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MINUTES OF THE REGULAR MEETING OF THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, held in the Council Chambers in the Chandler Library, 22 S. Delaware, on Thursday, August 23, 2007 at 7:09 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 Joel Tetreau – South East Valley Baptist Church

PLEDGE OF ALLEGIANCE: Boy Scout Troop 888 and Scout Andrew Wagstaff from Troop 7 led the Pledge of Allegiance.

SCHEDULED PUBLIC APPEARANCES:

1. Retirement Recognition

Scott Wills was not present.

2. Service Recognitions

MAYOR DUNN was joined by Acting Management Services Director O. D. Burr in recognizing Janet Northrup for 20 years of service with the City. Janet began her career as an Account Clerk, was promoted to Management Assistant and then to her current position as Budget and Research Analyst. She has held this position longer than anyone in the City. Janet has been the recipient of numerous awards including exceptional performance awards and the award for her analysis of financial information necessary for the City's Home Rule option election. Her analysis helped garner citizens' support for maintenance of City Services. During this last budget cycle, she received special recognition for taking the lead on assignments previously performed by two staff members.

MAYOR DUNN was joined by Chief Kiyler in recognizing Scott Yarbrough for 10 years of service with the Police Department. Sgt. Yarbrough earned a reputation early on as someone who went out of his way to assist citizens. He became a field training officer responsible for training new officers and is known for his patience and ability in training new recruits. These attributes led Scott to being assigned to the Professional Standards Unit where he worked to maintain Chandler as a nationally accredited Police Department and worked at hiring and recruiting new

officers. Sgt. Yarbrough was assigned to the Police Academy training recruits from around the state.

MAYOR DUNN was joined by Chief Kiyler in recognizing Officer Michael McCartney for 10 years of service in the Police Department. He began his career as a patrol officer. He then was selected to be a member of the Neighborhood Response Team and moved on to become a part of the new CIS Street Crimes Unit. He returned to patrol and was selected to become a member of the Firearms Training Unit. He is also a member of the Special Assignment Unit as a tactical operator. Officer McCartney displays a positive attitude and is willing to go the extra mile to get the job done.

MAYOR DUNN was joined by Chief Kiyler in recognizing Rosenda Contreras-Figueroa for 10 years of service in the Police Department. Rosenda began her career as a C.O.E. student working part-time in field operations after which she was hired as a full time Records Clerk. She transferred to the Community Services Unit where she assists in a variety of programs such as the Youth Academy, GAIN and the annual open house. Her greatest "claim to fame" is facilitating the Chandler Police Citizens Academy. She successfully schedules, plans, recruits, presents and conducts 3 of the thirteen-week academies each year. Because of Rosenda's hard work and dedication, the Citizen's Academy is one of the department's most popular community programs.

3. Special Recognition – Officer Shevy Wright Day Citizen Contributors

MAYOR DUNN was joined by Chief Kiyler as he recognized citizen contributors for Officer Shevy Wright Day. CHIEF KIYLER explained that on July 18, 2007, the Chandler Police Department, along with numerous members of the community, came together to honor a 9-year old boy whose life-long wish is to become a Chandler Police Officer. On that day, his wish came true. Family, friends and employees from across the City gathered at the Police Department as Shevy led them in the Pledge of Allegiance and then repeated the Oath of Honor that every officer must affirm before receiving the badge. Shevy, Badge #1018, spent the day in field training with various officers. She commented that Shevy Wright Day was inspirational for all who participated and for many across the valley, state and country who saw the media coverage of the day's events.

On behalf of the 500 men and women of the Chandler Police Department, Chief Kiyler thanked the following individuals and companies whose contributions helped make Officer Shevy Wright Day.

- Lilly Kinchloe – LCS Cleaners
- Nick Chrostodolos – Tri-Products, Inc.
- Jeffrey Dunn – All City Towing
- W. Steven Martin – Family Support Group
- Dave Harnisch – Arizona Foothills Ocotillo Office – Century 21
- Floyd Scott – Arizona Foothills Ocotillo Office – Century 21
- Liz Acheveria and Jim Amdahl - Southeast Valley Regional Association of Realtors

4. Best Fitness Walking City Award – Dr. Alan Discont

MAYOR DUNN introduced Dr. Alan Discont, a Foot and Ankle Podiatrist, practicing in Chandler since 1983. He is representing the American Podiatric and Arizona Podiatric Medical Associations along with Fitness Preservation Magazine to award Chandler with

the Best Fitness Walking Cities Award for 2007. Dr. Discont said that Chandler was selected after a study of more than 100 cities in the United States utilizing by using a 20-point criteria. Chandler was selected among the top 10 cities that include Austin, San Francisco, San Diego, Portland, Seattle and Virginia City. He thanked the Mayor and Council for providing a safe and healthy environment to raise families.

5. Proclamation – Recognition of the Elderly

MAYOR DUNN asked Eddie Basha to join him as he read a proclamation proclaiming August 24, 2007 as Eddie Basha Day as he celebrates his 70th birthday. Mayor Dunn thanked Mr. Basha for his dedication to the citizens of Chandler.

Mr. Basha thanked the Mayor and Council for the recognition.

6. Brett Rayno – Chandler recent listing as a Sanctuary City by the Federal Government

MR. RAYNO, 303 W. Pelican Drive, Chandler, asked if the Chandler's designation as a Sanctuary City for illegal immigrants is endorsed by the Council and if the policy came from the City. If so, he questioned why Chandler would want that designation.

MAYOR DUNN responded that, in his opinion, Chandler is not a Sanctuary City, but there are numerous definitions to "sanctuary". COUNCILMEMBER DONOVAN asked Chief Kiyler what her definition of a sanctuary city is and if she felt Chandler complies with that definition. Chief Kiyler responded that the definition is the one published by the International Association of Chiefs of Police which states that a sanctuary city is "a city where officials have adopted policies prohibiting City employees, including law enforcement officials, from notifying Federal authorities of the presence of illegal aliens living in their jurisdictions". She explained that by using that, and other definitions, Chandler does not qualify as a sanctuary city. The police do arrest illegal aliens; work with ICE and notify them of immigration issues including calls to a drop house or human trafficking and they focus primarily on criminal incidents that occur in the City of Chandler. Chief Kiyler said they are in compliance with federal law and are not in violation of any laws. COUNCILMEMBER DONOVAN commented that, in addition to the police, there are other staff who work on diversity issues. She asked if there is some way to address the articles that say Chandler is a sanctuary city. Chief Kiyler said that Staff has discussed those same issues.

COUNCILMEMBER SEPULVEDA asked Mr. Rayno how long he has lived in Chandler. Mr. Rayno responded that he has lived here only a few months. He added that in order to get "off the list", the City needs to contact the U. S. House of Representatives Research Committee which publishes the list.

7. Dave Barresi – Regarding the Serial Rapist

MR. DAVE BARRESI, 911 E. Gary Drive, Chandler, asked what could be done to make his neighborhood safer. He lives in the area where the serial rapist has struck 3 times.

MAYOR DUNN responded that this case is the number one priority of the Police Department.

POLICE CHIEF KIYLER said that the Police Department has received over 1600 leads on this case which take time to follow up on. There are a number of investigative tools available to the Police Department. They have explored every available resource technology including other agencies. The most important tool for the Police Department is the community. She encouraged the citizens to be the Department's eyes and ears. There are also a number of programs the Department provides to citizens from self-awareness to self-defense and neighborhood watches. As stated by the MAYOR, this case is the Department's number one priority and she confirmed they would work with Mr. Barresi's neighborhood.

COUNCILMEMBER WENINGER asked if sketches of the rapist are available for businesses to display. Chief Kiyler said they are available. Citizens have been distributing them, it is on the City's website, on a billboard on the 202 freeway, and has been sent to all city departments.

UNSCHEDULED PUBLIC APPEARANCES:

None.

CONSENT:

MAYOR DUNN stated that agenda Item #3 (Water/Sewer Fees) would be moved to Action.

MAYOR DUNN said that there has been a request to move agenda Item #8 (AZ 202) from Action to Consent. The applicant indicates that the item as originally advertised is acceptable to him. Mr. House said that two new conditions have been added since this item was introduced. The item will remain on Action.

MOVED BY VICE-MAYOR HUGGINS, SECONDED BY COUNCILMEMBER CACCAMO, to approve the Consent Agenda as amended with Item #3 being moved to Action.

COUNCILMEMBER SEPULVEDA stated that regarding agenda Item #12 (Condemnation for the new City Hall), Staff is making progress with the landowners and the October timeframe provided by Staff is appropriate. However, he is wrestling with the issue of condemnation even though it is Council's prerogative to do so. He does not feel it is necessary because it is not needed for public health or safety. He stated that he would be voting nay on Item #12.

COUNCILMEMBER ORLANDO stated he would be voting nay on Items #12 (Condemnation for the new City Hall) and #30 (SRP contract).

COUNCILMEMBER WENINGER state he would also be voting nay on Item #12. He does not feel this is the proper location for the new City Hall as there are other city-owned parcels available.

COUNCILMEMBER DONOVAN asked for clarification on the proposed action for Item #12. Council is being asked to authorize condemnation proceedings for the new City Hall. CITY ATTORNEY HOUSE said that the resolution would authorize the City to initiate condemnation proceedings for these parcels. It would not come back to Council unless there was a settlement of the cases or Council directs that it come back with a status report before the actual condemnation procedure.

MAYOR DUNN said that status reports can be distributed to Council and this action is only to begin the process necessary to meet the time requirements for the City Hall construction.

REAL ESTATE MANAGER SHARON JOYCE said that there is no specific timeline and Staff is continuing to work with all property owners. If progress stops, Staff would be conferring with the City Attorney's office regarding condemnation. She estimated that it could be a month or two before that happens.

COUNCILMEMBER SEPULVEDA asked how long the condemnation process would take if it is necessary. MR. HOUSE said that the City would initially ask for immediate possession of the property, which could take 2-4 weeks. The usual steps of litigation would proceed, but there could also be a settlement during that time. The process could take 6 months to a year, but the City would have possession of the property. This should not delay the progress of the new City Hall. MS. JOYCE said that the intent is to try to get possession in order to sequence the construction properly, do utility relocations and tenant improvements. The property would need to be cleared by spring/summer of 2008. The original timeframe was October/November of this year.

MOTION CARRIED UNANIMOUSLY (7-0) WITH THE EXCEPTIONS NOTED – COUNCILMEMBERS ORLANDO, SEPULVEDA AND WENINGER VOTING NAY ON ITEM #12 AND COUNCILMEMBER ORLANDO VOTING NAY ON ITEM #30.

1. MINUTES:

APPROVED, as presented, Minutes of the City Council Special meetings of August 6 & 9, 2007, and Regular meeting of August 9, 2007.

2. INITIAL CITY ZONING: NWC Lindsay / Chandler Heights Roads Ord. #3938

ADOPTED Ordinance No. 3938, DVR07-0026 Northwest Corner of Lindsay and Chandler Heights Roads, for the establishment of initial City zoning of AG-1 on an approximately 5.4-acre site at the NWC of Lindsay and Chandler Heights roads.

3. On Action.

4. REZONING: AC Excalibur Storage Ord. #3946

ADOPTED Ordinance No. 3946 DVR07-007 AC Excalibur Storage, rezoning from PAD office to PAD amended with PDP approval for the construction of a climate-controlled internalized self-storage facility on an approximately 1.5-acre site south of the SEC of Ray and McQueen roads.

5. On Action.

6. EASEMENT: SRP Ord. #3942

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 3942 granting a no-cost power easement to Salt River Project (SRP) on the north side of Warner Road, east from the NEC of Alma School and Warner roads.

In connection with the Alma School Road-Warner Road Intersection Improvement Project, SRP is required to relocate its existing 69 kilovolt (kV) power line facilities to accommodate the road improvements.

7. ZONING: Stevens Off Road

Ord. #3950

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 3950, DVR06-0045, Stevens Off Road, amendment of existing Planned Industrial District with Planned Area Development Overlay (I-1/PAD) zoning to allow certain auto service and customization, including sand rails, located at 3210 N. Delaware Street. (Applicant: Stevens Off Road, Inc.; Owner: SGH IV LLC)

The building is located in a warehouse condominium development, Chandler Business Park, east of Arizona Avenue within a larger 240-acre corporate park (Arizona Corporate Park, formerly Elliot Commerce Plaza) that includes industrial uses and a limited amount of commercial uses. Existing uses within the larger corporate park include two motorcycle dealerships (Town & Country Motorsports and AZ Superbike) with service and repair along Arizona Avenue, a truck bed liner installation company (Inyati), retail showroom uses along Arizona Avenue, light industrial businesses with warehousing, a wholesale Italian bakery, the Arizona Department of Revenue and various office uses. The subject site is surrounded by the rest of the Arizona Corporate Park, all of which is designated as Employment in the General Plan.

In 1981, the subject properties were rezoned from Agricultural district (AG-1) to I-1/PAD to allow a mix of industrial, office and commercial uses throughout the corporate park. The PAD overlay designates uses by area within the corporate park, including I-1 uses for the subject property. In 1990, the corporate park received rezoning in order to refine use definitions and adjust the boundaries of the various use designations. From 1993 to 2007, several rezonings were granted to allow narrowly defined auto-related uses near and along Arizona Avenue, including the aforementioned motorcycle businesses plus motor vehicle after-market customization, repairs and accessory sales that do not involve engine repair, outdoor work, or outdoor storage. Also, farther from Arizona Avenue, a business received approval in 1998 to install truck bed liners in a suite along Colorado Street within the same development.

This rezoning is being initiated by Stevens Off Road, a sand rail customization and service business, that has occupied the subject building since Spring 2006. The business is specific to sand rail customization and repair, but a somewhat broader rezoning is suggested in order to encompass similar businesses and reduce the need for numerous rezonings at this location. The recommended conditions of approval are modeled after those that apply to the recently approved Pollack Business Park North rezoning along Arizona Avenue.

The majority of Steven Off Road's business is constructing and customizing new sand rails on an appointment basis. This part of the business does a very low volume and each product takes months to complete. They also warehouse parts that are sold wholesale and provide body/chassis repairs. The repairs, though a minor part of the business, are their only operation that cannot be performed under the existing I-1/PAD zoning. The business owner considers repairs to be an essential part of caring for long-term customers who have also patronized the business for higher-dollar items, such as customization of their vehicles.

The subject building is part of a condominium association and also part of a master property association. Some neighbors have objected to the legality of the rezoning request given master property association CC&R provision that prohibits auto uses. However, after reviewing a preliminary copy of the proposed rezoning scope and conditions of approval, the master property

association has not found reason to object based on CC&Rs. The neighboring Inyati bed liner company is a member of the same association.

The rezoning request is a reasonable addition of uses that is in keeping with the established nature of the business park, which already includes a number of auto-related businesses. In order to ensure that negative impacts such as noise, unsightly storage, or heavy traffic volumes are not present, the rezoning is carefully limited to avoid the auto body, oil change, or engine service-types of uses that are more appropriate for commercial areas. The business is expected to continue in the same manner as it has operated for over a year, which has resulted in no negative impact to adjacent businesses.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on May 10, 2007. There were no citizens in attendance. Staff has received numerous letters in opposition to the request, mostly from owners of nearby suites or buildings, including some business owners.

Two people spoke at the Planning Commission meeting citing potential economic harm and possible violation of the CC&R's. Upon finding consistency with the General Plan and current I-1/PAD zoning, the Planning Commission and Staff recommend approval subject to the conditions as listed in the ordinance.

8. On Action.

9. PARKING EASEMENT: Qwest Ord. #3952

APPROVED Ordinance No. 3952 by emergency granting a parking easement and related temporary construction easement to Qwest for property situated on the south side of Chandler Boulevard west of Arizona Avenue and abutting the north side of Qwest's current facility.

10. FLOOD INSURANCE STUDY: Floodplain Management Res. #4109

ADOPTED Resolution No. 4109 adopting by reference a revised flood insurance study, flood insurance maps, and floodplain management regulations consistent with and pursuant to Section 43-6, Code of the City of Chandler, as part of the delegation for responsibility for floodplain management.

The National Flood Insurance Program (NFIP) is developing a countywide Digital Flood Insurance Rate Map for Maricopa County and all of the incorporated cities and towns within the county. The Federal Emergency Management Agency (FEMA), which is now part of the U. S. Department of Homeland Security, has determined that the City of Chandler is in need of a floodplain management resolution that adopts the new revised Flood Insurance Rate Maps. The revised Flood Insurance Study and Flood Insurance Rate Maps must be formally adopted by the City of Chandler in a floodplain management resolution in order to continue its participation in the NFIP.

11. INTERGOVERNMENTAL AGREEMENT: Dept. of Public Safety Res. #4115

ADOPTED Resolution No. 4115 authorizing an Intergovernmental Agreement (IGA) with the State of Arizona through the Department of Public Safety for the Chandler Police Department to participate in the Arizona Vehicle Theft Task Force program. Participation consists of one officer being assigned to DPS to the Task Force. Chandler has participated in this program for the past

year through an IGA that recently expired. This is an opportunity for the City to continue its collaborative partnership with DPS to combat vehicle theft.

The DPS will pay Chandler 75% of the salary and 100% of pre-authorized Task Force-related overtime of the assigned officer. DPS will assign and maintain a vehicle to the assigned officer. The work of the Arizona Vehicle Theft Task Force has been to eliminate vehicle theft in Arizona.

12. PROPERTY ACQUISITION: Arizona Avenue / Chicago Street Res. #4116

ADOPTED Resolution No. 4116 authorizing the condemnation proceedings as needed to acquire nine (9) parcels of real property within the designated new City Hall site located at and near Arizona Avenue and Chicago Street in the City of Chandler and to obtain immediate possession thereof.

Over one year ago, the Chandler City Council approved the location of the new City Hall site, determined that approximately 23 parcels of real property needed to be acquired for development of the site, determined that the acquisition of the parcels was for a necessary and public use, authorized the City to purchase the parcels at fair market value and authorized relocation assistance as required by law. Many, but not all, of the parcels have been acquired or are in escrow to be acquired by purchase.

Of the parcels yet to be acquired, it appears that 9 parcels (one of which is the leasehold interest in property already owned by the City) cannot be acquired by purchase at a fair and reasonable price or within the time required in order to allow development of the site to proceed in a timely fashion. These parcels may need to be acquired through condemnation proceedings. Condemnation will allow the City to be able to obtain immediate possession of each parcel while negotiations proceed to determine what constitutes just compensation to be paid by the City for each parcel. Where the parcel's owner and the City cannot reach agreement on what is a fair and reasonable price, condemnation will provide a vehicle by which an independent third-party (either a judge or jury) can decide what is the appropriate compensation.

This resolution authorizes condemnation, but provides that no condemnation proceeding will be filed until the City's Real Estate Manager has advised in writing that efforts to acquire a parcel through a negotiated purchase at a fair and reasonable price and in time to maintain the schedule for development have failed or does not appear likely to succeed. Also, to comply with statutory requirements, the City Attorney's office will tender one final offer based on the appraised value of the property at issue at least 20 days prior to undertaking condemnation. In short, condemnation will be used only where a negotiated purchase proves unsuccessful.

COUNCILMEMBER'S SEPULVEDA, ORLANDO AND WENINGER voted nay on this item.

13. PRELIMINARY DEVELOPMENT PLAN: Chandler Midway Corporate Center

APPROVED Preliminary Development Plan, PDP07-0012 Chandler Midway Corporate Center, for a comprehensive sign package for an office development on approximately 20 acres at the NEC of Chandler and Gila Springs boulevards. (Applicant: John Turtchin, PH Architecture.)

This request was withdrawn prior to the June 28, 2007, City Council hearing to allow the applicant time to modify the proposed sign package to allow greater flexibility in sign-copy colors for the future tenants. The previous sign package restricted all signage to a uniform ICI 1051 Etching

color, a grayish color. The sign package has been modified to permit future tenants to utilize corporate colors upon the signage. All other aspects of the sign package remain the same.

The subject site is located on the southwest portion of the Intel Gila Springs campus at Chandler and Gila Springs boulevards. The site is bounded by light industrial development to the north with the Intel campus to the east. South of Chandler Boulevard is an assisted living facility, currently under construction. Gila Springs Boulevard abuts the subject site to the west, with a fast food restaurant (Pizza Hut/Taco Bell) and a recently approved townhouse development located west of Gila Springs Boulevard. A Preliminary Development Plan was approved in June 2005 for the construction of the Chandler Midway Corporate Center commercial office development. The project is currently under construction and once completed, will entail nine office buildings.

This request was noticed according to the provisions of the City of Chandler Zoning Code with a neighborhood meeting being held on May 30, 2007. There were no neighbors in attendance. Staff has received no correspondence in opposition to this request.

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

1. Development shall be in substantial conformance with the Development Booklet entitled "Chandler Midway Corporate Center" kept on file in the City of Chandler Planning Services Division, in File No. PDP07-0012, except as modified by condition herein.
2. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
3. Any future freestanding monument signs will require separate Preliminary Development Plan approval.
4. All raceway signage shall be prohibited within the development.

14. FUNDING: Police Positions

AUTHORIZED a funding transfer from general fund non-departmental to the appropriate cost centers within the Police Department for the reclassification of three commanders to assistant chiefs, the addition of one police commander, and an increase in pay grade for four civilian managers in an amount not to exceed \$200,000.00.

Since the reorganization of the Police Department, the Department has seen a 10% growth in personnel, a number of units have been created and two substations have been added. Three associations now represent department employees and we have implemented a number of programs to enhance relationships without personnel. It has become increasingly challenging to manage the overall operations of the Police Department within the current command structure. To meet current needs of the department and set the foundation for future growth within the Police Department, three of the current five commanders need to be reclassified to assistant chiefs and one new commander position needs to be added to provide oversight to the Criminal Investigations Section. Additionally, four civilian manager pay grades need to be adjusted due to increasing responsibilities within their sections.

Funds will come from recurring monies available under the General Fund, Non-Departmental cost center for the City Manager's Office, Professional Consulting.

15. AMENDMENT: South Arizona Avenue Entry Corridor Study

WITHDRAWAL, for the purpose of re-advertising, of an amendment to the South Arizona Avenue Entry Corridor Study by expanding the Urban Commercial designation on the NEC of Arizona Avenue and Pecos Road easterly to the existing Washington Street right-of-way, revising the Washington Street alignment accordingly, and modifying the land use description of Civic Uses to include office, museum and ancillary retail; and amending the General Plan to incorporate the amended South Arizona Avenue Entry Corridor Study.

16. SUBORDINATION: 315 W. Tulsa Street

SUBORDINATED the Housing Rehabilitation Lien on Project #RH06-0002 located at 315 W. Tulsa Street in the amount of \$72,758.24. (Rosales)

The single-family, owner-occupied home was rehabilitated under the City of Chandler's Housing Rehabilitation Program in 2006. The City has placed a lien against the property for \$72,758.24. This lien is in the form of a 15-year forgivable loan whereby the total is forgiven at the end of the term of the loan.

The owner is now requesting a refinance in order to lower her interest rate, combine the 1st and 2nd mortgages and is not receiving any cash out. The new loan is for \$113,000.00. 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 third position and would move to second position after the new loan. The City's lien will not be released until the term of affordability expires in 2021. The property is currently valued at approximately \$175,000.00.

17. CONTINUED AGREEMENT AMENDMENT: Kimley-Horn and Associates

CONTINUED TO SEPTEMBER 6, 2007, Agreement #AIO402-201 Amendment No. 1 with Kimley-Horn and Associates for the Airport North Apron in the amount of \$225,211.00 for a revised contract total of \$374,429.00.

18. AGREEMENT: Stantec Consulting

APPROVED Agreement #EN0721-101 with Stantec Consulting for annual engineering survey and construction survey services city-wide in an amount not to exceed \$200,000.00 for the first year with the option of four one-year extensions.

The City contracts with a consultant to provide land title surveys, right-of-way easement surveys for acquisition, topographic and mapping services, satellite-based control surveys, miscellaneous property line location surveys and the preparation of legal descriptions and exhibits. Typically, the survey fees range from \$1,000.00 up to \$10,000.00 per project. The relatively small size of the projects and fees do not warrant the expense of a consultant selection for each project, therefore City Staff selects a consultant for an annual on-call contract. The City has utilized the efficiency of this on-call survey contract for the past eight years.

19. AGREEMENT: Morrison-Maierle, Inc.

APPROVED Agreement #EN0711-101 with Morrison-Maierle, Inc. for pipeline design service in an amount not to exceed \$1,000,000.00 for the first year with the option of four one-year extensions.

Rapid growth of the water and wastewater systems has left some areas a patchwork of old and new piping infrastructure. Municipal Utilities has need for water and wastewater pipeline design services for miscellaneous pipe replacement projects not related to larger street projects. This design contract will be utilized on a limited basis for design work to replace aging or inadequate piping as necessary.

20. AGREEMENT: Brown and Caldwell

APPROVED Agreement #EN0717-011 with Brown and Caldwell for permitting, study and design for water and wastewater facilities in an amount not to exceed \$1,500,000.00 for the first year with the option of four one-year extensions, and Agreement #WA0801-201 for Equipping Design of Basha Wells No. 1, 2, and 3 in an amount not to exceed \$331,448.00.

In June 2007, Council approved the five-year Capital Improvement Program (CIP) for \$281 million. Design of the projects within this CIP will require a wide range of expertise and experience. Municipal Utilities has greatly improved project delivery time and efficiency through the use of annual contracts with established design firms. These annual contracts will provide consulting services for a broad range of projects including permitting, studies and design for water and wastewater facilities. Work will be rotated among five firms based on availability and expertise.

New wells are needed to meet potable water demands during peak periods and to provide a backup source to the surface water supply. This project agreement provides for the design of well pumps, chlorination equipment and other miscellaneous equipment at three well sites.

21. AGREEMENT: Dibble Engineering

APPROVED Agreement #EN0725-101 with Dibble Engineering for pipeline design service in an amount not to exceed \$1,000,000.00 for the first year with the option of four one-year extensions.

Rapid growth of the water and wastewater systems has left some areas a patchwork of old and new piping infrastructure. Municipal Utilities has need for water and wastewater pipeline design services for miscellaneous pipe replacement projects not related to larger street projects. This design contract will be utilized on a limited basis for design work to replace aging or inadequate piping as necessary.

22. AGREEMENT EXTENSION: Laboratory Testing Services

APPROVED Agreement extension for one year with Aerotech Environmental Laboratories, TestAmerica and Transwest Geochem, Inc. for laboratory testing services in an amount not to exceed \$304,000.00. This is the first of four additional one-year extension periods.

The Environmental Protection Agency (EPA) and the Arizona Department of Environmental Quality (ADEQ) mandate tests for drinking water and wastewater. Water Quality, Wastewater and Environmental Management will use these agreements to handle various testing requirements.

23. AGREEMENT: Valley Rain Construction

APPROVED Agreement #PR0715-401 with Valley Rain Construction Corporation for construction of Blue Heron Park, pursuant to JOC05-06, in an amount not to exceed \$545,837.00.

Blue Heron Park site is a 3-acre neighborhood park site in the square mile bounded by Alma School, Dobson, Ocotillo and Chandler Heights roads. In cooperation with the school district in the construction of Chandler Traditional Academy, initial construction included grading, irrigation and turf. This project is for completion of the park site to include electrical, lighting, landscape irrigation and park equipment.

24. AGREEMENT: Valley Rain Construction

APPROVED Agreement #PR0710-402 with Valley Rain Construction Corporation for construction of Neighborhood Park Improvements, pursuant to JOC05-06, in an amount not to exceed \$247,869.00.

Each year citizens make requests to the Community Services Department for improvements in many of the City's existing neighborhood parks. This project is for improvements at the existing San Tan Park, and includes installation of one new ramada, removal and replacement of landscaping and irrigation system renovations at this site.

San Tan Park is a 14.16-acre neighborhood park in the square mile bounded by Cooper Road, Gilbert Road, Chandler Boulevard and Pecos Road. Existing amenities at this park include sports courts, playground, and walking paths. It was originally constructed in 1985. Completion time for this project is 90 days.

25. AGREEMENT EXTENSION: 3M

APPROVED an Agreement extension for one year with 3M for service of security detection systems, SelfCheck units, discharge workstations, and software at the Downtown, Hamilton, Sunset and Basha Library branches in an amount not to exceed \$58,310.50.

3M produces and maintains exclusive maintenance and service for all the security detection, materials flow management, and radio frequency identification (RFID) systems used in the Chandler libraries. Security detection devices include gates at each library that detect the presence of security markers in books and audiovisual materials, preventing theft. Materials flow management devices include self check stations at each library that allow patrons to efficiently check-out materials through self-service; staff-managed check-in stations at each library that help Staff efficiently process returned materials' and Staff-managed check-out stations at each library that facilitate Staff-customer transactions. RFID systems are built into all of the above equipment, providing more rapid and efficient workflow. The radio frequency detectors operate over a larger volume of space and more quickly than optical scanning (barcode) technology. In addition, each library has handheld RFID readers that assist with inventory control, allowing Staff to scan items on the shelves without physically handling the items.

26. AGREEMENT: Brignall Construction Co.

APPROVED Agreement #PR0701-251 with Brignall Construction Co., Inc. for the pre-construction services contract for the construction manager at risk project for the Tumbleweed Park Maintenance Facility in an amount not to exceed \$54,711.00.

The pre-construction services contract award is the first step in the construction manager at risk process for construction. During the pre-construction services phase, the contract will develop and manage the schedule, provide value analysis, constructability reviews, subcontract coordination and prepare the guaranteed maximum price.

This contract is for pre-construction services for a 15,000 square foot park and facility service center at Tumbleweed Park. The facility will house approximately 80 Park and Building and Facilities administrative and maintenance staff, the majority of who are currently housed in the old city yard located at 249 E. Chicago Street. With the planned relocation of Purchasing and Administrative Services to the new City Hall, this site has a higher economic benefit in the downtown development area than a maintenance facility.

27. AGREEMENT EXTENSION: Anderson Security Agency

APPROVED an Agreement extension for one year with Anderson Security Agency, LTD, for security guard services, utilizing the City of Tempe contract, in an amount not to exceed \$55,000.00.

Due to increased security needs resulting from the events of September 11, 2001, a security guard has been stationed at the entrance to the Water Treatment Plant in order to screen visitors and employees. The guard ensures no unauthorized individuals enter this facility.

28. CONTRACT CHANGE ORDER: Haydon Building Corp.

APPROVED Contract #PR0209-401, Change Order No. 5, to Haydon Building Corp. for construction of the Tumbleweed Park Recreation Center in the amount of \$125,272.00 for a revised contract total of \$13,404,999.18.

Tumbleweed Park is located south of Germann and west of McQueen roads and is currently in the process of a multi-phased development. As part of the 2000 Bond Election, funding was approved for the design and construction of a recreation center at Tumbleweed Regional Park. This recreational facility, which is currently under construction, will become a focal point of the 205-acre park. This change order includes a variety of minor design modifications, which will improve the overall functionality of the building and its infrastructure.

29. CONTINUED CONTRACT: C.S. & W. Contractors, Inc.

CONTINUED TO SEPTEMBER 6, 2007, Contract #AI0402-401 to C.S.& W. Contractors, Inc. for the Airport North Apron in an amount not to exceed \$2,592,578.08. The contract must be delayed until the Federal Aviation Administration grant has been received.

30. CONTRACT: SRP

APPROVED Contract #ST0623-301 to Salt River Project (SRP) to remove and relocate streetlight junction boxes for the Queen Creek Road Improvements – Price Road to Arizona Avenue in an amount not to exceed \$40,229.00.

Queen Creek Road (Price to Arizona) will be improved to a six-lane roadway, including dual left turn lanes, dedicated right turn lanes and bike lanes. The increase of lanes is expected to occur within the existing median, with minimal impact to the existing sidewalks/curbing. Improvements will adhere to the City's Standard Arterial Street Detail.

SRP must install 88 new streetlight junction boxes and remove 41 existing streetlight junction boxes to accommodate the Queen Creek Road Improvements (Price to Arizona). Since SRP has prior rights, the City is required to reimburse SRP for associated costs to relocate their utilities. SRP is responsible for the design, wire pull and installation of junction boxes.

COUNCILMEMBER ORLANDO voted nay on this item.

31. CONTRACT: McCarthy

APPROVED Contract #WW0501-402 for the construction manager at risk contract to McCarthy for the Airport Water Reclamation Facility Expansion – Phase Two in an amount not to exceed \$70,866,675.00.

The Airport Water Reclamation Facility is located on Queen Creek Road just west of McQueen Road. The facility expansion is required due to growth, as determined by the 2004 Wastewater Master Plan. The Department held public information meetings and will continue to keep neighbors informed. Phase One of the construction, to increase capacity from 10 million gallons per day to 12 million gallons per day, was awarded at the February 22 council Meeting and was necessary to meet Maricopa County Health Services requirements. Phase Two construction is scheduled for completion by the end of calendar year 2009.

Phase Two will increase capacity from 12 million gallons per day to 15 million gallons per day. Construction management services will be provided by Wilson Engineers, LLC, for an amount not to exceed \$5,986,880.00 and will be awarded under separate Council action.

McCarthy's Phase Two GMP was originally estimated at \$77,400,000.00. Through value engineering, careful contract review and judicious allocation of owner contingency funds, Staff reduced the project cost to \$70,866,675.00. Staff further identified \$3,800,000.00 in risk-related savings. However, upon further consultation with the Legal Department, those risk-related savings are not included in this contract. Staff will revisit these risk-related contractual terms in a global perspective for possible Mayor and Council consideration at a later date.

32. PURCHASE: Amigos Library Services

APPROVED the Purchase of membership, access to OCLC (Online Computer Library Center) database, Atlas-hosted server, and Illiad software renewal license from Amigos Library Services, sole course, in an amount not to exceed \$38,000.00.

Amigos Library Services is a regional network and consortium that provides access to OCLC, an international bibliographic database that supplies cataloging copy and interlibrary loan services to libraries. The library pays an annual membership fee to Amigos plus subscription fees to access the OCLC database. The OCLC database is a unique entity and OCLC brokers its services to libraries in the southwestern United States through the Amigos consortium. Amigos is a sole source provider for this service.

The Chandler Public Library is a member of AzNET, a library consortium sponsored by the Arizona State Library, Archives and Public Records, to facilitate interlibrary loans among libraries in Arizona. The electronic routing and transfer of the AzNET interlibrary loan transactions are provided through the Amigos network. In addition to the interlibrary loan services, Amigos provides OCLC copy cataloging data, which significantly streamlines the process and reduces the cost of crating catalog records for new items added to the library's collection. Original, manual cataloging would cost an average of \$17.00 per item, primarily in Staff time, while electronic copy cataloging through Amigos averages only \$1.10 per item. Additional benefits of the Amigos membership include the ability to purchase library materials from various vendors.

33. PURCHASE: Thomson Gale

APPROVED the Purchase of library materials from Thomson Gale, sole source, in an amount not to exceed \$35,000.00.

Thomson Gale, formerly Gale Group, is the producer of a wide variety of print and electronic library reference materials. The Chandler Library has had ongoing subscriptions with Thomson Gale or one of its subsidiaries for several reference sets in diverse subject areas. Over the past several years, Thomson Gale has acquired a number of smaller publishers for reference, large print and children's books, making these books unavailable for other vendors.

Thomson Gail is the exclusive publisher of print materials that the Library purchases. These titles are purchased directly from Thomson Gail or its subsidiaries since they do not sell or market their products through other vendors. All of the materials are reviewed and recommended in standard library reviewing sources. Many of the items are continuations of sets that the library has invested in and maintained over the years and determined to be of good quality and heavily used by the library customers. The cost breakdown includes \$17,000.00 for large print materials published by Thorndike Press and \$18,000.00 for various other titles.

34. PURCHASE: Random House, Inc.

APPROVED the Purchase of library materials from Random House, Inc., sole source, in an amount not to exceed \$24,000.00.

Random House, Inc. offers unabridged audio book titles through two of their subsidiaries, Books on Tape and Listening Library. The company has exclusive contracts with specific authors so they offer titles that other vendors do not own the copyrights to. In order to offer these titles to patrons in an unabridged format, the Library must purchase them directly from Random House. Books on Tape offers continuous order plans for adult audio books on CD while Listening Library offers continuous order plans for youth books on CD. Random House, Inc. offers lifetime replacement of discs as well as the audio book cases.

35. PURCHASE: BBC Audio Books America

APPROVED the Purchase of library materials from BBC Audio Books America, sole source, in an amount not to exceed \$16,000.00.

BBC Audiobooks America offers unabridged audio book titles that other vendors do not own the copyrights to and the company has exclusive contracts with specific authors. In order to offer these titles to patrons in an unabridged format, the Library must purchase them directly from BBC

Audiobooks America. BBC offers both adult and youth standing order plans for their unabridged audiobooks in CD format and also audiobooks in MP3 format. Ninety percent of their titles are simultaneous released with the print version of the title. BBC offers compact disc replacements free for one year from the date of purchase when individual discs are damaged, thus saving the Library replacement costs of entire sets when only one disc is damaged. Individual replacement discs may be purchased for a reduced fee from BBC after the one-year free replacement and replacement audio book cases are also available at a reduced fee.

36. PURCHASE: Playground Equipment

APPROVED the Purchase and Installation of playground equipment at San Marcos Park, utilizing the US Communities contract, from Landscape Structures in an amount not to exceed \$66,232.69.

San Marcos is a 15-acre neighborhood park originally constructed in 1994. The playground equipment at the park is original. Because of the age and limited playability of the playground, it has been determined that the existing playground equipment needs to be completely removed and replaced.

37. USE PERMIT: Whole Foods Market

APPROVED Use Permit, UP07-0065 Whole Foods Market, Series 7, for the sale of beer and wine only, on-site tasting and the serving of beer and wine to customers dining in-store at 2955 W. Ray Road, within the Raintree Ranch shopping center. (Applicant: Andrea Lewkowitz, Lewkowitz Law Office, P.L.C.)

Whole Foods Market received approval in April for a Use Permit allowing the sale of beer and wine for off-premise consumption, as well as serving beer and wine by individual portions for sampling for on-premise consumption on a scheduled basis. This Use Permit is requesting the additional opportunity to serve beer and wine to dine-in patrons

The site is located at the SEC of Ray Road and the 101-Price Road off-ramp and is part of a larger approximately 17-acre site including a variety of commercial uses. The subject site is located on the southern portion of the site. North, across Ray Road, is Crossroads Church of the Nazarene. East of the site is the Raintree Ranch single-family residential neighborhood. Directly south, behind the approved center, is a University of Phoenix campus.

Whole Foods Market is a specialty grocer that specializes in natural and organic foods. Whole Foods operates approximately 194 stores in the United States and the United Kingdom. This will be the third store for Arizona and the first for the City of Chandler. Whole Foods will be the main anchor within the Raintree Ranch commercial center, which is currently under construction.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on July 30, 2007. There were no neighbors in attendance.

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

1. The Use Permit is for a Series 7 liquor license only and any change in type of license shall require reapplication and new Use Permit approval.

2. Expansion or modification beyond the approved exhibits (SiteP, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to any other store location.

38. USE PERMIT: Dos Gringos Grille

APPROVED Use Permit, UP07-0052 Dos Gringos Grille, Series 12, time extension for a Use Permit to allow the sale of liquor at a new restaurant located at 1361 N. Alma School Road. (Applicant: Brian Roehrich.)

A Use Permit was granted for a one-year period in July 2006. The business is under construction and has not opened for business. The application requests re-approval of the Use Permit for a Series 12 license for a one-year period. At the time of the Use Permit approval, a Preliminary Development Plan was approved for this development. The proposal included the redesign of an existing restaurant pad and improvements.

The site has been a restaurant since 1985, which included Ricardo's Mexican Food, Memphis BBQ Co., Mike Pulos Spaghetti Company, Wyatt's Place and Wild Bill's BBQ & Internet Sports. A new perimeter fence wall around the property creates interior courtyards/patios.

Dos Gringos Grille offers Mexican cuisine in a casual atmosphere with outdoor courtyards/patios and indoor dining areas. The restaurant has two entrances located on the building's south and west sides. The west entrance leads into the outdoor courtyard area for customers wanting an outdoor bar atmosphere. The south entrance goes into the interior restaurant area. Both indoor and outdoor seating areas have food and liquor service. This is no dance floor, pool tables, entertainment, games, etc. Ambient background music via speakers and televisions are provided indoors and outdoors.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on July 23, 2007. There were no neighbors in attendance. Staff received one phone call prior to the Planning Commission meeting from a property owner/landlord in the same development on behalf of his tenant, Sun Chinese Dining. The landlord said he has concerns that Dos Gringos will further impact parking for his tenant's customers. Staff conveyed that Dos Gringos' representations included providing signage to direct patrons to park on the east side of the building. In addition, Dos Gringos is constructing a defined pedestrian connection from the eastern parking area. Patrons for the Sun Chinese restaurant do not park in the eastern parking area. Dos Gringos agreed to guide customers to park on the east to ease parking concerns in the western parking area for Iguana Mack's and Sun Chinese Dining. The development meets parking requirements to accommodate all businesses with the western and eastern parking areas available to all businesses.

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

1. Development shall be in substantial conformance with previously approved zoning conditions and the Development Booklet, entitled "Dos Gringos Grille", kept on file in the City of Chandler Planning Services Division, in File No's. PDP07-0011 and UP06-0013 except as modified by condition herein.

2. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.

39. USE PERMIT: A.J.'s Fine Foods #168

APPROVED Use Permit, UP07-0057 A.J.'s Fine Foods #168, Series 9, for the sale of alcohol within a grocery store at 4975 S. Alma School Road within the Promenade at Fulton Ranch. (Applicant: Joan Moss, Basha's, Inc.)

The subject site is located at the NEC of Alma School and Chandler Heights Roads within the Fulton Ranch Promenade commercial center and is part of a larger approximately 20-acre site that includes a variety of commercial uses. The site is located on the eastern portion of the site. North of the shopping center is the Snedigar Sport's Complex. West, across Alma School Road is the Safeway-anchored Regency Ocotillo commercial center. South, across Chandler Heights Road is the Summit at Chandler Heights commercial center. East of the site is the Serenity Shores at Fulton Ranch condominium development.

AJ's Fine Foods is a full service specialty grocer. Whole Foods will be the main anchor within the commercial center, which is currently under construction. There will be no samplings at this location.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on August 9, 2007. There were no neighbors in attendance.

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

1. The Use Permit is for a Series 9 liquor license only and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (Site plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to any other store location.

40. LIQUOR LICENSE: AJ's #168

APPROVED a Series 9 Liquor Store Liquor License (Chandler #114694 L09) for Michael Joseph Basha, Agent, Basha's, Inc., dba AJ's #168, 4975 S. Alma School Road. A recommendation for approval of State Liquor License #09070741 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.

41. USE PERMIT: The Urban Tea Loft

APPROVED Use Permit, UP07-0044 The Urban Tea Loft, Series 12, for the sale of alcohol for on-site consumption only in a new retail/restaurant facility that includes a new outdoor patio at 11 W. Boston Street, Suite #2. (Applicant: Glynis Legrand.)

The business, expected to open in September 2007, occupies a suite in the recently renovated Arrow Pharmacy Building at 11 W. Boston Street in Historic Downtown Chandler between Art on Boston and Uptown Bridal & Boutique. The business is a tea-oriented café that serves a variety of exotic teas, as well as sandwiches, salads and other light fare. They also sell tea-related gift items. The application requests approval to sell alcohol in conjunction with a Series 12 Restaurant License so that the business can offer tea-based mixed drinks for on-premise dining. There will be a permanent outdoor patio area added immediately in front of the suite along Boston Street underneath the colonnade. It will run the entire width of the suite and will be surrounded by a 42" high wrought iron fence with a gate aligned to the building entrance. In keeping with code requirements, an unencumbered 6' wide path will be left between the fence and the inside face of the colonnade columns to allow for free pedestrian movement.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on July 17, 2007. There were no neighbors in attendance. The Police Department has been informed of the application and has responded with no issues or concerns. Staff has received no correspondence in opposition to this request.

Upon finding consistency with the General Plan and City Center District (CCD) zoning, the Planning Commission and Staff recommend approval subject to the following conditions:

1. The Use Permit granted is for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication and approval of the Use Permit.
5. The patio shall be maintained in a clean and orderly manner.

42. LIQUOR LICENSE: The Urban Tea Loft

APPROVED a Series 12 Restaurant Liquor License (Chandler #109741 L12) for Glynis LaTrise Legrand, Agent, Velvet Steel LLC, dba The Urban Tea Loft, at 11 W. Boston Street, Suite 2. A recommendation for approval of State Liquor License #12077152 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.

43. USE PERMIT: Picazzo's Gourmet Pizza & Salads

APPROVED Use Permit, UP07-0049 Picazzo's Gourmet Pizza & Salads, Series 12, for the sale of alcohol for on-site consumption only in a restaurant at 7225 W. Harrison Street within Polar Ice. (Applicant: Jesus Manuel Altamirano/Theresa Morse.)

Picazzo's is an existing restaurant located inside the Polar Ice Chandler ice skating facility near the NEC of 54th and Galveston streets. The tenant space, formerly occupied by Sbarro, has been occupied by the subject business for several weeks without alcohol service. The restaurant is located just inside the facility's front doors and adjacent to an open court area. Picazzo's is the

primary food and drink option for those using the ice skating facility. The previous tenant did not serve alcohol.

Currently, the restaurant's service counter is open to the adjacent court area. In order to serve alcohol, a metal fence barrier will be placed around a new, dedicated seating area near the service counter. The fenced off area will have an entrance and an exit to allow patrons to access seating and/or the service counter.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on July 26, 2007. There were no citizens in attendance. The Police Department has been informed of the application and has responded with no issues or concerns. Staff has received no correspondence in opposition to this request.

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

1. The Use Permit granted is for a Series 12 License only and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.

44. LIQUOR LICENSE: Picazzo's Gourmet Pizza & Salads

APPROVED a Series 12 Restaurant Liquor License (Chandler #114360 L12) for Jesus Manuel Altamirano, Agent, DRD Express I LLC, dba Picazzo's Gourmet Pizza & Salads located inside Polar Ice at 7225 W. Harrison Street. A recommendation for approval of State Liquor License #12077148 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.

45. USE PERMIT: Big Wa Chinese Cafe

APPROVED Use Permit, UP07-0051 Big Wa Chinese Café, Series 12, for the sale of alcohol for on-site consumption only within a new restaurant at 990 E. Riggs Road, Suite #9. (Applicant: Hua Ling Guan, Charles Tsui.)

The site is located at the NWC of Riggs and McQueen Roads within the Riggs Landing Center. North and west of the shopping center is the Paseo Crossing single-family residential neighborhood. East, across McQueen Road, is county-zoned property. South, across Riggs Road, is the Riggs Marketplace shopping center and the Lagos Vistoso single-family residential neighborhood.

The business has been open for approximately 3 weeks. There is no outdoor dining at this facility.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on July 23, 2007. There were no neighbors in attendance. Staff has received no correspondence in opposition to this request.

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

1. The Use Permit is granted for a Series 12 license only and any change of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to other store locations.

46. LIQUOR LICENSE: Big Wa Chinese Cafe

APPROVED a Series 12 Restaurant Liquor License (Chandler #112081 L12) for Hua Guan, Agent, Big Wa Chinese Café, Inc., dba Big Wa Chinese Cafe, 990 E. Riggs Road, Suite 9. A recommendation for approval of State Liquor License #12077144 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.

47. USE PERMIT: Longhorn Steakhouse

APPROVED Use Permit, UP07-0059 Longhorn Steakhouse, Series 12, for the sale of alcohol within a new restaurant at 2950 E. Germann Road. (Applicant: Jerry Lewkowitz.)

The subject site is located along Gilbert Road within the Crossroads Towne Center. Within the vicinity of the subject site, there is the Olive Garden to the north, Gilbert Road to the east, the Harkin's Theater to the south and parking to the west.

The Crossroads Towne Center received Council approval in 2003. As part of the requirements for the shopping center, all independent tenants are required to receive administrative approval for building architecture. Longhorn's Steakhouse has received administrative approval and is requesting their Use Permit in order to serve alcohol as part of their restaurant.

This request was noticed in accordance the requirements of the Chandler Zoning Code with a neighborhood meeting being held July 30, 2007. There were no neighbors in attendance. Staff has received no correspondence in opposition to this request.

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

1. The Use Permit is granted for a Series 12 license only and any change of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to other store locations.

48. LIQUOR LICENSE: Longhorn Steakhouse

APPROVED a Series 12 Restaurant Liquor License (Chandler #114591 L12) for H. J. Lewkowitz, Agent, RARE Hospitality Management Inc., dba Longhorn Steakhouse of Chandler, 2950 E. Germann Road. A recommendation for approval of State Liquor License #12077180 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.

49. CONTINUED LIQUOR LICENSE: Bravi

CONTINUED TO SEPTEMBER 6, 2007, Liquor License, Series 12, for James Patrick Nagy, Agent, Bravi at 2990 E. Germann Road, Suite 7, to allow the applicant time to complete the requirements for a new Use Permit.

50. LIQUOR LICENSE: Charo's Mexican Food

APPROVED a Series 12 Restaurant Liquor License (Chandler #114481 L12) for Jesus Ariel Montano, Jr., Agent, Jimenez and Montano LLC, dba Charo's Mexican Food, 1368 N. Arizona Avenue. A recommendation for approval of State Liquor License #12077215 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. As this application reflects a change in ownership, a new Use Permit is not required since this will be a continuation of the location's previous use as Charo's Mexican Food.

51. LIQUOR LICENSE: Circle K Store #3377

APPROVED a Series 10 Beer and Wine Store Liquor License (Chandler #115174 L10) for Kim Kenneth Kwiatkowski, Agent, Circle K Stores, Inc., dba Circle K Store #3377, 3010 S. Gilbert Road. A recommendation for approval of State Liquor License #10075445 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.

52. LIQUOR LICENSE: Z'Tejas Grill

APPROVED a Series 12 Restaurant Liquor License (Chandler #115023 L12) for Amy S. Nations, Agent, Z'Tejas Chandler LLC, dba Z'Tejas Grill, 7221 W. Ray Road. A recommendation for approval of State Liquor License #12077081 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. As this application reflects a change in ownership, a new Use Permit is not required since this will be a continuation of the location's previous use as Z'Tejas Grill.

53. LIQUOR LICENSE: Mi Sushi & Teppanyaki

APPROVED a Series 12 Liquor License (Chandler #113315 L12) for Eun-Kyung Lim, Agent, CK Vision, Inc., dba Mi Sushi & Teppanyaki, 4939 W. Ray Road, Suites 1 & 2. A recommendation for approval of State Liquor License #12077094 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. As this application reflects a change in ownership, a new Use Permit is not required since this will be a continuation of the location's previous use as Tsunami Japanese Restaurant.

54. LIQUOR LICENSE / TEMPORARY EXTENSION OF PREMISES: Darkhorse Sports Bar & Grill

APPROVED a Series 12, temporary extension of premises, for Chandler Liquor License #113641 L12 held by Darkhorse Sports Bar & Grill LLC, dba Darkhorse Sports Bar & Grill for their Grand Opening Celebration on August 25, 2007. A recommendation for approval of a temporary extension of premises for State Liquor License No. 121077082 will be forwarded to the State Liquor Department. The Police Department has no objections to this extension and the applicant has applied for a Temporary Sales and Promotional Event Permit through Neighborhood Services.

55. PRELIMINARY PLAT/FINAL PLAT: Chandler Crossing 5

APPROVED Preliminary Plat, PPT07-0024/CPT07-0009 Chandler Crossing 5, for an existing office/retail building divided into two condominiums at the SEC of Ray Road and 56th Street. (Applicant: O'Neil Engineering.) The plat divides the building on Lot 5 into two condominium units and creates the lots, establishes the necessary easements and dedicates the required rights-of-way.

56. FINAL PLAT: Paseo Lindo

APPROVED Final Plat, FPT07-0027 Paseo Lindo, for a mixed-use commercial retail, office, business park and residential development on approximately 68 acres at the NEC of Arizona Avenue and Ocotillo Road. (Applicant: CMX, Inc.) The plat creates the lots and tracts, establishes the necessary easements and dedicates the required rights-of-way.

ACTION:

3. CITY CODE AMENDMENTS: Chapters 50 & 52 Ord. #3943

ADOPTED Ordinance No. 3943 amending Sections 50-1 through 50-3, 50-5, 50-8 through 50-12, 50-18 through 50-19 and 52-7 of the Code of the City of Chandler to change certain Water, Reclaimed Water and Sewer Fees.

COUNCILMEMBER SEPULVEDA asked Staff to provide an update on the Subcommittee meeting held August 20th. MUNICIPAL UTILITIES DIRECTOR DAVE SIEGEL said an overview was given to the committee based on the Acting Management Services Director memo that had previously been sent out to Council. Discussions centered around water-rate structures and two wastewater structures. The subcommittee also discussed what criteria the citizen's committee used and focused on conservation.

Customer incentives were also discussed by using comparative analysis such as how their water consumption in June 2007 compared to the previous year. He said the question had been posed if the city had a rate structure that would provide incentives for reduction in use, if the billing system would be capable of handling it. The response is not under the current setup.

The impact of HOA's was also discussed in relation to the impact on HOA greenbelt areas and HOA's requiring through CC&R's that homeowners have green grass in the front during the winter. Mr. Siegel said an issue of concern for the committee was the impact on larger families living in areas with larger lots and mature landscaping. PIO Jim Phipps had attended the meeting and explained what actions had been taken to inform the public of the proposed increases.

Mr. Siegel reported that the committee also discussed reclaimed water and drought issues. An issue was raised concerning the contingency fund and the percent maintained in water/wastewater.

COUNCILMEMBER SEPULVEDA asked for clarification on "inside" and "outside" as mentioned in the ordinance. Mr. Siegel explained that an inside the City user is one inside the official City limits. Outside the City users encompass County islands.

COUNCILMEMBER SEPULVEDA asked for the percentage of increase from current to proposed as outlined on page 5 of the ordinance for residential and non-residential. MR. SIEGEL said that the overall increase for water proposed is 9% and 12% for wastewater. There has been no change to the summer/winter rate schedule. The reclaimed water service area from Pecos Road south, primarily in the southwest corner of the City near the Ocotillo area. OMG has a service area that supplies reclaimed water provided by the City. The remaining part of south Chandler is serviced by the City of Chandler. Rates are very low and are proposed to be raised to follow block two of the single-family residential. That equates to 15 cents per 1000 gallons in the winter and 18 cents in the summer.

In the late 1990's, the City had more reclaimed water than it could handle. Many ASR wells were installed plus the infrastructure and project in the next few years that during the summer there will not be enough reclaimed water and there will be a need to pull water up previously recharged. He noted the Gila River Indian Community water settlement should be approved by December 31, 2007, which means the city will be required to send more water than currently is to the Gila River Indians. Mr. Siegel stated that once south Chandler builds out from Pecos south, it is believed that 100% of the reclaimed water will be committed. Currently there is more supply than demand.

VICE-MAYOR HUGGINS asked for clarification of a chart distributed to Council showing 30,000-gallon water usage would be \$124.00 per month increase. Mr. Pentz explained that the chart shows, within the various blocks, the percentage of customers that fall within each block. Low usage, 0-6,000 gallons comprises 35% of the customers; moderate-29% and high-27%. Nine percent of the customers fall into the very high or extremely high category, which is over 25,000 gallons per month. VICE-MAYOR HUGGINS said he is not clear as to whether a customer who uses 30,000 gallons will receive a bill of \$124.00. Mr. McDermott explained that the \$124.00 on the chart was for a usage of 60,000 gallons. The chart depicts a range of water usage and the increase reflected is for the maximum usage in that range. Usage in mid-range is not depicted on this chart.

COUNCILMEMBER CACCAMO asked what percentage of the 35% on the chart depicted as being low-usage are full time residents. Sr. Financial Analyst JULIE BUELT said that the amounts are based on a full-year usage and if someone is gone for part of the year, only part of their usage is reflected.

COUNCILMEMBER CACCAMO asked if the average increase of \$3.05 includes the part-time residents. Mr. Siegel said it does. HOA'S would pay an irrigation rate which is a special class

developed for those who only use water for irrigation. Apartments would also have such rates. Those rates are higher than residential rates.

COUNCILMEMBER CACCAMO asked why the rate of increase for commercial water use is 16% and residential use is 60% in the winter and in the summer is 85% versus 20%. MR. RICK GIARDINA, RED OAK CONSULTING, explained that the rate study involved completion of a comprehensive cost-of-service study, which looked at the specific demands and costs to serve those demands across various customer classes. The City's past rate structure, since 1994, was one structure for all customers. The focus they received from the Citizen Committee was to look at conservation and cost of service (pay for what is used). In doing that, costs to serve each class (i.e. residential, commercial) was studied. Based on peak requirements, those that used significant amounts of water in the summer place a greater demand on the system at a greater cost. Those demands come from residential customers. There was a situation with the old rate structure where businesses were paying more than their fair share. With the restructuring of the rates to reflect cost of service, those who demand higher levels of use in the summer are paying their cost of service. He explained that is why the percentages appear to be disproportionate. As an example, if every customer on the system used 10,000 gallons monthly, it would be an easy system to operate. Unfortunately, no water system operates that way. Some customers use 5,000 in the winter and 20,000 in the summer. A system must be provided that is able to meet the 20,000 demand. The balance of the year, the system sits idle. Residential customers tend to have larger demands because they have more area to irrigate. Commercial accounts have less area to irrigate and tend to have flatter demands. Every customer pays a higher rate in the summer. There are five classes of customers under the water rate structure including single-family residential, multi-family, irrigation only meter, industrial (Intel) and all other non-residential accounts which encompasses a variety of businesses.

In response from a question from COUNCILMEMBER CACCAMO, Mr. Giardina said that technology exists to do budget billing or individualized billing that is in place for a small number of communities in the country. The Citizen Committee did consider a rate approach. The city's current billing system is not capable of handling budget billing.

COUNCILMEMBER ORLANDO asked about Mr. Giardina's earlier comment that commercial customers pay more than residential. Mr. Giardina responded that they do under the current rates. COUNCILMEMBER ORLANDO commented that businesses could pass those costs on and recoup some of those costs, whereas residential customers don't have the option.

COUNCILMEMBER SEPULVEDA asked Staff to discuss the usage comparison from 1994 to 2006. MR. SIEGEL said that since 1994 the population has increased over 100%. In 1994, usage averaged 28.2 million gallons per day and 55 million gallons per day in 2006. Water accounts have nearly doubled during that time. In 1994, there was \$8 million for capital improvements. In the 2006/07 budget, that figure increased to \$164 million. Much of that is impact fee money. He noted in today's budget, there is \$15 million designated just for replacing aging infrastructure. Operating and maintenance costs in 1994 were \$22 million for water/wastewater. In 2006/07, it was \$56 million which reflects an approximately 156% increase. Mr. Siegel noted that complying with various federal regulations has also increased the operating budget dramatically.

MOVED BY COUNCILMEMBER SEPULVEDA, SECONDED BY VICE-MAYOR HUGGINS, TO APPROVE THE FINAL ADOPTION OF ORDINANCE NO. 3943 AMENDING SECTIONS 50-1 THROUGH 50-3, 50-5, 50-8 THROUGH 50-12, 50-18 THROUGH 50-19 AND 52-7 OF THE

CODE OF THE CITY OF CHANDLER TO CHANGE CERTAIN WATER, RECLAIMED WATER AND SEWER FEES.

VICE-MAYOR HUGGINS asked Staff about the roll impact fees placed on water/wastewater capital improvements. Mr. Siegel responded that it played a large role. The impact fees are paying for a majority of the CIP.

KRISTIN HEUMANN, 95 N. Cooper Rd. #44, Chandler, noted that it was mentioned earlier that for apartments the cost would be greater than residential. She explained that in a townhome or condo complex, water and sewer are included in the HOA fees. She questioned the amount the HOA fees would increase due to this. The increase is reasonable at 1-2% since they have not increased since 1994. If the townhome and condo owners will be paying significantly more than residential because their HOAs are covering their water fees, it needs to be addressed. She noted that Chandler was voted one of the best cities in the country to walk in, but questioned if taxes would increase for park maintenance and asked what block the City falls into for park maintenance.

ASST. CITY MANAGER RICH DLUGAS said that Staff did some calculations on two HOA's – one with 800 households and the other with 1600- and based on the new rates, homeowners would see an approximately 81 cent monthly increase in the larger association. It would be \$1.61 in the smaller association.

COUNCILMEMBER CACCAMO said he called his management company and one smaller association of 105 homes used 510,000 gallons in June at a cost of \$1,051.21 and, under the new rate structure, that would increase by \$500 which would be an additional \$5.00 per month for the homeowners. He asked what kind of communication has the City had with management companies. MR. SIEGEL said that there have been numerous news articles and information was sent out in utility bills. PIO Jim Phipps added that information was sent to every HOA that was registered with the City through Neighborhood Programs. There are over 900 contacts with over 200 HOA's registered. An e-mail with all of the information regarding public hearings was provided along with an estimate of what the new rates would be per household.

COUNCILMEMBER WENINGER asked if bond ratings could be affected if rates aren't increased. ACTING MANAGEMENT SERVICES DIRECTOR O. D. BURR stated that it could. Of the three categories reviewed, revenue stability was one. The bond-rating agencies pay close attention to debt service ratio. He stated the ratio is currently 1.20. Ideally, the agencies like to see a debt/ratio of 1.75. He explained that while the city is receiving a favorable rating, there is a need to maintain those debt/service ratios for future bond ratings.

MAYOR DUNN expressed concern with bond ratings. This is an item always brought up during discussions with bond rating companies.

COUNCILMEMBER CACCAMO commented that we know an increase is needed, but want it be applied fairly throughout the City. COUNCILMEMBER ORLANDO concurred and added that we need to look at the structure and not the increase.

RICK HEUMANN, 4310 W. Dublin Street, Chandler, President of his HOA, said that they understand that rates need to increase. His HOA management company called in June to find out what the rates would be next year to set their budget. They were told by Chandler that they did not know. They called other cities and got specific increase rates and figured an average of those. He called Staff to get the rates and was told that the winter rates would increase 1-2% and

the summer rates would increase 71%. They have 365 homeowners, but there are smaller associations with only 100 homeowners. He does not feel all the facts are being provided to citizens. Using the numbers provided by staff, the HOA usage fee would increase by \$1,200.00.

COUNCILMEMBER SEPULVEDA asked if there is a statewide HOA association that could be contacted. Mr. Heumann said he is not aware of one.

COUNCILMEMBER SEPULVEDA commented that, if the motion passes, he believed it would be appropriate to direct Staff to collect the data within a certain period of time, possibly 12 months after the fees go into effect. A study group could be convened that would include the larger HOA's, multi-family, homebuilders, consultants and Staff to review the quantifiable data and report back to Council on what the impact has been over the year since the new fees have been in effect. MAYOR DUNN concurred.

MR. GIARDINA said that it is common for a community to have a review after a new fee structure has been implemented. It could be included as part of the budget process. MAYOR DUNN expressed concern with the fact that the City encourages a lot of green, particularly in the southern part of the City. It is covered mostly by reclaimed water, but there are areas where it is not. Mr. Giardina said that that has been considered in their analysis with respect to cost of service. There is a benefit to having the green areas, which is enhanced property values. If someone chooses to have a lot of green grass, they should have to pay for it and not be subsidized by other users who have chosen not to have the grass. The intent was to give citizens economic choices.

COUNCILMEMBER ORLANDO commented that Mr. Giardina is assuming that homeowners have choices to make. If there is an HOA that requires 75% grass in the front yard, there is no choice for the citizen. MR. GIARDINA responded that the top objective in the underlying objectives of the rate approach is to pay for the service you are provided. This is the rate structure recommended to Council. He said there are communities where the rate structure does cause a change in behavior and that might start in a change in the H.O.A. bylaws, but absent that economic incentive, those changes don't happen.

MICHAEL CASON, 1610 E. Whitten Street, said that his water bill would increase an average of 67% per month. His bills in the summer will increase an average of \$150.00 per month. If his home were an industry, his rates would only increase 10%. They are a gardening family with a front yard xeriscape and back yard oasis. Rate-based conservation measures do not work. According to the American Waterworks Association Research Foundation, pricing conservation measures such as increasing block rate as proposed in this ordinance, do nothing to decrease water demand.

COUNCILMEMBER DONOVAN asked if residents using high amounts of water would be paying more than commercial users who are using the same amount? Mr. Giardina responded that those types of comparisons are very difficult. A commercial customer using 50,000 gallons in a summer month compared to a residential customer using 50,000 gallons during the same time frame, the commercial customer will pay less. They will pay less because they are using 50,000 gallons every month. This is a "correction" to the rate structure that has been in place since 1994 when the community was largely residential. Because the structure was not changed as more commercial came in, the non-residential base allowed rates to be held down in residential.

MAYOR DUNN said that the bottom line is that the City will not wait another 12 years before making water rate adjustments. The rates should have been adjusted over the past 12 years as

the community changed rather than trying to play "catch up". In 1994, Chandler was the 4th highest in rates and in 2007, with the changes, we will be the third lowest.

ROB BARNEY, 1617 E. Glacier Place, Chandler, said that he served on the rate committee that brought the recommendations forward in May. He explained that one of the things the committee looked at was the difference of water usage by various types of users. As has been pointed out, wide swings tend to skew the numbers. The number one priority for the committee was paying the cost of service. Mr. Barney reviewed some of his calculation and noted the rate increase is separated from the comparison of rates because they are separate issues. He explained there would be a 9% rate increase with either the old or recommended structure. He calculated that the break-even point in the winter is approximately 25,000 gallons. For 40,000 gallons of water monthly, you could have indoor usage for a family of 8, approximately 2,000 per person. You could water ¼ acre of grass, which would encompass the major of lots. A swimming pool could also be filled. For 12,000 gallons, which is typical usage, would be indoor usage for a family of 4 and water 3000 square feet of grass and other landscaping. From a residential perspective, and that of the committee, they feel the recommended is fair and equitable.

COUNCILMEMBER ORLANDO commended the committee for their work on the rate structure. He asked Mr. Barney if they spoke about HOA's. MR. BARNEY said that they did, but not extensively. He showed graphs depicting HOA usage of up to 1 million gallons per month. In the winter, 77% of the bills would be lower while only 38% would be lower in the summer.

MOTION CARRIED BY MAJORITY (5-2) WITH COUNCILMEMBERS CACCAMO AND ORLANDO VOTING NAY.

RECESS: THE MEETING RECESSED AT 9:19 P.M. AND RECONVENED AT 9:30 P.M.

5. REZONING/PRELIMINARY PLAT: San Tan Marketplace Ord. #3916

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. DVR07-0020 San Tan Marketplace, rezoning from AG-1 to PAD with PDP for a new retail/office center that may include late hour businesses on approximately 5.4 acres at the NWC of Lindsay and Chandler Heights roads.

APPROVED Preliminary Plat PPT07-0022 San Tan Marketplace, for a new retail/office center that may include late hour businesses at the NWC of Lindsay and Chandler Heights roads. (Applicant: Burch & Cracchiolo, P.A.)

The subject site, which contains two vacant homes, is surrounded by agricultural uses. To the north is a dairy zoned AG-1 and proposed for eventual development of Phase II of Montage by Charlevoix Homes. To the west is approximately 8.4 acres of unincorporated land used for agriculture and farther west is the approved Old Stone Ranch residential subdivision. The intersection's southwest corner includes a vacant 10.5-acre parcel surrounded by the approved Valencia II residential subdivision. The intersection's southeast corner is approved for the Whispering Heights subdivision. The intersection's northeast corner is planned for city water recharge facility and park space.

The site is designated by the Southeast Chandler Area Plan for Traditional Suburban Character, which allows for non-residential uses at arterial street intersections such as the intersection of Lindsay and Chandler Heights roads. The Area Plan prescribes that development convey a rural/agrarian theme and be developed with transitions and compatibility in mind. The proposal conforms to the Southeast Chandler Area Plan.

The site provides adequate parking with 201 spaces compared to the code requirement of 178 spaces. In contrast to information provided in the Development Booklet, the project will be phased. Phase I will consist of the retail shops and the office/retail building along Lindsay Road, plus all landscaping and parking site improvements. The bank pad will be Phase II. This phasing is a minor change from what the Planning Commission reviewed; at that time, Phase I was the retail shops and bank pad, while the office/retail building was Phase II.

The request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on May 29, 2007. There were no citizens in attendance. Staff has received no correspondence in opposition.

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

COUNCILMEMBER ORLANDO said that he is concerned that the late-night business policy established in 2004 may need to be revisited because of the changing market conditions.

BRENDON RAY, 702 E. Osborn, spoke on behalf of the applicant. He reported they have been working closely with Staff for over a year on this project and understands there is a question with 24-hour businesses on the site. MAYOR DUNN said that certain 24-hour uses could pose a problem for nearby residents. Mr. Ray said that stipulation #7 states that development shall be in substantial conformance with the project booklet on file with the City, which includes site plan for PDP that would limit the design of the center. They are proposing a bank pad on the west side, in-line retail shops bisected by a pedestrian courtyard and a building on the north that can be used for retail or office. Because of the way the site plan is laid out, a gas station, convenience store or 24-hour grocery store can be eliminated. Any changes to the buildings would require an amended PDP which would include advertising, public hearings and neighborhood meetings.

MAYOR DUNN stated that the design is outstanding and reflects the intent of the Southeast Area Plan. He asked if the project would need to come back before Council if the footprint of the buildings change. PLANNER BILL DERMODY responded that it would be a Staff decision as to what entails substantial conformance. Adding a drive-thru would have to come back. If there were minor changes in the square footage, it may not. If the "L" shape were to change, it would require a new PDP.

COUNCILMEMBER DONOVAN asked what would happen if the late-night policy were approved and the footprint did change, would Council be re-approving the late night policy or would it stay with the original zoning. Mr. Dermody said the late-hour business approval would stay with the zoning. COUNCILMEMBER DONOVAN agreed it is a great project with the buildings next to the road hiding the parking. Her concern is that this area is designated low-density residential in the General Plan. She agrees that retail centers should be on arterial streets for the convenience of neighbors, but she is concerned with approving the late night business without knowing what that business may be.

MR. RAY said that they do not have the ability to determine who will locate in their center; however, through site-design, there are limitations.

COUNCILMEMBER ORLANDO said that the developer's goal is to lease the entire center to pay the mortgage. If someone wants to open a 24-hour business, they could do so. A homeowner in

the area has no choice but to deal with any noise that may emanate from a 24-hour business because their home is an investment to them. MR. RAY responded that his client would not want to bring a business in that would give them a bad reputation. MR. DERMODY said that a business that is not open to the public, such as an office, is not considered in the late-hour business policy. A coffee shop that opens before 6:00 a.m. would be considered a late-night business because the policy addresses the hours between midnight and 6:00 a.m.

COUNCILMEMBER DONOVAN commented that it is important that the developer is able to market the center. She proposed the following additional stipulation:

“Any business that is governed by the Late-Hour Business Compatibility Policy shall be closed to the public between the hours of midnight and 4:00 a.m. unless and until a Use Permit allowing such late-hour business has been issued upon approval of the City Council.”

She explained this stipulation does not prohibit a business that wishes to be open 24-hours or between the stipulated hours; it allows them to come back to Council for a Use Permit to look at the use. It also looks at those businesses that may open early and allows that use with the ability for that low-density residential area to have some down time when a business would not be open.

MOVED BY COUNCILMEMBER DONOVAN, SECONDED BY VICE-MAYOR HUGGINS, TO INTRODUCE AND TENTATIVELY APPROVE ORDINANCE NO. 3916, DVR07-0020 SAN TAN MARKETPLACE, REZONING FROM AG-1 TO PAD WITH PDP FOR A NEW RETAIL/OFFICE CENTER THAT MAY INCLUDE LATE-HOUR BUSINESSES ON APPROXIMATELY 5.4 ACRES AT THE NWC OF LINDSAY AND CHANDLER HEIGHTS ROADS WITH THE ADDITIONAL STIPULATION #12 STATED EARLIER AND TO APPROVE PRELIMINARY PLAT PPT07-0022 SAN TAN MARKETPLACE, FOR A NEW RETAIL/OFFICE FOR A NEW RETAIL/OFFICE CENTER THAT MAY INCLUDE LATE-HOUR BUSINESSES AT THE NWC OF LINDSAY AND CHANDLER HEIGHTS ROADS.

CITY ATTORNEY HOUSE recommended the applicant respond to whether they would be agreeable to the stipulation.

MARK IRBY, 605 S. Ash, Tempe, project architect, said that he was on the Planning Commission when the ordinance became effective. It was his understanding that there were a lot of existing shopping centers with residents in close proximity. The concerns at that time were fast food restaurants and grocery stores causing noise from delivery trucks. The purpose of the ordinance was to allow residential input when a new retail center is proposed for a residential area. This center was designed to have the retail along the street. He did not feel the late-night businesses would be an issue.

MAYOR DUNN said that it is his understanding that with the new stipulation, the late-hour policy would apply to this site. We are talking about a business that would need to be open between midnight and 4:00 a.m. If the business had a liquor license, the late-hour business policy would not apply. If there were a business that wanted to be open during those hours, they would apply for a Use Permit from Council.

Mr. Irby asked that the ordinance be reviewed so that it applies to the intent.

COUNCILMEMBER WENINGER asked how long it typically takes to get a Use Permit. MR. DERMODY replied that it usually takes 3-6 months. In response to a question from COUNCILMEMBER WENINGER, Staff said they were not aware of any grocery stores being

opened 24 hours. If a drive-thru was added, an amended PDP would have to come back before Council. The only drive-thru on this site is a bank and an ATM is not subject to this policy.

COUNCILMEMBER WENINGER asked the City Attorney that if a similar center, with like proposed residential or residential around it came forward, would Council have to apply this same standard. MR. HOUSE responded that in administering this policy, individual circumstances of each proposal must be reviewed. From a legal standpoint, some uniformity in this type of law is desirable. Grocery stores with a liquor license would be able to stay opened until 2 a.m.

COUNCILMEMBER WENINGER stated that government should not be in the business of dictating to this degree. Businesses generate tax revenue for public safety from sales, some of which occur between midnight and 6:00 a.m. He commented that the community was diverse and not everyone works 8-5. There are times when citizens grocery shop during the night and some have occasion to use pharmacy services during late hours. He stated that noise issues could be addressed through buffers and setbacks. MR. DERMODY noted that the Walmart neighborhood market at NWC of Cooper and Chandler Blvd is proposed as 24 hour. Councilmember Weninger said he believes Chandler is known as a business friendly community with availability of services. These sources shouldn't be only when the Council determines they should. He stated that owners don't keep their businesses open unless the market is there.

COUNCILMEMBER ORLANDO clarified if a business were to come back for rezoning, zoning amendment, a new Use Permit or new uses, this policy will be applied. He stated his belief that everyone needs some "down time". Homeowners pay taxes and are the shoppers that generate that sales tax and there is a need to be concerned about their habits as well. He felt the use permit requirement is a fair process especially to the homeowners residing behind the center.

COUNCILMEMBER SEPULVEDA asked how many Use Permit applications have been received since the late-night business policy went into effect. Mr. Dermody said there have not been any Use Permits and one for zoning. COUNCILMEMBER SEPULVEDA asked the applicant what kind of comments they received at the neighborhood meeting. MR. RAY replied that there were no neighbors in attendance at the meeting and they have not had any correspondence from those they were required to notice. COUNCILMEMBER SEPULVEDA said that the applicant has done all that is required and it is just speculation as to whether or not there will be residential on adjoining properties. He is comfortable allowing a 24-hour use for a small area that limits what can locate there.

COUNCILMEMBER CACCAMO clarified with Mr. Ray that the design and footprint of this center would preclude certain businesses from locating there. Mr. Ray concurred. COUNCILMEMBER CACCAMO asked what would keep a business with a liquor license from being open all night after the State closing time of 2:30 and people bringing in their own liquor. Mr. Ray said he did not know if the 2:00 closing time requires a business to close their doors at that time or just stop serving alcohol. CITY ATTORNEY HOUSE responded that alcohol service stops at 2:00, but there is no stipulation that the business has to close at that time. He believed patrons would not be permitted to bring their own alcohol into the business.

COUNCILMEMBER SEPULVEDA commented that through the use permit process, the Council would still have some control over the end users.

COUNCILMEMBER WENINGER stated he took exception to COUNCILMEMBER ORLANDO'S earlier comments about people having down time without being disturbed by noise and lights, etc.

and he recalls Council previously approving a liquor license extension for a business that had over 130 calls for service which would indicate that they disturbed the neighbors.

COUNCILMEMBER ORLANDO said that it is not appropriate to challenge or try to rationalize another Councilmember's vote.

COUNCILMEMBER CACCAMO commented that when Council votes, they are not voting as seven individuals but with a responsibility to constituents and there will be differences of opinion when they vote. He thanked Mr. Ray for his thorough presentation.

COUNCILMEMBER DONOVAN clarified that if the PDP were to be amended, they would have to come back for approval, but the late-night use policy would be in effect with the zoning. Mr. Ballard concurred. COUNCILMEMBER DONOVAN also commented that the stipulation she added was not to preclude a 24-hour use, but rather letting Council make that decision based on what the use would be.

MAYOR DUNN asked if the applicant would agree to the stipulation proposed by COUNCILMEMBER DONOVAN that would essentially allow a 20-hour use as opposed to 24 hours.

CHRIS THOMPSON, 1527 E. Bluebird Court, member of the Lindsay Heights LLC, said that he agrees with COUNCILMEMBER WENINGER'S earlier comments regarding a business owner's ability to have a profitable business and generate tax revenue and needs to be considered. He said that developers take a hard look at an area before plans are made for that property. It is their belief that that corner is specifically suited to the southeast rural area of Chandler and it was not designed for a 24-hour use. If Council decided to approve a 14-hour use, they would be happy from a business perspective because they would have more flexibility. It was originally designed as a neighborhood village that only caters to the surrounding area. They do not foresee a 24-hour business locating there. They would agree to the stipulation added by COUNCILMEMBER DONOVAN. Mr. Thompson thanked Staff for working with them on this project.

MOTION CARRIED BY MAJORITY (6-1) WITH COUNCILMEMBER WENINGER VOTING NAY.

8. REZONING: Arizona 202

Ord. #3951

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 3951, DVR07-0009 Arizona 202, rezoning from PAD to PAD Amended with a mid-rise overlay for additional building height, as well as PDP and approval for an office, retail and hotel development with late hour businesses on approximately 45 acres at the NWC of Arizona Avenue and the Loop 202 Santan Freeway. APPROVED Preliminary Plat, PPT07-0032 Arizona 202, for an office, retail and hotel development with late hour businesses at the NWC of Arizona Avenue and Loop 202 Santan Freeway. (Applicant: Withey & Morris, PLC; Owner: Meridian West AZ/202 LLC.)

The site is currently used for agriculture and is zoned for office, retail and hotel/convention center uses. The rezoning is necessary in order to introduce a mid-rise overlay allowing heights of up to 120 feet.

The subject site is the last undeveloped quadrant of the Loop 202/Arizona Avenue interchange and occupies all of the agricultural land bounded by Arizona Avenue, Pecos Road, the Loop 202 Santan Freeway and the existing Stonebridge Ranch Apartment Complex. The other three

interchange quadrants have been developed as retail power centers anchored by Wal Mart, Sam's Club and Kohl's. To the north, across Pecos Road, is an apartment complex along Arizona Avenue with single-family homes to the west. The northeast corner of Arizona Avenue and Pecos is occupied by the Pecos Lounge bar.

The property received its existing PAD zoning in 1987 as part of a larger master plan that included the adjacent Stonebridge Ranch Apartment Complex. The zoning was extended in 1989 and was vested when the apartments were constructed in 2000. The western 12.8 acres of the subject site was the focus of a rezoning and Area Plan amendment request for a residential subdivision, Palm Lane that was withdrawn in November 2006. In March 2006, an application for the eastern 32.5 acres of the subject site was filed to rezone it for a retail power center development, but it never reached public hearings. Subsequent to the Palm Lane withdrawal, ownership of the two halves was consolidated and the subject application was filed.

The request is consistent with the General Plan, which designates the property as a Commercial Node. The proposed development is also part of the Pecos Plaza Area Plan bounded by Pecos Road, Alma School Road, Arizona Avenue and the Loop 202 Santan Freeway. The Area Plan, originally approved in 1985 and amended in 1998, designates the subject site for corporate office, retail and hotel uses with a significant pedestrian-oriented open space element. The request is consistent with the Pecos Plaza Area Plan.

The application requests approval of a mid-rise overlay to construct buildings over 45 feet in height. The proposed four and six-story office buildings are 59 and 87 feet high and future buildings could be up to 120 feet in height, subject to separate PDP approval. Mechanical equipment and architectural embellishments do not count toward the overall building height.

Under the Mid-Rise Development Policy, the site is eligible for mid-rise consideration given its adjacency to the Loop 202 Santan Freeway and lack of planned or existing single-family residential development within 300 feet on the south side of Pecos Road.

Allowing mid-rise buildings at the subject location enhances the sustainability of this infill site and surrounding area by facilitating a cohesive, mixed-use employment center at a key freeway interchange near the redeveloping downtown. The high-quality office and mix of retail services proposed in this application are made possible by the density and height requested, as is the abundance of the pedestrian-oriented open space. Furthermore, the buildings are designed to minimize the visual impact of their heights through substantial horizontal and vertical variation, curved walls and creative massing of forms constructed of various building materials, they are not vertically-oriented monoliths. The mid-rise buildings help to create a positive identity for the project and for a key freeway interchange.

The application also requests approval for late-hour businesses in several of the retail pads and shop buildings. Since some of the buildings that could house late hour businesses are located within 300 feet of a residential use on the same side of Pecos Road, the Stonebridge Ranch apartment complex, the request is subject to consideration through the Late Hour Business Policy. In this case, the apartments are sandwiched between the Loop 202 Santan Freeway and Pecos Road, a major arterial. As such, late hour businesses are not anticipated to have a noticeable detrimental impact on adjacent properties with regard to noise, traffic or other externalities. Also, the site is designed to mitigate such impacts with a dissimilar land use buffer along its western property line and an internal circulation system that routes most traffic away from the residential use.

The request was noticed in accordance with the requirements of the Chandler Zoning Code with neighborhood meetings being held on March 13, April 10 and May 1, 2007. One person attended the first meeting to ask general questions. Three people attended the second meeting to ask general questions and express support for the taller buildings being located closer to the Loop 202 Santan Freeway. No one attended the third meeting. Staff has received no correspondence in opposition to this request.

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

MIKE WITHEY, representing the applicant, said they are in agreement with the 20 stipulations imposed by the Planning Commission and agree to Staff-suggested stipulation 21 regarding an additional easement; however, they do not agree with proposed stipulation #22 which addresses late-night businesses. It does not apply to their project because the site is at a freeway interchange and is primarily an office project. The only adjacent residential is a three-story apartment project. They held three open houses and there has been no opposition to the project.

MAYOR DUNN asked Mr. Withey where they anticipate late-hour businesses to locate. MR. WITHEY responded that the policy only applies to the western-most 300 feet of their property. It would apply to Pad A and Pad B with Pad B designed as a financial institution.

COUNCILMEMBER SEPULVEDA asked the size of the pad adjacent to the residential. Mr. Withey responded that it is approximately 7,000 square feet.

MOVED BY COUNCILMEMBER SEPULVEDA, SECONDED BY COUNCILMEMBER WENINGER, TO INTRODUCE ORDINANCE NO. 3052, DVR07-0009, AZ 202, REZONING FROM PAD TO PAD AMENDED WITH A MID-RISE OVERLAY FOR ADDITIONAL BUILDING HEIGHT, AS WELL AS PDP FOR AN OFFICE, RETAIL AND HOTEL DEVELOPMENT WITH LATE-HOUR BUSINESSES ON APPROXIMATELY 45 ACRES LOCATED AT THE NWC OF ARIZONA AVENUE AND THE LOOP 202 SANTAN FREEWAY AND APPROVE PRELIMINARY PLAT, PPT07-0032, AZ 202, FOR AN OFFICE, RETAIL AND HOTEL DEVELOPMENT WITH LATE-HOUR BUSINESSES LOCATED AT THE NWC OF ARIZONA AVENUE AND LOOP 202 SANTAN FREEWAY INCLUDING STIPULATIONS 1-21.

MOTION CARRIED UNANIMOUSLY (7-0).

PUBLIC HEARING:

P.H. #1 ANNEXATION: SEC of Cooper and Ocotillo Roads

MAYOR DUNN opened the public hearing at 10:41 p.m.

PLANNING DIRECTOR BALLARD stated the intended use is low-density residential.

The subject property, under the ownership of Sean Alexander, is serving as the host site for his landscape design and installation business. The house, which serves as the office for the business, was built in 1987.

Due to the growth of the business, the owner finds it necessary to relocate. The owner's intention for the future of the property, once the business is removed, is to seek rezoning to PAD Single-

Family Residential. The owner, contingent upon approval of the requested rezoning, would divide the property into two 35,000 square foot single-family home sites. The existing home would remain on the front site.

The property is zoned Rural-43 within the County. The Southeast Chandler Area Plan, a land use element plan of the Chandler General Plan, designates the area as a "Traditional Suburban Character" area. Residential development densities within the range of 2.5 to 3.5 dwelling units per acre are proposed as a major element within this character area. Single-family home sites within that density range surround the owner's property.

There being no further comments, the Mayor closed the public hearing at 10:42 p.m.

SPECIAL ORDERS OF THE DAY

A. Mayor's Announcements:

MAYOR DUNN announced that the Chandler Little League national team lost this evening by a score of 16 to 6. He congratulated the team and members of their families on how well they represented Chandler. He announced a celebration would be held on Saturday, September 1st, at 9:00 a.m. at the Snedigar Sportsplex.

MAYOR DUNN announced that Hispanic Heritage Month activities would be starting in September.

MAYOR DUNN said that Chandler's Public Art Collection is available throughout the City. A tour is available on the City's website.

B. Councilmembers' Announcements:

COUNCILMEMBER ORLANDO said Council had an opportunity to meet the candidates for the position of Management Services Director.

C. City Manager's Announcement:

There were no City Manager announcements at this time.

Adjournment: The meeting was adjourned at approximately 10:45 p.m.

ATTEST: _____
City Clerk

MAYOR

Approved: September 6, 2007

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the City Council of Chandler, Arizona, held on the 23rd day of August 2007. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this _____ day of _____, 2007.

City Clerk