

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, January 22, 2009, at 7:05 p.m.

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

The following members answered roll call:

Boyd W. Dunn	Mayor
Lowell Huggins	Vice-Mayor
Bob Caccamo	Councilmember
Trinity Donovan	Councilmember
Matt Orlando	Councilmember
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 Mike Sproul – Tri City Baptist Church

POSTING OF COLORS: Chandler Police Department Honor Guard

PLEDGE OF ALLEGIANCE: Boy Scout Troop 233

SPECIAL MUSIC: Chandler Fire Department Pipe and Drum Corps

SCHEDULED PUBLIC APPEARANCES: None.

UNSCHEDULED PUBLIC APPEARANCES: None.

CONSENT:

MOVED BY COUNCILMEMBER CACCAMO, SECONDED BY VICE MAYOR LOWELL HUGGINS, to accept (approve) the Consent Agenda as presented.

MOTION CARRIED UNANIMOUSLY (7-0).

A1. MINUTES:

APPROVED, as presented, minutes of the Chandler City Council Special Meeting of January 5, 2009, and the Regular Meeting of January 8, 2009.

A2. GROUND LEASE AGREEMENTS: Arizona Pacific Aviation, LLC

Ord. #4102

ADOPTED Ordinance No. 4102 authorizing the City of Chandler to amend two ground lease agreements with Arizona Pacific Aviation, LLC to adjust development and phasing.

A3. CITY CODE AMENDMENT: Chapter 3 Ord. #4119

ADOPTED Ordinance No. 4119, amending Chandler City Code, Chapter 3, Sections 3-9 and 3-11, increasing the requirement for a formal competitive solicitation to \$50,000.00 and the contract amount requiring Council authorization to \$50,000.00.

A4. POWER DISTRIBUTION EASEMENT: Salt River Project Ord. #4123

ADOPTED Ordinance No. 4123 granting a no-cost power distribution easement to Salt River Project (SRP) to provide new electrical power service to the well at the existing McQueen Water Production Facility near the NEC of McQueen Road and Thatcher Boulevard.

A5. UTILITY EASEMENT: Arizona Public Service Ord. #4124

ADOPTED Ordinance No. 4124 granting a no-cost utility easement to Arizona Public Service Company (APS) for the purpose of providing electrical service needed for the development of the City Hall site.

A6. AGREEMENT RENEWAL: El Paso Natural Gas Company Ord. #4125

ADOPTED Ordinance No. 4125 renewing the Agreement for use of public property between El Paso Natural Gas Company and the City of Chandler for open-access transportation of natural gas.

A7. PRELIMINARY DEVELOPMENT PLAN: First Baptist Church Chandler

CONTINUED TO FEBRUARY 12, 2009, Preliminary Development Plan, PDP08-0024 First Baptist Church Chandler, for Phase II of the overall Master Plan for the First Baptist Church of Chandler at the NEC of Arizona Avenue and Appleby Road.

A8. PRELIMINARY DEVELOPMENT PLAN: C Smart Auto Dealership

WITHDREW Preliminary Development Plan, PDP08-0034, C Smart Auto Dealership, for on-site freestanding signage as part of an automotive sales and service development on approximately 24 acres at the NEC of Orchid Lane and Interstate 10. The applicant requests withdrawal to allow time to evaluate alternatives in response to the market.

A9. ZONING: Fulton Ranch

CONTINUED TO FEBRUARY 12, 2009, Zoning, DVR08-0032, Fulton Ranch, to amend the PAD zoning for housing products on Parcels 1,2,5 and 7 on the west side of Arizona Avenue between Ocotillo and Chandler Heights roads.

A10. USE PERMIT: Carniceria El Herradero

APPROVED Use Permit UP08-0058 Carniceria El Herradero, Series 10, for the sale of beer & wine for off-premise consumption only within a neighborhood grocery store at 1368 N. Arizona Avenue. (Applicant: Amanda Adams.)

The business is a neighborhood grocery store that occupies three suites within the North Chandler Mall on Arizona Avenue, south of Knox Road. The small retail shopping center is bordered to the north by Rigatony's restaurant and an animal clinic; to the west by a single-family neighborhood; to the south by Long Wong's restaurant and a car wash and further south by a storage facility. The shopping center has a restaurant (Don Chuy's) with a Series 12 Restaurant License located in the suite closest to Arizona Avenue. Rigatony's also possesses a Series 12 Restaurant License.

The store is open 8:00 a.m. to 8:00 p.m. daily. There are picnic tables inside of the store for consumption of meet or deli items, but no alcohol will be served for on-site consumption. All alcohol is to be consumed off-site per the license regulations.

In 1995, a different grocery store at the same location was denied a request to sell alcohol under a Series 10 license due to the presence of a church in the shopping center. The church has since vacated the shopping center and the landlord does not intend to allow churches in this center in the future.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on December 1, 2008. There were no citizens in attendance. The Police Department has been informed of the application and has not responded with any issues or concerns.

There are two area property owners in opposition to the request. The owner of a 12-unit apartment complex on Orchid Lane located 770' south of the store, is opposed to any more alcohol sales in the area. The owner of the animal clinic on Knox Road is opposed due to the possible increase in litter (broken bottles) and loitering, which reportedly used to be a greater problem in the area.

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

1. Substantial conformance with approved exhibits (Floor Plan, Narrative) except as modified by condition herein.
2. Expansion or modification beyond the approved exhibits shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to any other location.
4. 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.
5. The area adjacent to the store shall be maintained in a clean and orderly manner.

A11. LIQUOR LICENSE: Carniceria El Herradero

APPROVED a Series 10 Beer and Wine store Liquor License (Chandler #119850 L10) for Amanda D. Adams, Agent, Carniceria El Herradero LLC, dba Carniceria El Herradero, 1368 N. Arizona Avenue, Suite #104. Recommendation for approval of State Liquor License #10075692 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.

A12. USE PERMIT: Gingerroot

APPROVED Use Permit UP08-0051 Gingerroot, Series 12, for the sale of liquor for on-premise consumption only within a restaurant located at 1076 W. Chandler Boulevard, Suite #111. (Owner: Susan Bilas.)

The subject site is within the Chandler Plaza retail center at the NWC of Chandler Boulevard and Alma School Road. The space has been occupied by the Gingerroot restaurant since May 2008 and was previously occupied by another restaurant without alcohol service. The restaurant's hours of operation are 11:00 a.m. to 9:00 p.m. Tuesday through Sunday. Two tables are often set up outdoors on the sidewalk, but they will not have any alcohol service.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on December 9, 2008. There were no citizens in attendance. Staff has received no correspondence in opposition to this request.

The owner of a day care across Alma School Road spoke in opposition to the request at the Planning Commission meeting, stating concerns with the appropriateness of selling alcohol near children. It sets a bad precedent for proliferation of other alcohol sales in this area and the request could make her day care business less appealing to parents. The Planning Commission responded that the request is for a Series 12 Restaurant License with on-premise consumption only within a restaurant-like layout that would not likely have an effect on her business.

Upon finding consistency with the General Plan and Community Commercial District (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 (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 area adjacent to the establishment shall be maintained in a clean and orderly manner.

A13. LIQUOR LICENSE: Gingerroot Restaurant

APPROVED a Series 12 Restaurant Liquor License (Chandler #119260L12) for Susan Bilas, Agent, Gingerroot Restaurant LLC, dba Gingerroot, 1076 W. Chandler Boulevard, Suite #111. Recommendation for approval of State Liquor License #12077771 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.

A14. USE PERMIT: Marketside

APPROVED Use Permit UP08-0059 Marketside, Series 10, for the sale of beer and wine for off-premise consumption only within an existing grocery store at the SWC of Ray and McQueen roads. (Applicant: Sean Lake, Pew and Lake, PLC.)

Directly south of the subject site is a KinderCare day care facility. North, across Ray Road, is the Woodside at the Provinces single-family residential neighborhood. East, across McQueen Road, are a CVS Pharmacy and other small retail users east of the drug store. West of the site is vacant land zoned PAD for commercial-type uses. Due to the liquor license series that is granted, no separation requirement is necessary between the grocer and day care facility.

Marketside has been in operation for approximately four months and now requests a Use Permit for alcohol sales. Prior to Marketside locating to this site, the building operated as an Osco Drug Store which had a Series 9 (all spirituous liquor) license. The grocery store is open for business from 7:00 a.m. to 10:00 p.m. seven days a week with 30 employees.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on December 2, 2008. There was one neighbor in attendance in support of the request. 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. Expansion or modification beyond the approved exhibits (Site Plan and Floor Plan) shall void the Use Permit and require new Use permit application and approval.
2. The Use Permit is granted for a Series 10 license only and any change of license shall require reapplication and new Use Permit approval.
3. The Use Permit is non-transferable to other store locations.

A15. LIQUOR LICENSE: Wal-Mart

APPROVED a Series 10 Beer and Wine Store Liquor License (Chandler #120984 L10) for Clare Hollie Abel, Agent, Wal-Mart Stores, Inc., dba Wal-Mart Marketside #5902, 950 N. McQueen Road. Recommendation for approval of State Liquor License #10075701 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.

A16. USE PERMIT: Chandler Hilton Hotel

APPROVED Use Permit UP08-0064 Chandler Hilton Hotel, Series 11, for the sale of all spirituous liquor for on-premise consumption only within a new hotel located at the SEC of the Loop 101 Price Freeway and Frye Road. (Applicant: Amy Nations.)

The hotel is currently under construction and is scheduled to open in March 2009. The hotel will include a small conference center and full-service restaurant. The hotel will be open 7 days a week and will employ approximately 96 full-time employees.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on December 17, 2008. There were no neighboring property owners 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. Expansion, modification, or relocation beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit re-application and approval.
2. The Use Permit is granted for a Series 11 license only and any change of license shall require re-application and new Use Permit approval.
3. The Use Permit is non-transferable to other locations.
4. The site shall be maintained in a clean and orderly manner.

A17. LIQUOR LICENSE: Hilton Phoenix/Chandler

APPROVED a Series 11 Hotel/Motel Liquor License (Chandler #122796 L11) for Amy S. Nations, Agent, Chandler Beverages LLC, dba Hilton Phoenix/Chandler, 2929 W. Frye Road. Recommendation for approval of State Liquor License #11073175 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.

A18. CONTINUED LIQUOR LICENSE: Thai Basil

CONTINUED TO FEBRUARY 12, 2009, Liquor License, Series 12, for Nongluck Chakkaw, Taloropai #1 LLC, dba Thai Basil, 42929 W. Chandler Boulevard, Suite #8, to allow the applicant time to complete the liquor license requirements.

A19. SPECIAL EVENT LIQUOR LICENSE: Kyrene Schools Community Foundation

APPROVED a Special event Liquor License for the Kyrene Schools Community Foundation for the "Cielo Extravaganza Fundraiser" on February 11, 2009, at the Castle at Ashley Manor, 1300 S. Price Road. The Police Department reports no objections to the issuance of this license. As this applicant is a non-profit organization, no sales tax license is required; however, the special event liquor fee has been paid.

SPECIAL ORDERS OF THE DAY: Acknowledgment of Outgoing Councilmembers:

MAYOR DUNN read and presented an Honorary Resolution to Vice Mayor Lowell Huggins. He also presented a plaque on behalf of the Chandler Police Department.

Mayor Dunn read and presented an Honorary Resolution to Councilmember Kevin Hartke.

Mayor Dunn read an Honorary Resolution for Councilmember Martin Sepulveda and said it would be presented to him upon his return from military service.

SENATOR JAY TIBSHRAENY said it was his pleasure in recognizing the outgoing members of the Council on behalf of the State of Arizona. He noted when Mr. Sepulveda returns, it would be his hope to invite him to the Legislature to recognize his accomplishments and service to his country.

Senator Tibshraeny said due to the recent transition of Governor's, the proclamations he is presenting are the last official proclamations made by then Secretary of State Brewer. He read and presented Councilmember Hartke a proclamation from the State of Arizona proclaiming January 22, 2009 as Kevin Hartke Day. Senator Tibshraeny read and presented Vice Mayor Huggins with a proclamation from the State of Arizona proclaiming January 22, 2009 as Lowell Huggins Day.

Councilmembers' Announcements:

COUNCILMEMBER CACCAMO said that he had known Lowell not only from their time on Council together, but when he was Principal at Chandler High and Lowell was a member of the police department. He cited Mr. Huggins as being the most communicative councilmember he has met and it will be a challenge to replace him.

Councilmember Caccamo commended Councilmember Hartke for his service to the community and said what has impressed him most is Councilmember Hartke's quick learning curve upon his arrival on Council.

COUNCILMEMBER ORLANDO said he believed Vice Mayor was the longest serving member on the Public Safety subcommittee. He expressed appreciation for his work on behalf of the public safety sector. Councilmember Orlando commended Councilmember Hartke's passion for social issues and expressed appreciation for his advice.

COUNCILMEMBER WENINGER noted Vice Mayor Huggins has worked tirelessly behind the scenes and appreciates his accessibility to citizens. Councilmember Weninger described Councilmember Hartke as the "nicest guy" with a great attitude and outlook and noted the effort he puts forth to get to the bottom of an issue. He too, complimented Mr. Hartke for his learning curve. Councilmember Weninger wished a safe return to Councilmember Sepulveda who not only serves his community, but also is currently serving his country. In addition, he thanked all of the families for their support.

COUNCILMEMBER DONOVAN said she has appreciated Vice Mayor's history of the issues. She commended Councilmember Hartke's service not only on the Council, but also in the community.

VICE MAYOR HUGGINS recognized the hard work and support of staff over the years. He thanked his fellow Councilmembers and commended Councilmember Hartke for his ability to step into the position.

COUNCILMEMBER HARTKE said he hoped he had lived up to the trust expected of him in his service as councilmember. He acknowledged the city as being very well run.

MAYOR DUNN noted that the experience being lost includes 35 years of service as an employee and elected official, a 7<sup>th</sup> generation Arizonan, and a 22 year resident. The Mayor encouraged those leaving to stay in touch and to continue providing feedback.

Adjournment: The meeting was adjourned at approximately 7:40 p.m.

ATTEST: \_\_\_\_\_

City Clerk

Mayor

Approved: February 12, 2009

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 22<sup>nd</sup> day of January 2009. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this \_\_\_\_\_ day of February 2009.

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City Clerk