

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, March 13, 2008 at 7:00 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
Kevin Hartke	Councilmember
Jeff Weninger	Councilmember

Also in attendance:

W. Mark Pentz	City Manager
Rich Dlugas	Assistant City Manager
Pat McDermott	Assistant City Manager
Mary Wade	City Attorney
Marla Paddock	City Clerk

INVOCATION: The invocation was given by Councilmember Hartke

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

SCHEDULED PUBLIC APPEARANCES:

1. Recognition – Chandler at Its Best

MAYOR DUNN was joined by City Manager Mark Pentz who recognized Flor Lara, Tresa Mosher, and Scott Irwin representing Neighborhood Resources and Public Works for their contribution to Chandler at Its Best. Flor and Mark Rebozo were completing the County homeless street count when Flor decided to get a better look at the area where the homeless were staying. She discovered a horse at the bottom of a drainage ditch. Mark called dispatch and Flor called Tresa whom she knew had horses and came to the site. The team tried to free the horse, but were not strong enough, so they called Scott Irwin for help and were still not able to release the horse. Flor went to see if a crew of contractors with a backhoe working in the area would be able to help. Paul Ahlas from Public Works was in charge of the crew and they were able to pull the horse out of the ditch and restrain it before it ran away and injured itself further.

Mr. Pentz was joined by Parks and Grounds Maintenance Manager Kris Kircher who introduced Larry Liebig, Lupe Mejia, Gorge Cazares, Edgar Nieblas, Wesley Eades and Curt Masterson. Mr. Pentz said that just prior to the annual Tumbleweed Tree lighting event, the area was hit with several days of strong winds and rain. That morning, Larry noticed that the tree had been heavily damaged by the storms ripping off tumbleweeds from the wire frame. The light strings were in disarray and the remaining tumbleweeds were waterlogged and sagging. Additional parks crew members were called in on their day off to gather the equipment, parts and tumbleweeds they would need to prepare the tree for the festivities later that night. By the time the festivities began, the tree was like new and no one was aware of the earlier crisis.

UNSCHEDULED PUBLIC APPEARANCES:

BEN GONZALES, 2459 S. Walnut Drive, read a letter to the City Council on behalf of his daughter Ashleigh, who was also present. Ashleigh is a junior at Hamilton High School and has been nominated to represent the school and community at the National Young Leaders' Conference of exceptional high school students from around the country to an interactive program. She lost her eyesight in 2005 to a genetic disease, but was able to maintain a 3.5 gpa. She is involved in many school activities and plans to major in molecular biology and biochemistry at ASU in 2009 with a career goal of forensic science. She is asking for Council's sponsorship assistance.

MAYOR DUNN asked Staff to meet with the Gonzales' to see determine if any assistance is available.

CONSENT:

As there was no Study Session on the preceding Monday, the Council had several comments and questions. That dialogue is captured under the respective item.

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

COUNCILMEMBER WENINGER stated that he would be voting nay on Items #15 (Ord. 4045) and #24 (tennis center storage).

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

1. MINUTES:

APPROVED, as presented, Minutes of the Chandler City Council Regular meeting of February 28, 2008.

2. POWER DISTRIBUTION EASEMENT: SRP Ord. #4002

ADOPTED Ordinance No. 4002 granting a no-cost power distribution easement to Salt River Project (SRP) for electrical power service to the Mesquite Groves Aquatic Park at 5901 S. Hillcrest Drive.

3. CITY CODE AMENDMENT: Chapter 62 Ord. #4011

ADOPTED Ordinance No. 4011 amending Chapter 62 of the Chandler City Code, Sections 62-100, 62-415, 62-416, 62-417 and 62-465, relating to changes to the Chandler Tax Code.

4. ANNEXATION: Willis Road / Hamilton Street Ord. #4023

ADOPTED Ordinance No. 4023 annexing approximately 2.5 acres at the SWC of the Willis Road and Hamilton Street Alignment.

5. ANNEXATION: Arizona Avenue / Queen Creek Road Ord. #4025

ADOPTED Ordinance No. 4025 annexing approximately 41 acres at the NEC of Arizona Avenue and Queen Creed Road.

6. REZONING: SEC of Arizona Ave. and Germann Rd. Ord. #4029

ADOPTED Ordinance No. 4029, DVR07-0002 SEC of Arizona Avenue and Germann Road, rezoning from Regional Commercial District (C-3) to a commercial retail development on approximately 3.5 acres at the SEC of Arizona Avenue and Germann Road.

7. REZONING: Santa Maria Village Ord. #4030

ADOPTED Ordinance No. 4030, DVR07-0034 Santa Maria Village, rezoning from PAD for conceptual commercial uses, to PAD Amended for the construction of a mixed-use development with commercial and residential uses on approximately 18 acres north and east of the NEC of Chandler Boulevard and McQueen Road.

8. REZONING: Rockefeller Group Crossroads Ord. #4031

ADOPTED Ordinance No. 4031, DVR07-0037, Rockefeller Group Crossroads, rezoning from AG-1 to PAD for a business park development consisting of industrial and commercial uses on approximately 80 acres at the NWC of Gilbert and Queen Creek roads.

9. REZONING: Dobson Center Ord. #4032

ADOPTED Ordinance No. 4032, DVR07-0039, Dobson Center, rezoning from AG-1 to PAD for medical office and retail development on approximately 6.7 acres at the SWC of Frye and Dobson roads.

10. REZONING: Chandler Heights Retail Ord. #4008

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4008, DVR07-0014, Chandler Heights Retail, rezoning from PAD to PAD Amended with PDP for a retail shopping center to include a carwash and fuel station on approximately 19.5 acres at the NEC of Chandler Heights Road and Arizona Avenue. (Applicant: Paul Gilbert, Beus Gilbert, PLC.)

The subject site is located at the NEC of Chandler Heights Road and Arizona Avenue. North and east of the subject site is the approved Southshore Village single-family residential neighborhood. South, across Chandler Heights Road, is vacant land zoned for commercial and multi-family residential development. West, across Arizona Avenue, is the Fulton Ranch Marketplace with a CVS Pharmacy currently being constructed at the intersection corner.

The site is located within the Southeast Chandler Area Plan (SECAP) within the Southshore Area Plan. The SECAP designates the subject site as a commercial node and major entry gateway into the City of Chandler. The SECAP is bounded by Ocotillo Road, Arizona Avenue, Hunt Highway and Val Vista Road. Furthermore, the site is part of the Southshore Area Plan. The Southshore Area Plan is a more concentrated area plan and is bounded by Arizona Avenue, Ocotillo Road, Chandler Heights Road and the Consolidated Canal. The Southshore Area Plan was approved and received PAD zoning in March 1988. Subsequently, many extensions and modifications have been provided to the area plan with the most recent modification occurring in 2005.

In 2005, the Southshore Village development proposed an amendment to the Southshore Area Plan changing approximately 62 acres, of which the subject site is a portion of, from multi-family residential, light industrial and commercial, to medium-density, single-family residential and commercial. The commercial portion was approximately 14.6 acres and, as a result of the Area Plan amendment, was increased to its current size of approximately 19.5 acres.

Retail "F" does not meet the required commercial building separation from residential zoned property. The standard requires that commercial buildings be 25-feet plus one foot for every foot of building height from residential zoned property. Retail "F" is approximately 36'-8" tall and approximately 43' from the eastern property line. In order to meet the requirement, Retail "F" would need to be approximately 61'-8" from the eastern property line. Staff is in support of the request for deviation finding that the residential subdivision to the east of the development is providing a large landscaped area and that no homes will be along the western property boundary where Retail "F" is located.

In addition, Retail "G" does not meet the intent of the Commercial Design Standard requiring that 50 percent of all individual pads be located within a landscape setting. Planning Commission and Staff are in support of the location finding that the current location and design of the Retail "G" building provides visual interest along the Chandler Heights Road frontage, as well as provides two outdoor patio areas for future tenants.

The intersection corner does not provide the required 50 x 250 landscape setback requirement along the frontage of Chandler Heights Road. The request is to deviate by approximately 10 feet to allow for parallel parking of vehicles. Planning Commission and Staff are in support of the request finding that the proposal will be providing increased landscaping along Chandler Heights Road and substantial landscape screening through the use of screen walls and green screens.

The Planning Commission and Staff are in support of the development proposal, finding it to represent a quality addition to the southeast Chandler area.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on June 12, 2007. There were no neighbors in attendance. Staff has received no correspondence in opposition to this request.

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

COUNCILMEMBER DONOVAN thanked members of the Planning and Zoning Commission and Planning Staff for working with the applicant in moving this item forward in a timely manner.

11. INITIAL CITY ZONING: NEC Arizona Avenue & Queen Creek Road Ord. #4016

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4016, DVR07-0060, NEC of Arizona Avenue & Queen Creek Road, the establishment of initial City zoning of AG-1 and Regional Commercial (C-3) on approximately 36 acres at the NEC of Arizona Avenue and Queen Creek Road. (Applicant: City of Chandler; Owner: ASV Family Limited Partnership.)

Adoption of an annexation ordinance authorizes the City to initiate a zoning action as required by State Statutes to adopt and establish an initial city zoning classification upon the newly annexed property. This request, initiated by Staff, serves to simply establish the site with a zoning designation of AG-1 (Agricultural District) and C-3 (Regional Commercial), which are most

comparable to the site's previous county zoning designations of Rural-43 and C-3. The subject site is a single parcel with two different zoning designations, as illustrated on the Maricopa County Zoning Map. The City zoning districts will follow the same boundaries as the existing county zoning. Approval of this zoning ensures that any future development on the site shall occur in conformance with City standards.

This request was noticed in accordance with the provisions of the City of Chandler Zoning Code. Staff has received no correspondence in opposition to this request.

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

12. INITIAL CITY ZONING: SWC Willis & Hamilton Roads Ord. #4017

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4017, DVR07-0061, SWC of Willis & Hamilton roads, the establishment of initial City zoning of AG-1 on approximately 2 acres at the SWC of Willis Road and the future Hamilton Road alignment. (Applicant: City of Chandler; Owner: ViaWest Properties.)

Adoption of an annexation ordinance authorizes the City to initiate a zoning action as required by State Statutes to adopt and establish an initial City zoning classification upon the newly annexed property. This request, initiated by Staff, serves to simply establish the site with a zoning designation of AG-1 (Agricultural District), which is most comparable to the site's previous county zoning designation of Rural-43. The approval of this zoning action insures that any future development on the site shall occur in conformance with City standards.

This request was noticed according to the provisions of the City of Chandler Zoning Code. Staff has received no correspondence in opposition to this request.

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

13. REZONING: The Goddard School Ord. #4042

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4042, DVR07-0041, The Goddard School, rezoning from PAD for office to PAD Amended for Buildings B and C to allow a childcare/pre-school use with an amended PDP within the Offices at Kyrene Crossings at the SEC of Kyrene Road and Chandler Boulevard. (Applicant: Oracle Architecture & Planning, Thom Bohlen.)

The property is currently developed with a CVS pharmacy at the intersection corner, a Wendy's fast-food restaurant, a Chase Bank branch and a retail/restaurant shops building along Chandler Boulevard. There is one retail/office building constructed along Kyrene Road. The southern portion of the development is under construction with office buildings. Single-family residential homes about the site's east and south property line.

This application requests to amend the Planned Area Development (PAD) zoning on two pads, Buildings B and C, from office use to PAD zoning for a childcare/pre-school use with an amended Preliminary Development Plan (PDP) within the Offices a Kyrene Crossings, which is the southern portion of the overall development. The commercial development is approximately 12.39 acres; Buildings B and C are on 3.7 acres of the larger development.

The SEC of Chandler Boulevard and Kyrene Road has been zoned on several occasions for both commercial and office development. In March 2000, a PDP was approved for a mixed commercial development named Crossroads Village. This development featured an innovative "village" concept with single-story, small-scale buildings for retail/restaurant and office use. The project included commercial retail, office, restaurant and a service station with convenience store. The site's PAD zoning and PDP were amended in September 2001 to allow a CVS pharmacy in lieu of the service station site at the intersection corner and a fast-food restaurant with a drive-through and sit-down restaurant along Chandler Boulevard.

In March 2005, an amended PDP was approved for site layout and building architecture to allow for seven buildings instead of the original approval of four retail/office buildings on the development's southern portion. The amendment included one retail in-line shops building and six office buildings.

The current application requests to build a childcare/pre-school use in lieu of two office buildings. The childcare/pre-school will replace Buildings B and C as noted on the existing site plan. These building pads are located at the site's SEC. Four office buildings to the west and one retail building to the north remain to be built adjacent to the proposed childcare/pre-school.

The childcare/preschool is a new The Goddard School for Early Childhood Development which is a childcare facility caring for infants to children up to 6 years old. The school intends to care for a maximum of 140 children. The facility will operate Monday through Friday 7 a.m. to 6 p.m. and will be open year-round with the exception of holidays. There is a part-time program that ends at 1 p.m. There are two exterior enclosed playgrounds that include various play structures and turf areas.

The property is fenced on the south, west and east sides with a 6-foot high solid, masonry stucco wall with decorative columns at 7 feet in height. A 6-foot high wrought-iron fence with gate is provided on the site's northwest side.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on August 6, 2007. There were two neighbors in attendance; one had concerns with noise and traffic and the other had no concerns.

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

MAYOR DUNN asked if the use change would change the use and marketability of the remaining pads. SENIOR CITY PLANNER JODIE NOVAK responded that most of the remaining buildings on the south side are for office use only. There is one building north of the proposed school that is planned for retail. Staff does not feel the marketability will be affected. There is a separate property owner for another retail building on Kyrene that has one tenant and they are looking for additional tenants. The office buildings are under construction west of the school building.

MAYOR DUNN asked about the danger of pass-through traffic interfering with parents leaving children at the pre-school. Ms. Novak responded that Staff does not feel there is. A parking analysis was performed which concluded that there is some cut-through on the loop road to go eastbound on Chandler Boulevard. Because most of the uses on the south side are office, they did not feel there would be any issues. There are pedestrian connections and additional parking on the east side of the building for better access to the main entrance. MAYOR DUNN

commented that the applicant has presented an excellent design and there are no neighborhood concerns.

14. REZONING: The Springs Retail Center Phase II

Ord. #4044

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4044, DVR07-0005, The Springs Retail Center Phase II, rezoning from PAD for office uses to PAD Amended for commercial uses, with PDP for a retail development including a climate-controlled internalized self-storage facility on approximately 7 acres west of the SWC of Chandler Boulevard and Cooper Road. (Applicant: Michael Curley, Earl, Curley & Lagarde.)

Chandler Boulevard abuts the property's north side with a recently approved grocery-anchored shopping center located north of Chandler Boulevard. To the east is an existing retail center including a Walgreen's pharmacy and retail shops building. Vacant land recently approved for the continuation of the existing shopping center abuts the site's southeast corner. To the south and west are existing single-family residential homes as part of The Springs Master Plan. The site received PAD zoning for office uses in 1983 as part of the approximate 180-acre The Springs Master Plan.

The proposed commercial development includes a self-storage facility, bank and retail shops. The self-storage facility is sited along the south property line approximately 58 feet from the nearest residential property line, with the front doors and loading area located on the building's north side to mitigate any impacts upon the existing homes.

The development is proposed to construct in phases. Phase I will include all perimeter landscaping including access points from Chandler and Lakeview Boulevards, as well as the internalized self-storage facility. The bank and shops buildings will develop in future phases as the market demands warrant.

This request was noticed according to the provisions of the City of Chandler Zoning Code with a neighborhood meeting being held on November 8, 2007. There were 20 neighbors in attendance who voiced concerns with the potential additional traffic that could travel south down Lakeview Boulevard. The study indicated the majority of future traffic exiting onto Lakeview Boulevard would consist of residents within the immediate area and not the perceived cut-through traffic. The neighbors were ultimately in support of the request. Staff has received no correspondence in opposition to the request.

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

MAYOR DUNN said that there is a reference in the memo that Staff is supporting an interior two-story storage facility on the site. He asked if a two-storey office building would be supported. PRINCIPAL PLANNER Kevin Mayo responded that there are many other factors that would come into play for an office which includes the neighbors. It is currently an interior-loaded building similar to a hotel without the windows. He explained that a two-story office building might not be appropriate if there are windows looking directly into the neighbor's backyards. It could be placed on the site with the proper design.

MAYOR DUNN also asked about where the signage would be placed on the building. Mr. Mayo responded that it has been addressed and all signage for the self-storage facility will be on the

north side facing Chandler Boulevard and the signs on the west side are prohibited from illumination due to the proximity of the homes.

COUNCILMEMBER HARTKE asked about the size of the trees be putting in next to the houses. Mr. Mayo replied that Code requires the trees be 12' tall at planting and spaced 20' on center. There will be a second layer planted on the north side of the fire access drive.

15. CITY CODE AMENDMENTS: Chapters 1, 11 and 30 Ord. #4045

ADOPTED Ordinance No. 4045 amending Chapter 1, Subsections 1-8.3 and 1-8.4; amending Chapter 11 by adding a new section 11-09; and amending Chapter 30, section 30-2 and 30-3.2 of the Chandler City Code to address legislative mandates relating to fugitive dust control and declaring an emergency.

COUNCILMEMBER ORLANDO asked for a brief background. JIM WEISS, Environmental Program Manager, said that on June 28, 2007, Senate Bill (SB) 1552 was signed by the Governor making changes to statutes related to control of particulate matter (PM-10) emissions (Clean Air Act). The legislation was created in response to the State's failure to meet PM-10 standards by December 31, 2006, that were mandated by the Environmental Protection Agency (EPA). The Maricopa Association of Governments was required to submit a State Implementation Plan (SIP) to the EPA by December 31, 2007, that included measures to reduce PM-10 emissions over three years. Additionally, MAG was required to submit a SIP to the EPA by June 15, 2007, that demonstrated an approach to reducing the ozone level in the air and emissions of ozone precursors. The amendments to the Code as specified in the action, are required to provide enforcement of the actions specified by the legislation. This ordinance addresses additional mandates of the legislation that must be implemented by March 31, 2008, and include adoption and amendment of codes or ordinances related to the following:

On June 28, 2007, the Chandler City Council passed Resolution No. 4091 to proceed with implementation measures related to the Clean Air Act and directed Staff to undertake appropriate actions and execute the documents necessary to implement the provisions of the resolution. As of March 3, several actions have been implemented in accordance with the commitments made to control PM-10 emissions.

Mr. Weiss added that one of the specific provisions of the code that was not covered was a section relating to parking on unpaved parking on unpaved parking lots and leaf blowers. They were specific provisions contained in SB 1552 which required action by communities on those specific items.

COUNCILMEMBER ORLANDO asked if these new requirements would meet the new threshold being set by the Environmental Protection Agency. Mr. Weiss responded that there is a 5% reduction requirement imposed by EPA, which is a legislative requirement. There is also a requirement to comply with ambient standards. The detailed modeling done by MAG specifically considered each one of the requirements and performed a detailed evaluation on the tonnage requirements that would be mitigated by each measure.

COUNCILMEMBER ORLANDO asked if more code changes are necessary. Mr. Weiss replied that the EPA requires a 5% reduction each year for the next three years. If the area complied with the ambient standards after those three years, our plan has been successful. If we do not comply, there will be additional requirements beyond 5% for additional years.

MAYOR DUNN asked who would be responsible for enforcement. Mr. Weiss responded that the County will enforce its provisions and Chandler will enforce City of Chandler code provisions. Both sets of requirements are parts of the State implementation plan which is separately enforceable by EPA if they choose. One of the requirements submitted to MAG as part of our compliance program, was a specific communication measure which has begun in public education including distribution of information to HOAs, media releases, Council commentary, City newsletter articles, the City's website and Channel 11.

COUNCILMEMBER HARTKE asked if compliance would be complaint driven or will we be proactive. NEIGHBORHOOD RESOURCES DIRECTOR JUDY REGISTER said that it would be enforced primarily on a complaint basis, as it is not one of the top eight enforcement issues. We will, however, go after the egregious issues.

COUNCILMEMBER WENINGER asked if this regulation is outlawing leaf blowers in Chandler. Ms. Register said that leaf blowers can be used, but it cannot be blown into the street. COUNCILMEMBER WENINGER referred to Section 5 (I) Leaf Blowers and Landscape Debris – “No person shall cause or permit landscape debris or other material to be blown or placed in or on any highway, street, alley, public place, or public right-of-way.” The word “blown” and “public right-of-way” indicates that residents cannot blow anywhere near a sidewalk in the front yard because it would violate the regulation. Ms. Register confirmed that that is her understanding; however, they will not be targeting it. COUNCILMEMBER WENINGER said he has trouble approving something that may or may not be enforced. He was not aware of this amendment until recently. The majority of citizens in Chandler have leaf blowers and to tell them they can no longer use them without discussion seems hasty.

COUNCILMEMBER WENINGER continued that Section 5 (h) refers to parking on unpaved surfaces and asked if it is retroactive or going forward. Ms. Register responded that it is only going forward.

COUNCILMEMBER WENINGER asked whether or not the County is participating in these regulations and will be paving their dirt roads in Chandler. Mr. Weiss responded that the County has also committed to these requirements and are included in the submittal to EPA.

MR. WEISS added that the specific language contained in the leaf blower provision was identical to what was in SB 1552 with which we are mandated to comply. It is also identical to what the County is proposing. Language had to remain almost identical to SB 1552 for emergency designation.

COUNCILMEMBER WENINGER commented that he does not see it as an emergency. Mr. Weiss explained that EPA has mandated that these ordinances be enacted by March 31st. The reason everything has been focused with the state language is because we have these provisions contained within the State implementation that has gone to EPA. Timing is one of those items specifically submitted to EPA.

MAYOR DUNN added that if the EPA is not satisfied, we might lose millions of dollars in funding. Mr. Weiss concurred. MAYOR DUNN said this has been discussed with MAG Mayors.

COUNCILMEMBER DONOVAN said that it was her understanding that the leaf blower section that if you are on your own property and blowing leaves into your driveway it would be acceptable as long as it is not blowing onto public property. COUNCILMEMBER WENINGER mentioned a residual blowing onto public right-of-way, but there is a difference in blowing it directly into the

street and residuals. Mr. Weiss said that the discussions at MAG dealt with the reintrainment of the material in the streets because of traffic. After the proposal was taken off the table at MAG and was not of MAG provisions, it was taken by others to the Senate in their study committee and specifically incorporated. The intent was not to completely ban leaf blowers, but to keep the leaf blowers from blowing material into the road.

COUNCILMEMBER HARTKE asked about the definition of fugitive dust. He questioned if an "out of control barbeque at a park" could be interpreted as this. Mr. Weiss replied that the discussions centered on the size of particulates that were being discharged and the source. There are two types of sources – controlled source which would come out of a stack and uncontrolled. The fugitive definition can have a broad meaning and include such things as material generated from streets. There has been no discussion of personal barbeques, there are specific conditions within County regulations which control use of outdoor fires and other uncontrolled burning materials.

COUNCILMEMBER WENINGER asked for clarification on whether or not it is permissible to use leaf blowers. Mr. Weiss responded that he was trying to explain what the process was in considering the emissions when they were initially put into the State implementation plan. The specific language that came through the Senate bill from what was considered, but the technical basis dealt with the reintrainment of the particulate material by streets and vehicles in roadways. While none of these requirements have been specifically enforced at this point, there will be a learning curve in trying to come up with a realistic and workable solution.

MAYOR DUNN said he interpreted the language as not completely eliminating the leaf blower, but controlling how it is used.

CITY ATTORNEY MARY WADE concurred and pointed out that Section I refers to landscape debris, but the definition is geared more toward commercial landscape operations and does not focus on residential incidental debris blowing into the street.

Ms. Register clarified that she did not mean to indicate the law was outlawing leaf blowers, but rather how they are used.

COUNCILMEMBER WENINGER VOTED NAY ON THIS ITEM. Item passed (6-1)

16. INTERGOVERNMENTAL AGREEMENTS: School Resource Officers Res. #4100

ADOPTED Resolution No. 4100 authorizing amendments to Intergovernmental Agreements (IGA) between the City of Chandler and Chandler Unified District No. 80, Kyrene School District No. 28 and the Mesa Public Schools for the assignment of School Resource Officers to schools located within the Chandler City limits.

The City entered into IGAs in FY 06-07 with the Chandler Unified School District No. 80 for five School Resource Officers and 1.875 School Safety Officers, the Kyrene School District for two School Resource Officers and the Mesa Public Schools for one School Resource Officer.

The Safe Schools Program grant that the various school districts currently receive from the State is only funding 11 months of the 12-month officers' salary and benefits cost for FY 07-08. Mesa Public Schools (MPS) agreed to split the remaining difference 50% with the City. The Chandler Unified School District (CUSH) and Kyrene School District (KSD) do not have funds available to

split the remaining difference with the City in FY 07-08. Therefore, the City will pay for the shortfall of all three school districts for a total of \$50,953.84.

COUNCILMEMBER ORLANDO commended Staff for working with the school districts in resolving a minor issue.

MAYOR DUNN asked if this would be on-going. POLICE CHIEF SHERRY KIYLER said that it could potentially be an on-going problem. She explained many of the school grants are currently only funded for nine or ten months, however we have been fortunate to have twelve-month grants funded. When they went to the eleven-month grant for this year, Chandler agreed to absorb the extra funding this year for the extra month. She noted there is a potential for nine-month funding next year and there will also be some competitive grants.

17. AMENDMENT: Deferred Compensation 457 Plan Res. #4164

ADOPTED Resolution No. 4164 authorizing an amendment to the City of Chandler Deferred Compensation Plan (457) and Trust administered by the ICMA Retirement Corporation to provide a loan provision effective April 1, 2008.

City employees have requested that a loan provision be added to their 457 Plan so they may more easily access their deferred compensation funds for various financial needs they may incur. City Staff met with representatives of the 457 Plan and discussed in detail the specifics of the loan provision. Additionally, Human Resources Staff met separately with City Administration Staff, the Employee Council and members of the City's bargaining units and outlined key provisions of the loan program. Administration Staff, Employee Council members and bargaining unit representatives in attendance at these meetings unanimously approved the addition of a loan provision to the 457 Deferred Compensation Plan. Employee meetings will be held during the month of March 2008 to educate employees on the loan program before the implementation date.

18. CONDEMNATION: Eagle Drive Res. #4165

ADOPTED Resolution No. 4165 determining that acquisition of a 33-foot wide strip of real property running east from Eagle Drive along the south side of Queen Creek Road for approximately 330 feet for public roadway and utility purposes is a matter of public necessity; ratified action previously taken to purchase the real property; authorizing condemnation proceedings to obtain title to the real property and to obtain immediate possession thereof; and authorizing relocation assistance if any is required by law.

In 1991, the City of Chandler adopted and recorded Ordinance 2209, which annexed the subject property, along with other lands to the north. Several years ago, the City installed utility lines, primarily a sewer line running along the south side of Queen Creek Road, including the subject property, which is supposed to be the connection point for sewer service to a new office development nearing completion known as "Chandler Airpark Professional Village".

During the last several months, the City has been made aware that the owner of real property located at the SEC of Queen Creek Road and Eagle Drive has claimed to hold title to the subject property. The landowner has engaged in several incidents at the site designed to interfere with and impede the public use of the subject property for roadway, the City's access and use of its sewer line and the installation of connections necessary for delivery of sewer service to the office development.

A title report does indicate that the owner of the abutting property may hold fee title to the subject property, although the City may hold an easement interest for either or both public roadway and public utility purposes. Staff sought to resolve the matter by trying to acquire the strip of property subject to approval by the City Council. On or about January 8, 2008, a written offer and a copy of a supporting appraisal were delivered to the landowner, but no agreement has been reached.

Acquisition is necessary for both public roadway and utility purposes, but has become critical because the office development is nearing completion and the inability to complete the connections for delivery of sewer service may delay completion or may create some other substantial inconveniences to the developer.

The estimated cost of the acquisition is \$76,000.00, plus any related court costs.

19. PRELIMINARY DEV PLAN / PRELIMINARY PLAT: Stonefield Marketplace

APPROVED Preliminary Development Plan, PDP067-0038, Stonefield Marketplace, for a commercial retail shopping center on approximately 10.74 acres at the SEC of Germann and Dobson roads.

APPROVED Preliminary Plat, PPT07-0052, Stonefield Marketplace, for a commercial retail shopping center on approximately 01.74 acres at the SEC of Germann and Dobson roads. (Applicant: Fred Zrmack, Kurt D. Reed and Associates, Inc.)

Directly north, across Germann road is the undeveloped Shops at Pecos Ranch commercial center. Directly east and south of the subject site are the Stonefield and Stonefield II single-family residential subdivisions. West, across Dobson Road, is the Chuparasas development.

The site is within the Clemente Ranch Area Plan, approved in 1993, and amended in 2005 with the Stonefield I single-family residential subdivision. The site is designated as commercial retail within the area plan. The area plan is bounded by Germann, Alma School, Queen Creek and Dobson roads.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on December 17, 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 approved subject to the following conditions:

1. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
2. Undergrounding of all overhead electric (less than 69kv), communication and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-way and/or easements. Any 69kv, or larger, electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
3. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design manual #4).
4. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median

- improvements and street lighting to achieve conformance with City Codes, Standard Details and Design Manuals.
5. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
 6. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
 7. Development shall be in substantial conformance with the Development Booklet entitled "Stonefield Marketplace" kept on file in the City of Chandler Planning Services Division in File No. PDP07-0038, except as modified by condition herein.
 8. Landscaping shall be in compliance with current Commercial Design Standards.
 9. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
 10. The site shall be maintained in a clean and orderly manner.
 11. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.
 12. The monument sign's sign panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.
 13. Raceway signage shall be prohibited within the development.
 14. The freestanding pads shall carry an architectural level of detail similar to front facades of the main building.
 15. At the time of development, in the event that a six-foot perimeter block wall is not in place, the commercial developer shall be required to install a six-foot perimeter block wall.
 16. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Public Works for arterial street median landscaping.
 17. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for the purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate these areas.

In the event the owner sells or otherwise transfers the development to another person or entity, the owner will also sell or transfer to the buyer of the development, at the buyer's option, the water rights and permits then applicable to the development. The limitation that the water for the development is to be owner-provided and the restriction provided for in the preceding sentence shall be stated on the final plat governing the development, so as to provide notice to any future owners. The Public Report, Purchase Contracts, and Final Plats shall include a disclosure statement outlining that the Stonefield Market Place development shall use treated effluent to maintain open space, common areas and landscape tracts.

18. Where canvas is provided as an awning material, metal shall be used in its place.
19. The applicant shall work with Staff to include more architectural elements on the monument signage as is found in the building architecture.
20. The applicant shall work with Staff to provide additional architectural variation for the rear elevations. Details to be worked out with Staff.
21. The applicant shall work with Staff to incorporate trellis features between the Minor 'A' and Shops 'D', consistent with the trellis features found elsewhere within the development.

The Preliminary Plat was approved subject to the following condition:

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

MAYOR DUNN disclosed that he lives near this center, but is just asking questions for his neighbors. He stated that there would be three retail centers in this intersection. One is partially built and two will be built. He asked if Staff has considered whether there will be sufficient demand to develop the three corners for retail. CITY PLANNER ERIK SWANSON responded that it has been discussed. Each development will be unique from the others. The development will be built all at one time. MAYOR DUNN asked what a "medium" department store is. Mr. Swanson said that it would be similar to Steinmart or Tuesday Morning. In response, he also said that the landscaping would be maintained with reclaimed water.

COUNCILMEMBER DONOVAN commented on the design of the project.

20. ZONING: Park Ocotillo Business Center

CONTINUED TO APRIL 10, 2008, Zoning DVR07-0038 Park Ocotillo Business Center, rezoning from PAD zoning for light industrial use and/or commercial uses to PAD zoning for office, light industrial and retail uses with PDP for a business/industrial park development at the SWC of Price and Queen Creek roads to allow the applicant additional time to address traffic design. (Applicant: Burch & Cracchiolo, P.A.)

21. AMENDMENT: Architectural Excellence Awards Committee By-Laws

APPROVED an Amendment to the Architectural Excellence Awards Committee By-Laws, Article III, Section D, Paragraph 3, giving the Committee more discretion in recommending awards.

Article III, Section D, paragraphs 1 and 2 of the By-laws, currently establishes two criteria for the Committee to follow regarding nominated projects. The first requires that discussion of the nominations must be at a public meeting and the second is that all nominations must have received a Certificate of Occupancy.

Some development projects, such as single-family residential buildings, are not required to receive a Certificate of Occupancy. These development projects receive a Final Approval from the City rather than a Certificate of Occupancy as evidenced that all construction work has been completed and accepted. This amendment allows the Committee to consider awards for single-family homes or other development projects that are approved through permitting processes that do not result in a Certificate of Occupancy.

The Committee unanimously approved this amendment for recommendation to the Mayor and City Council at their February 4, 2008, meeting.

MAYOR DUNN stated that he is in agreement with the requested revisions.

22. AGREEMENT: Severn Trent Water Purification, Inc.

APPROVED an Agreement with Severn Trent Water Purification, Inc., for the purchase of arsenic filter media in an amount not to exceed \$3,600,000.00.

Staff and the contractor negotiated a slight deviation to standard City contract terms regarding liability and remedies. The Contract includes a performance guarantee, which should cover most of the damages that are likely to occur if the product does not perform as expected. Contractor's other liability will be capped by the limits of its insurance, but the insurance limits are being raised from the standard \$2,000,000.00 per occurrence to \$5,000,000.00. The contractor will also not be responsible for any special, punitive or consequential damages that may arise from use of the product.

23. AGREEMENT: Nesbitt Contracting Company, Inc.

APPROVED Agreement #GG0502-404 to Nesbitt Contracting Company, Inc., for Washington Street sewer and utility relocation in an amount not to exceed \$546,860.00.

As part of the on-going redevelopment of Downtown and the new City Hall project, the City will have to relocate utilities at the SWC of Boston and Washington streets. This project is for the relocation of the sewer line between Boston Street and the alley 180 feet southerly, and for the trenching and conduit to relocate the aboveground utility pedestals to the periphery of the new City Hall site. To minimize costs associated with underground trenching, the relocation of the utility pedestals is being combined with the IT connection to the City Hall, the overhead to underground conversion of utilities in the alley south of Boston, power and phone connection to the new Fire Administration Building, and new power to the Serrano's building in design for the SW corner of Boston and Washington streets.

24. AGREEMENT: SDB, Inc.

APPROVED Agreement #PR0808-401 with SDB, Inc., for the design and construction of a 20' x 20' Tuff Shed storage building with the exterior surfaced and painted to resemble the existing building at the Tumbleweed Park Tennis Center in an amount not to exceed \$60,311.00.

At the January 31, 2008, City Council meeting, the Community Services Department presented and requested approval of a Job Order Contract Project Agreement (PR0808-401) to SDB, Inc., in an amount not to exceed \$113,668.00 for the design and construction of a storage building at the Tumbleweed Tennis Center.

Council requested that Staff look at other options as a means to reduce cost and continued the item to March 13, 2008. At the present time, the existing facility has very limited storage space. This project will construct a 400 square foot temperature controlled storage building that can be utilized for the storing of items used at the facility such as tennis ball carts (8), ball hoppers/tubes (10), chairs (12), tables (4), ball machine, portable mini tennis nets, hula hoops (6), tennis balls (106 cases), and refrigerators (2).

COUNCILMEMBER WENINGER thanked Mr. Eynatten for reviewing the initial request and reducing the cost in half. He asked why the space for the spin class was not incorporated into the original design of the rec center. Mr. Eynatten said that when the rec center was designed, there were a number of activities Staff considered when creating space, which included spinning classes. It soon became a cost issue and because there was space at the tennis center that was not and had been used, Staff determined it would be more cost-efficient to use space they had available.

COUNCILMEMBER WENINGER said that of the items to be stored in the proposed facility, they are not all stored at the same time. Mr. Eynatten concurred that items will be moved in and out as they are needed.

COUNCILMEMBER WENINGER stated that with today's economy, he could not support \$60,000 to store a few items.

COUNCILMEMBER ORLANDO asked if there was a picture of the Tuff Shed. Mr. Eynatten did not have a photo but said that it comes in pieces that has to be constructed. The material will be stucco on the outside and insulated on the inside for climate control. The intention was to try to create a matching surface. There will also be a standing seam metal roof that will match the roofline of the building.

COUNCILMEMBER HARTKE asked if the spinning class size has remained relatively the same since the Tumbleweed Center opened. Mr. Eynatten responded that the spinning class is extremely popular, but could not state specifically about attendance.

MAYOR DUNN asked what the correlation is between the storage shed and spinning classes. Mr. Eynatten said that the way the tennis center is constructed, as you enter, there is a small glassed-in area to the right which was attended to be a meeting/program room for the tennis center but it was never used. THE MAYOR said that he would rather have the room used by the citizens and if it means building another facility for storage, he will support it and stated his appreciation for the reduction in price.

COUNCILMEMBER WENINGER VOTED NAY ON THIS ITEM. This item passed (6-1).

25. AGREEMENT EXTENSION: Scott Reprographics

APPROVED a one-year Agreement extension with Scott Reprographics for blueprinting services in an amount not to exceed \$50,000.00.

26. No Item.

27. CONTRACT: Qwest Communications

APPROVED Contract #GG502-301 to Qwest Communications for the construction of a new interface cabinet to accommodate the Washington Street Improvements in an amount not to exceed \$46,006.00.

As part of the on-going redevelopment of downtown and the new City Hall project, the City will have to relocate utilities at the SWC of Boston Street and Washington Avenue. The interface cabinet will provide service to the new City Municipal Complex, new Fire Administration Building and new downtown development.

Qwest Communications will incur costs to install a new interface cabinet to serve the new City Municipal Complex and the new Fire Administration Building. These costs include removing one interface cabinet and installing one interface cabinet.

28. PURCHASE: Standby Generators

APPROVED the Purchase of two standby generators from Waukesha-Pearce Industries, utilizing the Houston Galveston Area Cooperative contract, in an amount not to exceed \$70,931.52.

The City received \$124,000.00 in 2005 State Homeland Security grant Program (SHSGP) funds to support the City's homeland security efforts. This money provided cyber security equipment, support for Chandler's Community Emergency Response Team (CERT) program, and equipment for the Fire Department's Rapid Response Team (RRT).

On February 26, 2008, the Fire Department was informed that they were being awarded an additional \$105,000.00 in 2005 SHSGP funding. This funding will be used to purchase two generators, a thermal imaging camera and an air compressor. The ITC and the air compressor are being purchased separately. The generators will be used at Fire Stations #2 and #4.

The 2005 SHSGP is a reimbursable grant. The City must first purchase the equipment and then request reimbursement from the State. The performance period for the grant ends March 31, 2008. All equipment must be invoiced and paid for by this date. In order to meet this deadline, the invoice for the generators must be prepaid.

29. PURCHASE: Herbicides and Pesticides

APPROVED the Purchase of herbicides and pesticides for use in City parks from Verdicon, Target Specialties Products, Helena Chemical Company, UAP Distributing, Inc., and Univar USA, utilizing the Arizona Department of Transportation (ADOT) contract, in a total amount not to exceed \$80,000.00.

30. USE PERMIT: Chandler Dobson Monopalm

APPROVED Use Permit UP07-0115 Chandler Dobson Monopalm, to install a 50-foot monopalm wireless communication facility near the SWC of Chandler Boulevard and Dobson Road within the planned Portico Place commercial development. (Applicant: T-Mobile, Rulon Anderson; Owner: Armstrong Chandler Dobson LLC.)

The application requests a new 65' monopalm wireless cell tower to be located in the rear portion of a vacant industrial property that is planned and zoned for the mixed use Portico Place office/hotel/retail development at the SWC of Chandler Boulevard and Dobson Road. Construction of the planned development has not yet commenced. A monopalm is a wireless

communication facility disguised to look like a palm tree. The Zoning Code requires a Use Permit for wireless communication facilities in non-industrial zoning districts that do not utilize existing poles or towers.

The Portico Place development, which is surrounded by industrial uses, includes a pharmacy at the immediate intersection corner, retail shops along Chandler Boulevard, two-story offices farther west along Chandler Boulevard and a hotel set back from both streets and adjacent to the pharmacy. The monopalm and associated mechanical equipment will occupy 784 square feet in the SWC of the site adjacent to office parking.

Within the immediate area, there are no suitable alternatives for co-location of the wireless communication facilities on existing poles or towers. According to information provided by the applicant as required by Code, there are nine verticalities of a height similar to or greater than the proposed monopalm within one mile. The applicant has analyzed these nine co-location possibilities and found them implausible for several reasons including no space provided by the landlord, too close to other T-Mobile towers, or located outside of the needed coverage area.

The applicant has also investigated placing the wireless facility on the adjacent industrial properties to the west and south where it would be allowed without a Use Permit. The property to the west is not able to accommodate a wireless facility at this time because they have not finalized expansion plans and cannot commit to providing space until approximately 2010. The property to the south has no extra space to provide for a wireless facility due to high parking need.

The Planning Commission and Staff find the proposed location to be appropriate for a wireless facility in the form of a monopalm in conjunction with live palm trees. The monopalm and associated equipment will be located approximately 700 feet from residential properties in a commercial setting that is surrounded by industrial properties. The location presents no significant negative impact on the surrounding properties.

This request was noticed according to the provisions of the City of Chandler Zoning Code with a neighborhood meeting being held January 31, 2008. There were no citizens in attendance. Staff has received no correspondence in opposition to the request.

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

1. Expansion or modification of the use beyond approved exhibits shall void the Use Permit and require new Use Permit application and approval.
2. There shall be two live Date Palm trees installed and maintained adjacent to the monopalm. The trees shall be of 25' and 30' heights at the time of planting and shall match the monopalm's appearance.
3. The landscaping shall be maintained at a level consistent with or better than at the time of planting. The site shall be maintained in a clean and orderly manner.
4. The maximum height of the monopalm shall be 50'.
5. The applicant shall work with Staff to provide screen wall material consistent with the adjacent development's screen wall.

MAYOR DUNN said he supports the request. There is a reference where 69kv poles being used as a location for monopoles. In other valley locations, power poles have been used by adding the antenna to the top of the pole. He asked if Staff has researched this option. SENIOR CITY

PLANNER BILL DERMODY said it has been reviewed, but the problem with locating on the 69kv poles is that there is nowhere to place the equipment nearby that meets City regulations. They would end up having to run a lot of cable underground. It would not be efficient or practical in many locations. MAYOR DUNN said that there have been issues in areas where there is less commercial that may be an alternative to look at and suggested revisiting the regulations governing where the equipment can be placed.

31. USE PERMIT: Curry House

APPROVED Use Permit UP07-0109 Curry House, Series 12, for the sale of liquor for on-premise consumption only within a restaurant at 2051 W. Warner Road, Suite 7, at the SWC of Warner and Dobson roads. (Applicant: Boyapati Family; Owner: A. Redmond and Mary Anne Doms.)

The business occupies a suite on the southern end of the Citrus Plaza shopping center at the SWC of Warner and Dobson roads. The shopping center is surrounded by a multi-family development. The suite has been a restaurant since 1995 and has hosted alcohol service for most of that time under a Series 12 Restaurant License for various tenants. The previous tenant, a Polish restaurant (Na Zdrowie), had a time limit of one year placed on their Use Permit due primarily to the inclusion of a dance floor. The Use Permit expired in 2005 and was not renewed.

The subject restaurant has operated since 2007 without alcohol sales and plans no changes in its business operations upon receiving Use Permit approval. The business is open until 10:00 p.m. seven days a week and has no live entertainment or dancing. There is no outdoor patio.

Besides the subject request, two restaurants and a convenience store also sell alcohol in the shopping center under Series 12 (restaurants) and Series 10 (convenience store) licenses. The intersection's other corners include a gas station, two pharmacies, a grocery store and several restaurants that sell alcohol.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on February 18, 2008. There were no citizens in attendance. Staff has received phone calls from four neighbors regarding the application. One neighbor expressed support for a family restaurant with alcohol service within walking distance of her home. Three other neighbors expressed opposition because there is already enough crime and alcohol in the area and one more alcohol use will make the situation worse. The Police Department has been informed of the application and has not responded with any issues or concerns.

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

1. The Use Permit granted is for a Series 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. No alcohol shall be carried outside of the building into the parking lot or off-premises.

6. The area adjacent to the establishment shall be maintained in a clean and orderly manner.

32. LIQUOR LICENSE: Curry House

APPROVED a Series 12 Restaurant Liquor License (Chandler #115160 L121) for Randy D. Nations, Agent, House of Curries LLC dba Curry House, 2051 W. Warner Road, Suite #7. A recommendation for approval of State Liquor License #12077399 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.

33. LIQUOR LICENSE: Hong Kong Bistro

APPROVED a Series 12 Restaurant Liquor License (Chandler #118079 L12) for Cuong A. Cooc, Agent, Michelle and Tony Enterprise, Inc., dba Hong Kong Bistro, 4990 S. Gilbert Road, Suite #8.) A recommendation for approval of State Liquor License #12077478 will be forwarded to the State Liquor Department. The Police Department reports no objections to the issuance of this license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code. This application reflects a change in ownership; however, Planning and Development advises that a new Use Permit is not required since this will be a continuation of the location's previous use as Hong Kong Bistro.

34. FINAL PLAT: Amberwood Heights

APPROVED Final Plat FPT07-0064 Amberwood Heights, for a single-family residential subdivision at the SEC of Chandler Heights and Gilbert roads. (Applicant: D & M Engineering.) The plat creates the lots and tracts, construction-phasing lines, establishes the necessary easements and dedicates the required rights-of-way.

35. FINAL PLAT: Portico Place

APPROVED Final Plat FPT07-0067 Portico Place, for a planned commercial retail, office and hotel development at the SWC of Chandler Boulevard and Dobson Road. (Applicant: Metroland-Steve Bowser.) The plat creates the lots and tracts, construction-phasing lines, establishes the necessary easements and dedicates the required rights-of-way.

36. CONDOMINIUM PLAT: Chandler Center Commons, A Condominium

APPROVED Condominium Plat CPT07-0015 Chandler Center Commons, A Condominium, for office and industrial development located at Chandler Boulevard east of Gila Springs Boulevard. (Applicant: Griffin Jacobs Engineering, Inc.) The site consists of 10 buildings with a total of 32 units. The plat divides the ownership of the individual buildings into separate units. The plat creates the lots and tracts, construction-phasing lines, establishes the necessary easements, and dedicates the required rights-of-way.

37. AGREEMENT: Valley Rain Construction Company

APPROVED Agreement #DT0702-401 with Valley Rain Construction Company for Pocket Park Phase II, pursuant to JOC05-06, in an amount not to exceed \$127,441.00. Pocket Park is located at the NEC of Arizona Avenue and Chandler Boulevard. Wall expenses are to be paid by

Transportation as final completion of the Chandler Boulevard/Arizona Avenue intersection improvements.

38. DEVELOPMENT AGREEMENT: OPUS

Res. #4166

ADOPTED Resolution No. 4166 authorizing a development agreement with OPUS West and CDW Corporation to provide certain incentives in return for the development and operation of an office employment center at the SWC of Santan Loop 202 and Cooper Road which allows the City to reimburse CDW through OPUS all development impact, plan check, permit, site development, water/wastewater and other fees typically charged and previously paid by OPUS to the City for development of the property.

CDW intends to occupy OPUS' existing building at 1850 E. Northrop Boulevard in the development known as Chandler Airport Center. CDW's initial occupancy will be 46,872 square feet of the building, which will take place upon the completion of tenant improvements currently under construction. On or about December 1, 2009, CDW will then occupy the second phase of an additional 22,362 square feet for a total occupancy of 69,234 square feet. The total employee count for this project is estimated at 450 new jobs to Chandler.

The terms of the Development Agreement call for the City to pay the costs of building permits and impact fees in an amount up to \$479,703.00. The City will reimburse OPUS who will in turn pass the amount through to CDW. Payment of the reimbursement amount from the City to OPUS shall be tied to the total number of persons employed with CDW at a rate of \$1,066.01 per job until the total reimbursement amount has been paid in full. The first payment will be made upon move-in of CDW, based on the initial employment. The City will then make payments to CDW, through OPUS, annually as CDW submits reports to document the employment increase until December 31, 2012, or the total reimbursement amount has been met.

As a second part of the Development Agreement, the City will reimburse OPUS the standard arterial street fee credits (system impact fees) upon completion of Cooper Road. Upon issuance of their building permit OPUS paid the City's Arterial Street Impact Fee of \$4.26 per building square foot (\$321,482.44 for this building). Typically, a developer receives credit for the construction of adjacent arterial streets with permit issuance. However, Cooper Road is currently under construction and OPUS was ready for permit issuance prior to the road being completed and accepted by the City Engineer. Public Works will use the standard City formula to determine these credits at a later time but it is anticipated that these credits will not be less than \$70,000.00. It is standard practice that these fees would be reimbursed to OPUS upon completion of Cooper Road.

Tenant improvement permits for 1850 E. Northrop have been issued and paid by OPUS.

MAYOR DUNN said that this is good news having this company locate in Chandler. CDW will be creating 450 well-paying jobs that are new positions and not relocations.

SR. ECONOMIC DEVELOPMENT SPECIALIST CHRIS MACKAY said that these jobs are the "brain-drain" type of jobs and the hardest for communities to bring in. They tend to attract the 33-35 year old, well educated, college degreed, high paying jobs that you want to keep in your community. She reported that the CDW Corporation is also very community-friendly. Chandler competed locally and nationally for CDW to locate here with the final two being Scottsdale and Chandler. In response to a question from Mayor Dunn, Ms. Mackay reported the company is a technology solutions provider for governments, business and education. They provide

computers, training and customized systems for various entities. They are a Fortune 500 company based in Chicago.

MAYOR DUNN thanked the Greater Phoenix Economic Council (GPEC), who had members present, for their help in this location. Ms. Mackay thanked the Mayor and Council for their assistance, along with City Attorney Mary Wade and the Planning Department for their expedition of the permit process.

COUNCILMEMBER WENINGER congratulated everyone involved in this acquisition. He asked Staff to focus on the west side of Gilbert Road to encourage small pockets of retail as the Airpark Area develops. Ms. Mackay said they would be focusing on the border areas.

MAYOR DUNN mentioned the development of another retail corner in Chandler at Gilbert and Germann. Ms. Mackay said that that corner is being developed by OPUS and is called Mill Crossing. She recognized representatives from OPUS and CDW being present.

COUNCILMEMBER ORLANDO asked about the initial number of employees at CDW. Ms. Mackay said there would be approximately 120 in the first phase and increase to 450. Councilmember Orlando confirmed that the City would hold the reimbursement, and then as the employee base is built, the reimbursement would be distributed.

ACTION:

39. SYSTEM DEVELOPMENT FEES

AUTHORIZED the process to consider and adopt new and modified System Development Fees and proposed Infrastructure Improvements Plans and set the date for the Public Hearings for May 22, 2008.

MANAGEMENT SERVICES DIRECTOR DENNIS STRACHOTA said that according to provisions of the Chandler City Code, system development fees are to be reviewed annually. It has been the City's practice to have consultants review the fees every other year, and make an inflationary adjustment in the interim years. This year's update is based upon reports prepared by Red Oak Consulting for utility fees and Duncan & Associates for non-utility fees. In July 2007, the consultants and City Staff met with representatives from Fulton Homes Corporation, Home Builders Association of Central Arizona and Valley Partnership in order to discuss their concerns at the beginning of the process.

In order to adequately notify interested parties of the 2008 update, e-mails were sent on Friday, March 7, 2008, to the Associated General Contractors of America, Capitol Consulting, LLC (representing the Arizona Multihousing Association), Chandler Chamber of Commerce, Fulton Homes Corporation, Home Builders Association of Central Arizona and Valley Partnership informing them of the proposed update to the system development fees, the proposal of Infrastructure Improvements Plans and the planned date of the public hearings. These groups will also be invited to a public meeting to be scheduled during the month of April 2008 to discuss any questions or concerns prior to any scheduled City Council public hearings.

As required by law, an Advance Notice of Intent will be published in the Arizona Republic newspaper showing the date, time and place of the Public Hearings on May 22, 2008. In

compliance with State Statutes, a copy of the new and modified System Development Fees and Infrastructure Improvements Plans will be filed with the City Clerk for public review.

RICK GIARDINA, Red Oak Consulting, project manager on this study, said that their charge was to review the utility fees which includes water and wastewater. The overall objective was to ensure that fees were developed representative of the cost of providing growth services in such a way that fees would generate base revenues sufficient to repay the debt and fund the cash-funded components of the growth-related CIP. Essentially, the implementation of these fees addresses the City's objective that growth pays for growth.

For the scope of work, they relied on the same data set when it comes to population and growth information to reduce inconsistencies between the studies.

The development of a capital funding plan includes generation of sufficient revenues to meet the cash requirements. The cash flow analysis was developed based on projected growth estimates to identify not only projected revenues but also the debt requirements. Facilities for water and sewer must be built in advance of new homes and businesses locating in Chandler.

Chandler has a defined build-out period and we need to ensure that a fee is set so that we have sufficient revenue on hand to repay any debt borrowed either from the capital market or internal from one sub-fund to another. When the last connection is made, the fund balance should be zero. There are two components to single-family residential fees – a system component such as water treatment plants and water resource, which is the wet water, needed to supply the needs of the community. The methodology used looks at both components and the net in the changes is no increase in the single-family fees. The fee is assessed based on meter size to non-residential customers.

Mr. Giardina continued that they also spent quite a bit of time working with Staff on the wastewater capital improvement needs and segregating the growth components. There is a significant increase proposed in wastewater. The 56% increase relates to a wastewater system development charge for a single-family home. There may be larger increases for various sized meters and connections.

The most significant factor in the increase of the SDC (System Development Charges) is the increase in the growth-related CIP related to the wastewater reclamation facility construction costs. Combined with growth in the community, the need for this facility has been accelerated and the fund will not have the opportunity to accumulate sufficient revenues to cash-finance this facility. Compared to the last update that was done, there is a significant bond issue that is projected.

A meeting with the external stakeholders has been scheduled for April 29th. This process has been designed to meet the requirements of the Arizona Revised Statutes with regards to calculation and assessment of system development charges.

CLANCY MULLEN, Principal with Duncan Associates, spoke about the non-utility portion of the SDC's. As his company was not involved in the previous updates of the system development fees, Mr. Mullen provided a brief background of his company. They are a planning consulting firm located in Austin, Texas, and they only do public sector work specializing in plan implementation including land development codes and impact fees.

Chandler's non-utility fees are pretty extensive consisting of arterial streets, neighborhood and community parks, which are currently two separate fees, fire protection, police facilities, public buildings and libraries. The library fee was discontinued in 2005 because all of the libraries are built, however, we are now looking at reinstating the fee to purchase a leased library facility.

Legal principles involving impact fees include the Rational Nexus test, which states that the fees shall be proportional to the need that's generated by the development and the money is spent to benefit the development. Two fundamental principles include new development is not charged for a higher level of service than has been provided to existing development. As an example, if you are half way to residential build out, have a park fee for a park system that has 100 acres, and a plan that says you need 300 acres. If you do a plan-based fee that says we're going to take future needs and take that cost and divide it by the remaining growth, new development will pay for 200 acres and existing development has only paid for 100 acres but they are all sharing the same park system. New development would not be getting 200 acres just for their use. Charging them a higher level of service would create a deficiency. You would have to come up with a separate source of funding to get more acres for existing development or charge new development only for the existing level of service.

The second principle is that you do not charge twice for the same level of service when you consider different funding sources. For example, if there is a park fee for a park system of 100 acres; new development will be paying for 100 acres, existing development has 100 acres and it is a fair system except if the existing 100 acres is not fully paid for. New development will be paying impact fees for their 100 acres and also through property or sales tax, helping retire the debt for the parks provided for existing development. The impact fee has to be reduced to account for a debt credit.

Mr. Mullen continued that they are proposing the following methodology changes:

Supplement with an existing level of service analysis to make sure new development is not being charged for a higher level of service than existing development.

Add a debit credit. You do not want new development to pay twice.

Demand factors:

Arterial streets – continue to base the fees on peak-hour trips as is currently the practice, but with slight modifications.

Parks and libraries – base fees on household size rather than usage.

Fire, Police and public buildings – base fees on functional population which is a full-time person at the site of a land use 24/7.

There are two types of reductions in fees – one is revenue offset or debt credit and the other is developer credits.

Mr. Mullen then discussed how to define a growth-related improvement and cited the example of a city hall or police training facility. The previous study allocated 50% for City Hall and excluded police training facilities. He stated the question is growth causing a need for the training facility. He noted that Duncan Associates contends that it does not matter if it is a unique facility since the existing level of service analysis would provide a "fair share" calculation.

Mr. Mullen discussed how to measure the existing level of service. There are measures such as park acres per thousand citizens, which is a common one used for parks. However, it is not the land providing the park service, but the land plus the improvements. The only way to add the improvements in is to put it in dollars. They took the replacement value of existing facilities,

divided it by existing development in terms of equivalent dwelling units, and calculated an existing cost per EDU (equivalent dwelling units).

In addition to the replacement costs of the existing facilities, they included the fund balance even though the money has not been spent, existing development has paid it and it should be included.

When calculating the plan-based cost per EDU, a similar analysis is done, but instead of looking at existing facilities, they are looking at Chandler's capital plan and the projects that remain to be built. Also included are unpaid portions of on-going projects and completed projects.

COUNCILMEMBER ORLANDO asked if the Rational Nexus Test is state or federally mandated. Mr. Mullen responded that it is national case law and referred to by the Arizona Supreme Court in a Scottsdale case.

COUNCILMEMBER ORLANDO asked for a definition of a park. Mr. Mullen responded that it includes land dedicated for recreational purposes as well as improvements such as recreation centers or tennis courts.

COUNCILMEMBER ORLANDO asked what household size versus usage means. Mr. Mullen said that the fee for a single-family unit would be more than a multi-family unit based on the difference in household size as measured by population, not square footage of the dwelling unit.

In addressing the arterial street fee, Mr. Mullen continued that it is based on peak hour trip generation but was updated from the 6th to 7th edition of the ITE manual. They continue to use the 12% pass-through factor reducing the fees by 12% for trips coming through town. The fees were up updated based on the plan-based costs with \$7,907 for the existing level of service per EDU and the plan-based costs are \$4,102 per EDU. Offsets of \$46 million are anticipated in external funding.

Updated arterial street fees reflect an increase of 24% for single-family, 16% for multi-family and a decrease of 4% for retail/commercial and 23% for industrial/warehouse.

They recommend consolidating current neighborhood and community park fees into a single park fee allowing the ability to accumulate money quicker. Park fees will decrease 29% for single-family and 6% for multi-family.

For fire and police fees, the basis was changed from square feet to "functional population" so the fees will be proportionate to the number of people present at a land use. There are 2 stations and a training center expansion planned for fire and training facilities and expansion to the administrative facilities planned for police. The updated fees are based on existing levels of service and are slightly higher than existing fees for police and slightly lower for fire.

Public building fees were changed from a square foot basis to "functional population". Planned improvements include new city hall and public works complex expansion. Updated fees are based on existing levels of service.

The library fees were suspended due to no capital plans, but the City now plans to purchase the library building. The impact fees can be used for this purchase.

Revenue estimates to build-out will decrease approximately 8% depending on the type of development.

MOVED BY COUNCILMEMBER WENINGER, SECONDED BY COUNCILMEMBER ORLANDO, TO APPROVED THE PROCESS TO CONSIDER AND ADOPT NEW AND MODIFIED SYSTEM DEVELOPMENT FEES AND PROPOSED INFRASTRUCTURE IMPROVEMENTS PLANS AND SET THE DATE FOR THE PUBLIC HEARINGS FOR MAY 22, 2008.

MOTION CARRIED UNANIMOUSLY (7-0).

SPECIAL ORDERS OF THE DAY

A. Mayor's Announcements:

MAYOR DUNN announced the St. Patrick's celebration in historic downtown Chandler on Monday, March 17, 4-11 p.m.

THE MAYOR announced the Annual Police Department open house and car show is Saturday, March 15th, 10 a.m. to 2 p.m. at 250 E. Chicago Street.

The Cesar Chavez Dinner will be held on Friday, March 28th, at the San Marcos Resort. Visionary business leader Ricardo Torrez will be the keynote speaker.

THE MAYOR reminded everyone of the Family Easter Celebration, March 22nd, at the Snedigar Sportsplex, 9 a.m. to noon, and invited everyone to attend.

B. Councilmembers' Announcements:

COUNCILMEMBER ORLANDO said that he received an e-mail from Martin Sepulveda in Iraq. He is doing well and sends his regards.

COUNCILMEMBER DONOVAN said that she will again be a team captain for the Walk to End Domestic Violence, Saturday, April 26th, at 7:30 a.m. She thanked all of those who participated last year and to the Domestic Violence Commission who participated.

VICE-MAYOR HUGGINS announced the passing of Forrest Jacobs, a high school teacher in Chandler.

C. City Manager's Announcement:

None.

Adjournment: The meeting was adjourned at approximately 9:00 p.m.

ATTEST: _____
City Clerk

Mayor

Approved: March 27, 2008

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the City Council of Chandler, Arizona, held on the 13th day of March 2008. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this _____ day of _____, 2008.

City Clerk