBER WENINGER. It was out for two weeks and there was not a pre-proposal. There was a display on April 26th where the 4-5 providers offering acceptable products were asked to bring and install their speed display signs to be evaluated by City Staff. The evaluation committee consisted of Mike Mandt, a procurement office, police commander and lieutenant, traffic commander, traffic engineer and traffic studies manager. An award was recommended to IDC dba Speed Check. A protest was received from RU2 who was rated second overall in the evaluation criteria. He responded to Mr. Ken Brown who had signed the protest. Mr. Brown had stated earlier that Mr. Combs "summarily dismissed" his letter of protest. Mr. Combs said that the entire evaluation committee, an assistant city attorney and himself, looked at the entire project again taking into consideration Mr. Brown's issues, and came to the same conclusion.

March 5, 2007, the City Council approved an agreement for photo speed and red light enforcement. That approval was subject to Staff purchasing speed display signs to be installed simultaneously with the start of the new photo enforcement program. This item is to request approval to purchase and install these speed display signs.

Nineteen of the speed display signs will be installed at all photo enforcement camera approaches within four weeks after receipt of the purchase order. The remaining 41 speed display signs will be installed on all other approaches to existing and proposed photo enforcement intersections and at the top-10 high accident locations within three months of the receipt of the purchase order. The existing red light camera locations will continue to operate as before, but under the new contract with Redflex, and will have speed display boards installed within the same 60-day period.

COUNCILMEMBER WENINGER asked Mr. Combs to further explain Mr. Brown's contention that his warranty is the same as that of the successful bidder. Mr. Combs said that RU2 accepted the batteries from the warranty whereas IDC did not. On-site labor is not included in the warranty offered by RU2, but is included in IDC. There was no warranty offered by RU2 that would cover physical damage from automobile collision, vandalism, etc. RU2 is protesting that the main body of the speed display sign has a 5-year warranty whereas IDC's has a two-year warranty with eight years on the LED's.

KEN BROWN, 5296 S. Red Yucca Lane, Gold Canyon, vice-president and partner in RU2 Systems, said that if an item is not specifically addressed, such as vandalism, it is not included. Mr. Combs stated that on-site labor is not included in RU2's bid, but neither does IDC. Mr. Combs also mentioned that RU2 does not include vandalism, but IDC does not mention it. Just because it is not included in the requirements does not mean it is included. Mr. Brown continued that they extend the manufacturer's warranty to those batteries as they apply to them. The radar device itself is warranted for two years, an extension of the manufacturer's warranty to them. All other components are warranted for five years.

The LED's that IDC is warranting for 5 years is a 10-cent component. The entire value in the sign is less than \$20. The average mean time between failures of the component is 11.4 years. There is not a manufacturer in this business that will warrant vandalism. That is between the City's insurance company and the police.

Mr. Brown concluded that he has a copy of IDC's warranty and no one can read between the lines and assume that because it isn't there, it does exist.

COUNCILMEMBER ORLANDO asked Mr. Brown why he isn't warranting it for 8 to 10 years. Mr. Brown responded that all of his competitors offer a one-year warranty.

Mr. Brown said that they put their sign up in the scheduled time. They did not see IDC's sign at any time. He also stressed that IDC is based out of Portland, Oregon, while they are at Falcon Field in Mesa. If there is a problem, they can respond within 2 hours while IDC has to come from Portland.

The bid specified a slow-down violator alert. There are only two sign manufacturers who produce signs with anything similar and his product is one of them. Since it was in the bid request, in an effort to be 100% with the request, they included it in their bid. With that inclusion, they ended up higher than IDC. If it is backed out, they are cheaper than IDC.

COUNCILMEMBER ORLANDO asked Mr. Brown if they bid the slow-down violator alert as an option or because he felt it was part of the main proposal. Mr. Brown said that he bid it in the body of the bid in an effort to be 100% compliant with the bid.

MR. COMBS responded to Mr. Brown's comments. He said that the IDC display was represented. Staff asked the vendors to deliver their products and have them installed by 10:00 a.m., Friday, April 26th, with the test to begin at 1:30 p.m. that same day. He noted that they only asked for the products and did not want the representatives or manufacturers to be present. IDC appeared, installed their sign and it was tested. There were 4 signs on the pole with RU2's. The evaluation for the display clarity consisted of several drive-bys of evaluators. Mr. Mah, the City Traffic Engineer, drove by in the evening for the nighttime evaluation.

Regarding Mr. Brown's contention that he is a local company, Mr. Combs said he failed point out that IDC also has a local office in Mesa and could have their product in two days and provide local service. The product is manufactured in Oregon; however, there are repair parts, technicians and assemblies stocked in Mesa.

In addressing the price, Mr. Combs said that Mr. Brown is incorrect in his comments. The specification required "user programmable maximum speed at which the display shall go blank", "flash the maximum speed", "or display a warning such as "Slow Down". There were three items that would have been acceptable for the operation of the display. Mr. Brown and RU2 interpreted that in his favor if he believes he is the only firm that offers the "Slow Down" option. The bid was looking for one of the three as acceptable to public safety, traffic and law enforcement. He did not have to bid it. He did not state that he was including the "slow down" feature as an option. Had he excluded that and provided an alternate bid with the "slow down" feature removed, he would have been the same product as everyone else at a slightly lower price.

Mr. Combs concluded that IDC offers a superior warranty. The clarity was chosen to be superior by 4 of the 5 evaluators who rated IDC number one and rated RU2 with one number one rating and 4 number two ratings. In the spirit of fairness and open competition, Mr. Brown specifically requested a re-evaluation in his protest letter. Staff felt there was nothing to re-evaluate regarding clarity or warranty, but subtracted the optional feature of "slow down", he came out a few thousand dollars less than IDC. The points were recalculated for the price only and IDC came out as the number one rated bidder.

COUNCILMEMBER ORLANDO asked Mr. Combs about the three criteria. Mr. Combs explained that the signs could display a user-programmable maximum speed, flash the maximum speed or display a warning such as "slow down".

COUNCILMEMBER WENINGER asked about IDC's warranty. Mr. Combs said that the Assistant City Attorney opined that if it is not excluded, it is included. Given all things being equal, RU2 specifically stated that "on-site labor is not included; however, parts are repaired within five business days of receipt and include ground-shipping expenses. Warranty does not include physical damage from misuse or vandalism". COUNCILMEMBER WENINGER said that because it does not specifically refer to a car hitting it, it is not included and it is Staff's assumption that it is included. Mr. Combs said it was the opinion of the Assistant City Attorney. COUNCILMEMBER WENINGER asked if it has been confirmed with the IDC. Mr. Combs said it was confirmed in an email from Gary O'Dell, Manager of IDC in Portland. MR. HOUSE said that he would be confident that the email would be binding and he concurs with Assistant City Attorney Sandra McGee's opinion.

Mr. Brown quoted IDC's warranty as follows:

"Warranty:

- 9.1. The manufacturer's warranty for the display board shall be at least two years from the time of purchase.
- 9.2. The manufacturer's warranty on the LED's comprising the display segments shall be at least 8 years from the time of purchase.
- 9.3. All sign components shall be easily replaceable in the field and shall not require special tools outside those normally found in the industry.
- 9.4. The manufacturer at no charge will provide replacement components for in-warranty repairs when provided in exchange for the part being replace. Outbound shipping costs for warranty replacement parts shall be paid by the manufacturer."

Anything in addition to what is stated above would be an amendment to the proposal.

MOVED BY COUNCILMEMBER ORLANDO, SECONDED BY COUNCILMEMBER WENINGER, TO APPROVE AN AGREEMENT WITH INFORMATION DISPLAY COMPANY DBA SPEED CHECK FOR THE PURCHASE AND INSTALLATION OF SPEED DISPLAY SIGNS, IN THE AMOUNT OF \$295,587.15 AND TRANSFER APPROPRIATION OF \$295,588.00 FROM GENERAL FUND, NON-DEPARTMENTAL, CONTINGENCY TO GENERAL FUND, NON-DEPARTMENTAL, PHOTO RED LIGHT.

COUNCILMEMBER ORLANDO added that Council has over-turned Staff's recommendation in the past, but in this case he feels Staff has done their due diligence. He has looked at the ranking and IDC is consistent and they present the best overall value to the City.

MOTION CARRIED UNANIMOUSLY (6-0).

SPECIAL ORDERS OF THE DAY

A. Mayor's Announcements:

VICE-MAYOR HUGGINS announced that the City and Chamber of Commerce would host the annual Small Business Development Workshop on May 16th.

VICE-MAYOR HUGGINS announced that the City Clerk's would be open Saturday, May 12th, for passport processing, 8 a.m. until noon.

B. Councilmembers' Announcements:

COUNCILMEMBER WENINGER announced that Playtopia opens Saturday, May 12th, as part of the expansion of Tumbleweed Park. The ribbon cutting will be held at 9:00 a.m.

COUNCILMEMBER WENINGER recapped the opening of the bike park at Espee Park this past Saturday.

COUNCILMEMBER WENINGER announced the Neighborhoods Arizona 2007 Conference will be held Saturday, May 19th, 8:00 a.m. at the Center for the Arts and will be hosted by the Leadership Center.

