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MINUTES OF THE REGULAR MEETING OF THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, held in the Council Chambers in the Chandler Library, 22 S. Delaware, on Thursday, July 30, 2009, at 7:15 p.m.

MAYOR BOYD W. DUNN CALLED THE MEETING TO ORDER.

The following members answered roll call:

Boyd W. Dunn	Mayor
Bob Caccamo	Vice-Mayor
Trinity Donovan	Councilmember
Rick Heumann	Councilmember
Matt Orlando	Councilmember
Jack Sellers	Councilmember
Jeff Weninger	Councilmember

Also in attendance:

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

INVOCATION: Pastor Forrest Erickson – Generation Church

PLEDGE OF ALLEGIANCE: Councilmember Rick Heumann

SCHEDULED PUBLIC APPEARANCES:

1. Proclamation – Drowning Impact Awareness Month

Mayor Dunn was joined by Fire Chief Jeff Clark and Battalion Chief Paul Nies in presenting Tiffaney Isaacson from Phoenix Children's Hospital with the Drowning Impact Awareness Month Proclamation. Chief Clark reported that this week fire personnel responded to a near drowning call and is a real issue not only in Chandler, but the State of Arizona.

Ms. Isaacson gave the reminder there are steps that can be taken preventatively through supervision, barriers, and educational classes.

2. Service Recognitions

STACY SACCO, Video Production Specialist was recognized by Communications Director Nachie Marquez on her many accomplishments during her 10 years with the City.

ROB BODDY, Senior Fire Mechanic (15 years) and Fire Engineer RYAN NEVILLE (10 years) were individually recognized by Fire Chief Jeff Clark for their accomplishments during their years of service.

ANGEL CHAVEZ, Police Officer (20 years); THOMAS NEMETH, Police Officer (15 years); and BRENDAN BUSSE, Police Officer (15 years), were recognized by Police Chief Sherry Kiyler for their accomplishments during their years of service with the City.

JIMMIE BYRD, Senior Production Coordinator, was recognized by Community Services Director Mark Eynatten for his accomplishments during his 20 years with the City.

UNSCHEDULED PUBLIC APPEARANCES:

None.

CONSENT:

MAYOR DUNN noted a legal protest has been received on Item 5 (Sante Chandler) and that will be placed on the Action Agenda.

MAYOR DUNN recognized the work by former Councilmember Kevin Hartke with the faith based and non-profit organizations in regards to Item 13.

MOVED BY COUNCILMEMBER ORLANDO, seconded by COUNCILMEMBER SELLERS, to approve the Consent Agenda as presented and moving Item 5 to Action.

VICE MAYOR CACCAMO abstained from voting on Item 33 (plumbing and irrigation supplies) declaring a possible conflict of interest.

COUNCILMEMBER DONOVAN abstained from voting on Item 12 (HHSC allocations) declaring a conflict of interest

COUNCILMEMBER ORLANDO abstained from voting on Items 42 & 43 (Buono's) declaring a conflict of interest as his son is employed there.

COUNCILMEMBER HEUMANN noted there are several use permits on the agenda and paid compliments to Economic Development staff on their work on assisting these businesses.

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

1. CITY CODE AMENDMENT: Chapter 62 Ord. #4159

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4159 amending Chapter 62, Sections 62-415, 62-416, 62-417, 62-450, 62-570 and Regulation 62-350.3, of the Chandler City Code, and establishing effective dates thereof, relating to conforming changes to the Chandler Tax Code.

Arizona allows incorporated cities and towns to have a separate tax base for their transaction privilege tax (TPT) or sales tax. Arizona's Model City Tax Code (MCTC) is the document that standardizes which taxes a municipality can choose to levy; however, the state does preempt cities and towns from taxing certain activities and transactions. Any changes to the MCTC must be approved by the Municipal Tax Code Commission and all municipalities that have adopted the code must adopt approved changes. The Commission is comprised of nine mayors or city council members appointed by the Governor, Senate President and Speaker of the House along with the Director of the Department of Revenue as an ex-officio member.

The MCTC was created in response to concerns about differences in local transaction privilege tax codes and the resulting compliance difficulties. The MCTC provides uniformity while at the

same time retaining the right of individual municipalities to determine which activities are taxed and exemptions grants, thereby leaving the determination of the local sales tax base up to the individual city or town council. Municipalities also determine their own tax rates for different taxable activities. Chandler's tax rates are set by a majority vote of the Mayor and Council.

Each city can choose which activities are taxable under the MCTC; however, if they choose to tax a particular activity, then it must be done in accordance with the MCTC. The code itself consists of standard language, often referred to as "model" language, along with two groups of options, Local Options and Model Options. The options provide alternative language for a particular code section that any city or town can choose to incorporate in place of model language. Generally, Local Options add or substitute language in a given section, while Model Options remove model language from a section. The options give each city an opportunity to fine-tune the tax code for their unique economic environment.

The final piece of the Model City Tax Code is a collection of city-based exceptions that are referred to as "green page" items. A green page item replaces an existing Model section with language that applies only to that specific city. Although common when the Model Code was first created, there has been considerable pressure by taxpayer advocates and the Legislature to eliminate these differences. Currently, there is a gentlemen's agreement in place that effectively prohibits any city or town from bringing forward any new "green pages".

Following each legislative session, Arizona cities and towns, acting collectively through the Unified Audit Committee, review new laws to determine those areas of the Model City Tax Code that require adjustment to maintain or achieve conformity with State law. This committee meets with taxpayer advocates and business representatives to draft tax code changes, which are then forwarded to the Municipal Tax Code Commission for approval. Any changes to the MCTC that are approved by the Commission must be adopted by the City Council unless the change is a Local Option of Model Option, which the City may choose to select as they see fit.

On May 1, 2009, the Municipal Tax Code Commission approved the following changes to the Model City Tax Code:

Sections 1-3: These sections incorporate last year's legislative changes to A.R.S. §42-6004, modifying the Development Fee exemption found in MCTC Sections 415, 416 and 417. These changes serve to clarify the exemptions, and are the result of a cooperative effort between the UAC and taxpayer advocates to craft language that was administratively workable without altering the legislative intent of the original exemption. These sections have a retroactive effective date of September 1, 2006, to coincide with the original exemption.

Section 4: This is a technical correction, adding the exemption for Solar Energy devices to Section 450, Rental of Tangible Personal Property, allowing for the exempt leasing of solar energy devices. This section was inadvertently left out when the same exemption was added to the Contracting, Retail and Use Tax activities last year. This change has a retroactive effective date of July 1, 2008, to align it with the other matching exemptions.

Section 5: This change adds language to Section 570 allowing the Tax Collector to provide additional extensions of time for a taxpayer to file a protest. This simply codifies a long-standing practice of allowing taxpayers that are making the effort to comply, reasonable additional time to provide information before going to hearing. This section has a retroactive effective date of July 1, 2008, to align it with Sections 4 and 6 for ease of ordinance preparation.

Section 6: This is also a technical correction, removing the reference to residency requirements in Regulation 350.3 that was overlooked when similar language was removed from the definition of "Out-of-State sales" in Section 100 last year. This change is also retroactive to July 1, 2008, to align it with the original definition change.

The exemption of Development Fees from the tax base for Contracting has not resulted in a significant reduction in revenue, primarily because there have been so few new building permits issued since enactment. Numerous refund claims for this exemption have been processed; however, given the retroactive effective date, there have been far fewer claims than originally anticipated. While these exemptions do have an adverse impact on revenue, that impact is negligible given the broader drop off in Contracting.

Preliminary data provided by the Department of Revenue indicates that very few taxpayers have taken advantage of the Solar Energy Device deduction in any tax category, however, it is anticipated that this activity is likely to expand in the future. Looking at the past three years and using the highest activity estimates, this exemption would not have resulted in a reduction of Contracting or Retail revenues greater than \$8,000 during any year. Given the expense of these systems, a form of rental/financing plan is becoming a more common method of acquiring one. We have heard that some potential vendors are waiting for local adoption of the exemption in the Rental activity before moving forward, so we may see an increase in activity after adoption. This exemption may also have an adverse collateral impact on revenues from the Utilities classification one day; however, at this time, there are too few devices in place that can efficiently replace traditional electrical generation to have any significant impact.

The change to protest procedures and the definition correction will have no impact on revenue.

2. FIRST AMENDMENT: Wireless Telecommunications Use Agreement Ord. #4160

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4160 authorizing the first amendment to the Wireless Telecommunications Use Agreement with New Cingular Wireless PCS, LLC.

This ordinance amends Ordinance No. 3720 by extending the agreement for additional five-year terms with provisions for the extensions. It also raises the new base rate from \$680 to \$824 per month with provisions for annual increases. The Police and Fire Departments have not had any issues with interference to the City's public safety communication systems during New Cingular's operation of a wireless facility at this location.

New Cingular Wireless will also pay the City \$824 a month rent for the Thatcher & McQueen site with provisions for rent increases detailed in the Agreement. There will also be 2.75% privilege taxes applied on any non-interstate telecommunication services.

3. POWER DISTRIBUTION EASEMENT: Salt River Project Ord. #4166

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4166 granting a 1,440 square foot no-cost power distribution easement to Salt River Project (SRP) to provide new electrical power service to a new streetlight being installed on the northeast side of Alma School Road near Lake Drive.

4. IRRIGATION EASEMENT: Salt River Project Ord. #4168

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4168 granting a 39.97 square foot, no-cost irrigation easement to Salt River Project (SRP) near the SWC of Dobson and Frye roads.

As part of the Frye Road, north of Alma School Road Improvement Project, the City of Chandler entered into an Agreement for Modification of Irrigation Facilities with Salt River Project (SRP). The irrigation facilities were relocated but the land rights were not conveyed to SRP. This easement will correct this oversight and provide the area required to operate and maintain the structure located at the SWC of Dobson and Frye roads.

6. REZONING: Blue Star Gateway Ord. #4175

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4175, DVR09-0009 Blue Star Gateway, rezoning from AG-1 to PAD with PDP for a new two-story office building on a 1.1-acre site at 99 E. Willis Road east of Arizona Avenue. (Applicant: Bill Clay Design Studio LLC; Owner: Blue Star Developers LLC.)

The site, which is immediately south of the Santan Gateway South shopping center, has been vacant since a single-family house on the property was demolished in 2008. The site is surrounded to the south and west by a construction materials company and to the east by an agricultural field.

The Airpark Area Plan designates the property for Commercial/Office/Business Park uses with a Light Rail Corridor Overlay if the nearby railroad tracks are ever designated for light rail transit. The requested office uses are consistent with the Airpark Area Plan designation.

The project meets the Commercial Design Standards, including optional standards relating to enhanced landscape planters at the entry, an enhanced screen wall configuration, limitations on street-adjacent retention, limitations on building signage size, and provision of a recurrent character theme.

The project meets the City's art requirement through two sets of small art pieces appropriate in scale for the project.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on May 18, 2009. There were two neighbors in attendance in support of the project. Staff has received no correspondence in opposition to the request.

The Airport Commission reviewed the zoning amendment request in accordance with the Airport Conflicts Evaluation Process at their July 8, 2009, meeting. The Airport Manager has issued a conflicts evaluation report indicating that the Airport Commission found the subject request does not constitute a conflict with the existing or planned airport uses.

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

7. INTERGOVERNMENTAL AGREEMENT AMENDMENT: RPTA Res. # 4312

ADOPTED Resolution No. 4312 amending the Intergovernmental Agreement (IGA) with the Regional Public Transportation Authority (RPTA) for Dial-A-Ride services for senior citizens and persons with disabilities for FY 2009/10 in the amount of \$193,815.00.

The East Valley Dial-A-Ride (EVDAR) provides door-to-door, shared-ride public transportation services for senior citizens and persons with disabilities. Council approved an Intergovernmental Agreement with the RPTA (Valley Metro) in 2004 to provide Dial-A-Ride service for eight years to the City of Chandler in partnership with the Cities of Mesa, Tempe, Scottsdale and the Town of Gilbert. This is the fifth of seven annual amendments to adjust costs for changes in service levels, procurement of capital equipment and inflation.

This agreement will provide 16,249 hours of Dial-A-Ride service at a total net cost of \$1,147,655.00. As part of Proposition 400, RPTA will fund the cost of service for persons with disabilities in accordance with the Americans with Disabilities Act (ADA) in the amount of \$953,840.00, which is 83% of the total contract. Non-ADA service will be funded by the City at a cost of \$193,815.00.

In May, Staff was notified that Maricopa County Special Transportation Services (STS) would discontinue services effective June 30, 2009. Therefore, we anticipate the demand for Dial-A-Ride service to increase to \$193,815.00 in FY 2009/10, from \$153,140.00 in FY 2008/09. However, Dial-A-Ride is providing additional trips, thus utilizing this fund savings for additional service to Chandler citizens.

This agreement was reviewed at the June 18, 2009, meeting of the Transportation Commission and unanimously recommended for approval.

8. INTERGOVERNMENTAL AGREEMENT AMENDMENT: RPTA Res. #4313

ADOPTED Resolution No. 4313 amending the Intergovernmental Agreement (IGA) with the Regional Public Transportation Authority (RPTA) for fixed-route bus service for FY 2009/10 in the amount of \$491,533.00.

In 2008, Council approved a five-year agreement with the provision for annual funding agreements with the RPTA (Valley Metro) for fixed route and express bus service through June 30, 2013. This is the first of four annual amendments to adjust for changes in operating costs and service levels. This amendment covers Chandler's cost for fixed route bus service, and Proposition 400-funded bus services contracted by RPTA. The overall cost of service is higher this year as a result of higher fuel prices and facilities.

The new agreement includes express bus service weekdays from the Chandler Park and Ride to the State Capital utilizing the Loop 202 to I-10 freeways to downtown Phoenix. Four morning and evening peak hour trips are provided. Weekend service on Routes 65 and 108 was eliminated because both of these routes had minimal riders on the weekends.

This agreement was reviewed at the June 18, 2009, meeting of the Transportation Commission and unanimously recommended for approval.

9. INTERGOVERNMENTAL AGREEMENT AMENDMENT: RPTA Res. #4314

ADOPTED Resolution No. 4314 amending the Intergovernmental Agreement (IGA) for Alternative Transportation services (Cab Coupon Program) for senior citizens and persons with disabilities for FY 2009/10 in an amount not to exceed \$50,000.00.

The City of Chandler initiated a subsidized taxicab coupon program with the Regional Public Transportation Authority (RPTA) in FY 2006/07 on a trial basis and continued in FY 2007/08 and FY 2008/09.

This program, modeled after successful cab subsidy programs in Mesa and Scottsdale, provides subsidized taxicab coupons for Chandler residents that are eligible for Dial-A-Ride services. The program is intended to provide additional transportation options for senior citizens and persons with disabilities at a lower cost than traditional Dial-A-Ride service. Under this program, participants purchase coupon booklets at a nominal co-pay of \$2.50 for one book valued at \$10.00. The coupons can then be applied toward the fares of participating cab companies. Coupons can be purchased by calling Valley Metro for those who qualify. Participants have utilized 1,783 cab trips from July 1, 2008, through April 2009, providing an estimated savings to the City of approximately \$63,000.00 in the Dial-A-Ride program. The amount of cab trips more than doubled from last year. However, Dial-A-Ride is providing additional trips, thus utilizing this fund savings for additional service to Chandler citizens.

This agreement was reviewed at the June 18, 2009, meeting of the Transportation Commission and unanimously recommended for approval.

10. GRANT: Water Infrastructure Finance Authority of Arizona Res. #4316

ADOPTED Resolution No. 4316 accepting a Water Infrastructure Finance Authority of Arizona Technical Assistance Grant in the amount of \$10,000.00.

The City of Chandler is eligible to receive Water Infrastructure Finance Authority (WIFA) grant funds for drinking water or wastewater projects under the Recovery Act of 2009. WIFA is an independent agency of the State of Arizona and is authorized to finance the construction, rehabilitation and/or improvement of drinking water, wastewater, wastewater reclamation and other water quality facilities/projects.

On July 2, 2009, Staff was awarded a grant for the FY 2010 Technical Assistance Program for a Reverse Osmosis Recovery Optimization project. This project will allow Staff to pilot test an electronic precipitator with the potential for reducing the need for conventional anti-scalants. If successful, this could provide significant cost savings by increasing the amount of water recovered from the industrial waste stream, and reducing chemical purchases.

The WIFA grant will fund engineering oversight and data review. Staff will be providing in-kind services such as monitoring and data collection. This grant does not require repayment.

11. AMENDMENT: Fee Schedule Res. #4318

ADOPTED Resolution No. 4318 amending the Citywide Fee Schedule.

During fiscal year 2008/09, Staff conducted an extensive review of the City's fees and charges. The Management Services subcommittee and full Council then reviewed the recommended changes and the recommendations were revised with input from the City Council. Most of the resulting changes to the Citywide Fee Schedule were approved by the City Council through Resolution 4299 on May 28, 2009. The remaining recommended changes required additional action to amend the City Code to allow for the inclusion of the new fees and charges.

On June 28th, Council adopted several ordinances amending the City Code to allow inclusion of the new fees and charges. The following final additions and changes from the FY 2008/09 review are incorporated into this amendment of the Citywide Fee Schedule:

- Fire: Training facility fees and training fees
- Neighborhood Resources: Non-compliance re-inspection fee
- Planning & Development: Miscellaneous fees and a change in basis for plan review fees
- Police: Pawnbroker report fee
- Public Works: Real estate fees

Not included in this Citywide Fee Schedule are the vendor registration fees included in the original fee recommendations. They have been omitted based on an opinion rendered by Law that there are legal limitations on the extent to which the City can assess vendors for administrative purchasing functions that are performed for the benefit of all citizens, not specifically vendors.

12. FY 2009/2010 GENERAL FUND ALLOCATION

Res. #4320

ADOPTED Resolution No. 4320 authorizing the allocation of FY 2009/2010 General Funds in the amount of \$1,151,500.00 in accordance with the recommendations of the Chandler Housing and Human Services Commission (HHSC) and City Staff.

The City of Chandler allocates over \$1.1 million annually in general fund dollars through the Social Service Funds (SSF), Acts of Kindness (AOK) – Utility Bill Donation program and Youth Enhancement Program (YEP) to qualifying non-profit agencies. The goal of the human service funding is to assist Chandler's low and moderate-income residents and youth with services and programs to meet basic needs, empower youth and become self-sufficient. The HHSC is charged with reviewing applications to the Human Services Funding program and making recommendations on final allocations to City Council.

Beginning in FY 2009/10, HHSC reviewed applications and determined funding recommendations for applicants that were previously made through a process in which non-profit organizations could be awarded one-time and on-going funding from the Mayor and Council as part of the budget process. The change will provide consistency and equitable monitoring among all non-profit organizations requesting and receiving funding from the City of Chandler for the purposes of providing human services.

During the months of February, March and April, the HHSC met four times, twice in public hearing, to discuss recommendations to the City Council for allocation of these funds. During the application process, HHSC reviewed a total of 77 applications requesting Chandler Human Service funding totaling over \$3 million in requests. HHSC scored each application based on a variety of factors including overall impact for Chandler residents in need; proposed services relative to the approved funding priorities; fiscal responsibility, overall capacity of the organization to carry out proposed activities; and the level of partnership, collaborations and leveraged funds and services sought by the applicant to carry out the proposed services. At a public hearing on March 25, 2009, HHSC discussed the applications and reviewed combined average evaluation scores. Funding was then allocated based on average score and recommendations made from HHSC members.

Priority was given during the recommendation process to programs that demonstrated a community need and whose services addressed those needs in an effective manner showing the benefits to Chandler residents. Earlier in the year, HHSC approved funding priorities based on recommendations from the Chandler Human Services Needs Assessment. Basic needs services such as shelter/housing, food, clothing, transportation, medical assistance and emergency financial assistance was determined the top priority service. Additionally, HHSC prioritized population groups needing services, which included (ranked by priority): 1) Families in crisis, 2) Homeless, 3) Elderly, 4) Low-and moderate-income families, 5) Individuals with special needs and 6) Youth.

COUNCILMEMBER DONOVAN DECLARED A CONFLICT OF INTEREST ON THIS ITEM.

13. MEMORANDUM OF UNDERSTANDING: CARE INC.

Res. #4321

ADOPTED Resolution No. 4321 supporting a memorandum of understanding (MOU) between CARE INC., and the City of Chandler to work together in collaboration on Heal Our Cities projects related to the American Recovery and Reinvestment Act (ARRA) of 2009.

CARE INC. is a civic organization with a goal to foster partnerships between local government and community volunteers to increase the effectiveness of people helping people. The organization has a number of Heal Our Cities projects through the state. One of the programs created under the umbrella of Care, Inc. Arizona is "For Our City" – an initiative that "builds a bridge for municipal and faith leaders to dialogue for solutions by promoting passion for people".

Through the MOU, CARE INC. will work in collaboration with the City of Chandler to develop a citywide program to promote capacity building and mobilization of faith, non-profit and community-based resources related to the emergency and economic development needs of the community.

In February 2009, representatives from CARE INC., Mayor Dunn, Kevin Hartke and Staff began meeting to discuss ways in which a "For Our City" program could be implemented in Chandler as a support system for community projects. An initial Host Committee was formed and on June 30, a diverse group of approximately 200 faith, non-profit and community leaders came together to discuss the needs of the Chandler community.

The next step in the process of implementing the "For Our City – Chandler" project is to convene a Steering Committee to establish a vision and goals based on the comments from the June 30 event. Specific projects will then be conducted in order to accomplish the goals.

CARE INC. will work with the City and Steering Committee to identify specific projects in accordance with the directive of ARRA. This MOU represents a non-binding expression of intent between the parties to work together to promote the purpose of the collaboration and is expected to continue for three years from the date of signature by both parties.

There are no financial implications for the City of Chandler as CARE INC. will be responsible for meeting obligations under any grant or contract received from a third party or subcontracts between CARE INC. and the City of Chandler.

14. PRELIMINARY DEVELOPMENT PLAN: The Offices At Springfield Marketplace

APPROVED Preliminary Development Plan PDP08-0041 The Offices at Springfield Marketplace for an office and retail development on property located at the SEC of Gilbert and Riggs roads. (Applicant: Burch & Cracchiolo, P.A. – Brennan Ray; Owner: The Jonah Project, LLC.)

The property surrounds an existing Walgreen's store and a future bank pad east of the Walgreen's. It is currently zoned PAD for Community Commercial (C-2) uses. The development request includes general office, medical office and retail/restaurant uses, which is consistent with the existing zoning. The subject property is approximately 9 net acres of a larger 14-acre commercial parcel that was zoned PAD for commercial use in 1998 as part of the Springfield Lakes square mile master area plan. In April 2004, a PDP was approved for the subject site, which included the Walgreen's building, a future bank pad and a commercial retail center. The Walgreen's building pad was permitted to develop first given the building and property size in accordance with the Zoning Code development standards.

The property is a part of the Southeast Chandler Area Plan. The General Plan and Southeast Chandler Area Plan designate the intersection of Gilbert and Riggs roads as a Commercial Node and Major Entry Gateway. Surrounding development includes single-family residences south and east of the commercial property. The intersection of Gilbert and Riggs roads includes an existing Albertson's-anchored shopping center at the SEC, an approved Safeway-anchored shopping center at the NWC and the NEC is zoned for future neighborhood commercial development, which recently received PDP approval for a portion of the site.

The proposed commercial development is predominantly general and medical offices with ancillary retail/restaurant shop space to provide services to the office complex and provide a larger retail component in conjunction with existing retail pads.

The development incorporates Commercial Design Standards and Southeast Chandler Area Plan Commercial Design Guidelines.

The development's PAD zoning predates the Late Hour Business Compatibility Policy's adoption; therefore, there are no restrictions on late hour businesses.

The development's phasing plan includes completing all remaining off-site improvements and perimeter landscaping in the first phase. The application requests the development of the office and retail/restaurant buildings to occur as market conditions demand. The phasing plan depicts three areas of the property in which any area may develop first with the associated on-site improvements.

The request was noticed in accordance with the requirement of the Chandler Zoning Code with a neighborhood meeting held on April 29, 2009. There were approximately 20 area residents in attendance. Staff has received no correspondence in opposition to the request.

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

1. Development shall be in substantial conformance with the development booklet entitled "The Offices at Springfield Marketplace", kept on file in the City of Chandler Planning Services Division, in File No. PDP08-0041, except as modified by condition herein.
2. Compliance with the original stipulations adopted by the City Council as Ordinance No. 2879, case PL98-0045 Springfield Lakes, except as modified by condition herein.

3. Sign panels on the monument signs shall have a decorative panel with tile or stone until a tenant name is located on the sign.
 4. Raceway signage shall be prohibited within the development.
 5. The commercial development standards shall be in accordance with the requirements of the Southeast Chandler Area Plan.
 6. Landscaping shall be in compliance with current Commercial Design Standards.
 7. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
 8. The site shall be maintained in a clean and orderly manner.
 9. The parking space canopies shall incorporate building materials, forms and colors to match the development.
 10. All buildings with this project shall be designed to be consistent in the level of quality, detail, building materials, paint colors, height, and the like as established in the development booklet. The developer shall work with Staff to review and approve the building elevations for those not provided in the development booklet prior to construction plan submittal.
 11. Shade trees within pedestrian gathering/seating areas shall be a minimum height of 12 feet at time of planting.
 12. All landscape planter islands shall meet the required length and width in accordance with Zoning Code.
 13. Wall-mounted business name signs on wall planes directly or partially facing residential properties along the development's south and east sides shall be non-illuminated.
 14. Adjust the north elevation of Office Condo 1 and east elevation of Office Condo 2 providing a tilted wall element.
 15. The developer shall work with Staff to enhance the landscape focal point feature off of Gilbert Road.
 16. The development shall work with Staff to relocate covered parking thereby providing more customer parking closer to the medical office buildings.
15. WITHDREW PRELIMINARY DEVELOPMENT PLAN: Opus at Chandler Airport Center

WITHDREW, for the purpose of re-advertising, Preliminary Development Plan PDP09-0005 Opus At Chandler Airport Center, to allow a surface parking lot in conjunction with an existing office development located west of the NWC of Cooper Road and Northrop Boulevard at Chandler Airport Center. This case has been continued twice since February and development matters are still in process and yet to be finalized. The applicant and Staff request a withdrawal for the purpose of re-advertising allowing multiple property owners to finalize development plans.

16. CONTINUED ZONING: Maplewood Court

CONTINUED TO AUGUST 13, 2009, Zoning DVR09-0006 Maplewood Court, action on the existing PAD zoning to extend the conditional schedule for development, remove, or determine compliance with the three-year schedule for development or to cause the property to revert to the former AG-1 zoning. The existing PAD zoning designation is for a 15-acre, 32-lot single-family residential neighborhood site located at the SWC of Maplewood and Vine streets, south and east of the SEC of Alma School and Willis roads. The applicant requests the continuance to allow time to post the site with the required public hearing sign and to be heard by the Planning Commission at the July 15, 2009 hearing.

17. AGREEMENT: Waste Management of Arizona

APPROVED an Agreement with Waste Management of Arizona for City facilities refuse collection for a two-year period, with provisions to extend three (3) additional years, in an amount not to exceed \$225,550.00.

The City has an ongoing requirement for the collection of refuse generated at City facilities. This requirement is currently fulfilled through a contract with Allied Waste Services. The current contract, which will expire July 31, 2009, contained an option for two annual extensions. In an effort to secure lower pricing, Staff elected to re-bid the contract. However, the lowest bid represents a 2.3% increase over the current contract costs.

18. AGREEMENT AMENDMENT: Otto Logistics LLC

APPROVED Agreement Amendment No. 3 with Otto Logistics LLC for transportation of sludge in an amount not to exceed \$1,160,000.00. This will be last two-year extension for this agreement. The contract rates will be adjusted annually to reflect changes in the consumer price index (CPI) and quarterly to reflect changes in the cost of fuel. The requested amount is for two years of service and includes estimated increases for CPI and fuel. It also includes a 1.75% rate reduction to the base rate offered by the contractor.

19. AGREEMENT EXTENSION: United Fire Equipment Company

APPROVED a one-year Agreement Extension with United Fire Equipment Company for fire uniforms in an amount not to exceed \$159,000.00. This is the first of four additional one-year extensions with no price increase.

20. AGREEMENT AMENDMENT: HD Supply Waterworks

APPROVED Agreement Amendment No. 1 for a one-year extension with HD Supply Waterworks for water meter box lids in an amount not to exceed \$218,532.00. This is the first of four additional one-year extensions.

21. AGREEMENT EXTENSION: HD Supply Waterworks, LTD

APPROVED a one-year Agreement Extension with HD Supply Waterworks, LTD for water meter installation, repair and consulting in a total amount not to exceed \$650,000.00. This is the first of four additional one-year extensions.

22. AGREEMENT: CPC Construction, Inc.

APPROVED an Agreement with CPC Construction, Inc., for concrete repair and maintenance for one year, with options to renew for up to four (4) addition one-year periods, in an amount not to exceed \$1,086,725.00. This Agreement reflects a \$400,000.00 savings from the previous Agreement.

23. AGREEMENT: Highway Technologies, Inc. and Action Barricade Co. LLC

APPROVED an Agreement with Highway Technologies, Inc., and Action Barricade Co., LLC, for barricade rental and purchase for two years, with options to renew for up to three addition one-year periods, in an amount not to exceed \$80,000.00 per year for a total amount of \$160,000.00. By using this Agreement, the City reduces the need to keep a large inventory of new materials

and spare parts as well as saving on labor on the set-up, takedown and repair of the various traffic control devices. The contract is paid-as-used and is bid by the unit.

24. AGREEMENT: Desert Glen Commercial Landscaping Group, Inc.

APPROVED an Agreement with Desert Glen Commercial Landscaping Group, Inc. for Landscape Maintenance – Area 4 Price Frontage Road and other City facilities in an amount not to exceed \$130,000.00 per year for a two-year period for a total of \$260,000.00, with options to renew for up to three additional one-year terms. The contract amount will be paid using HURF funds.

On February 13, 2009, Staff issued a bid for landscaping maintenance services for the Price Frontage Road and other City facilities – Area 4. On May 28, 2009, Council awarded the agreement to Mariposa Landscape Arizona, Inc. Upon mutual agreement between Mariposa Landscape Arizona, Inc. and City Staff, that agreement was terminated effective June 17, 2009. Issues related to existing landscape conditions and compensation could not be reconciled. Staff is recommending the award to Desert Glen Commercial Landscaping Group, Inc., who was deemed to have submitted the second lowest responsive and responsible bid.

25. AGREEMENT: J. Banicki Construction

APPROVED Agreement #ST0913-401 with J. Banicki Construction for construction of Pecos Road/Norman Way traffic signal in an amount not to exceed \$131,249.00.

26. PAYMENT: Valley Metro Rail, Inc.

AUTHORIZED Payment of the FY 2009/10 annual membership fee for Valley Metro Rail, Inc., (METRO) in the amount of \$50,000.00.

In 2002, the cities of Phoenix, Glendale, Mesa and Tempe executed a Joint Powers Agreement to establish Valley Metro Rail (Metro) as an Arizona non-profit corporation for the purpose of planning, designing, constructing and operating a light rail transit system. Chandler joined the Valley Metro Rail Board on May 1, 2007. The 20-mile initial operating segment of the light rail system is currently under construction and scheduled to begin revenue operations in December 2008. Additional high capacity transit corridors and light rail extensions are identified and funded in the Maricopa Association of Governments Regional Transportation Plan approved by Maricopa County voters in 2004 (Proposition 400). The funded light rail extensions are located in the cities of Phoenix, Tempe and Glendale.

Regional, high-capacity transportation systems such as light rail require years of advance planning and coordination with participating communities, as well as regional, state and federal agencies. In 2003, the City of Chandler completed a High Capacity Transit Major Investment Study, which designated the Rural Road, Chandler Boulevard and Arizona Avenue/Union Pacific Railroad Chandler Branch Line corridors for future development of high capacity transit systems. By joining Valley Metro Rail, the City will have the opportunity to participate in the planning and design of the regional light rail system and future light rail extensions that could serve Chandler.

27. CONTRACT: Construction 70, Inc.

APPROVED Contract #AI0703-401 with Construction 70, Inc. for construction of the Airport Perimeter Access Road in an amount of \$317,027.05.

Service and maintenance vehicles at the Chandler Municipal Airport frequently cross taxiways and runways in order to travel from the northwest side of the airport to the southeast side. The Federal Aviation Administration (FAA) has recommended that the City construct a perimeter access road around the northern end of the runways. This would allow ground vehicles to avoid potential conflicts with aircraft operations and would improve overall safety. The FAA has provided grant funding for the project.

28. CONTRACT AMENDMENT: Gilbertson Associates

APPROVED Contract #AI0703-201, Amendment No. 1, with Gilbertson Associates for Airport Perimeter Access Road in the amount of \$38,800.00 for a revised contract total of \$88,130.00.

Service and maintenance vehicles at the Chandler Municipal Airport frequently cross taxiways and runways in order to travel from the northwest side of the airport to the southeast side. The Federal Aviation Administration (FAA) has recommended that the City construct a perimeter access road around the northern end of the runways. This would allow ground vehicles to avoid potential conflicts with aircraft operations and would improve overall safety. The FAA has provided grant funding for the project.

This amendment to the design contract will allow the design engineer to provide construction administration on the project. It will also ensure that improvements are constructed to FAA standards and safety procedures are enforced while working within the airport fence. Also included is assistance with construction submittals to the FAA in order to receive the grant reimbursement.

29. CONTRACT AMENDMENT: Tri-Core Engineering, Inc.

APPROVED Contract #WA0401-453, Amendment No. 1, with Tri-Core Engineering, Inc. for construction management services for Water Main Replacements Phase III in an amount not to exceed \$21,556.00.

Some of the existing water mains in the older sections of the City are undersized and/or deteriorating. The result has been a high number of repairs to broken water mains, interrupted water service, numerous citizen complaints and property damage. City Staff has prioritized the areas for replacement based on the number of repairs made and complaints received. Adjacent to the project area, Staff identified additional sewer line in need of repair. This amendment is for design services to address the deteriorating sewer line.

30. CONTRACT CHANGE ORDER: MGC Contractors, Inc.

APPROVED Contract #WA0804-401, Change Order No. 1, with MGC Contractors, Inc. for the Airport Water Production Facility modifications in an amount not to exceed \$159,979.00 for a revised contract amount of \$1,454,679.00.

This Change Order is to compensate the contractor for additional work and costs associated with the water production facility modifications. The majority of this additional work is related to the rehabilitation of the reservoir, which was not foreseen during design. The project also includes the relocation of the flow meter and valves from the booster facility into the well facility.

31. CONTRACT AMENDMENT: Morrison-Maierle, Inc.

APPROVED Contract #WA0901-201, Amendment No. 1, with Morrison-Maierle, Inc. for the Joint Water Treatment Plant transmission line in an amount not to exceed \$6,985.00 for a revised contract total of \$61,825.00.

Upon accepting water from the San Tan Vista plant in early June, Staff identified some minor pipeline reconfigurations needed to properly transport water throughout the system. This contract provides for the additional design of approximately 30-feet of pipeline near the corner of Cooper and Germann roads. Morrison-Maierle, Inc. is currently under contract to design a pipeline from Cooper and Germann to the City's Airport Water Production facility located at Airport Boulevard and Ryan Road.

32. PURCHASE: Vehicle and Equipment Parts and Service

APPROVED the Purchase of vehicle and equipment parts and service, utilizing the State of Arizona, City of Tempe and other cooperative contracts, in an amount not to exceed \$420,000.00.

33. PURCHASE: Plumbing and Irrigation Supplies

APPROVED the Purchase of plumbing and irrigation supplies from Brown's Partsmaster, Inc., Ryan Herco Flow Solutions and HD Supply Waterworks in a total amount not to exceed \$60,000.00.

VICE MAYOR CACCAMO abstained from voting on Item 33 (plumbing and irrigation supplies) declaring a possible conflict of interest.

34. PURCHASE: Electrical Supplies

APPROVED the Purchase of electrical supplies from Summit Electric Supply, Crescent Electric Supply Company, Electric Supply, Inc., and Brown Wholesale Electric in a total amount not to exceed \$260,000.00.

35. PURCHASE: Cisco Network Equipment

APPROVED the Purchase of Cisco network equipment from NEC, utilizing the City of Tempe contract, in an amount not to exceed \$120,760.60. The City of Chandler Information Technology Department will design, install and activate the system to provide City of Chandler intranet, Internet and data service for the Fire Administration Building.

36. PURCHASE: Corporate Express

APPROVED the Purchase of furniture for the Compadre Branch of the Boys and Girls Club from Corporate Express, utilizing the Maricopa Community Colleges' contract, in an amount not to exceed \$120,982.72.

As a part of the Community Services capital budget, \$8,500,000 was allocated for the design, construction and furnishing of a new Chandler Boys and Girls Club facility. On February 2, 2009, construction began on this new facility. The construction is currently 54% complete with final completion scheduled for November of this year. This new facility will include a gymnasium, meeting rooms, multi-purpose rooms, and computer lab and office space. The building will also be the first Boys and Girls Club LEED-certified building in the State of Arizona. This contract is for the purchase of new furniture identified and requested by the Boys and Girls Club staff.

Officials of the Boys and Girls Club have either raised funds or acquired in-kind donations of another \$100,016 in computer hardware, sound and software equipment necessary to complete the operational furnishing of the facility.

37. PURCHASE: Sprint Communications, Inc.

APPROVED the Purchase of Data Air Time for Police MDSs (Mobile Data Computers) from Sprint Communications, Inc., utilizing the State of Arizona and Western States Contracting Alliance (WSCA) contract, in an amount not to exceed \$93,130.00.

The Sprint data link network is used by the Chandler Police Department to provide wireless data services to the MDCs used in police vehicles. Data airtime is required for fiscal year 2009/10 for continued operation of the police mobile data computers. MDCs use airtime to communicate with the Computer Aided Dispatch (CAD) and Field Reporting systems. These systems are used to send and receive 911 dispatch information, police reports, automatic vehicle location (AVL), tactical field mapping and text messaging on a secure, encrypted network.

38. PURCHASE: SunGard Public Sector, Inc.

APPROVED the Purchase of maintenance and support for Police Works field report-writing software from SunGard Public Sector, Inc., sole source, in an amount not to exceed \$136,302.41.

The Police Works field report writing software is currently installed on Police Department patrol vehicle Mobile Data Computers (MDC) and LAN computers, which total 397 licenses. In addition, SunGard Public Sector, Inc. also provides database administrator (DBA) assistance for the database that stores the data from police reports. Department personnel who write reports for accidents, field interviews and all offense incident reports use Police Works field report writing software. This purchase will ensure the on-going maintenance, services and support. This service also includes upgrades to the Police Works field report writing software, services on the server and DBA services for the MS-SQL Server database that is currently used to store the data.

39. USE PERMIT: Sharnet's Child Care LLC

APPROVED Use Permit UP09-0011 Sharnet's Child Care LLC. to allow residential childcare for up to 10 children in a single-family home at 4904 W. Buffalo Street, south of the SEC of Chandler Boulevard and Rural Road. (Applicant: Sharnet Parker, Owner/Operator.)

The site is located within the Twelve Oaks single-family residential neighborhood. North, adjacent to the site, is a Walgreen's-anchored commercial shopping center. Surrounding the site on the east, south and west are single-family homes.

The request is to allow for the care of up to ten children in a single-family home. The Zoning Code requires that any residential childcare home providing care for five to ten children is required to obtain a Use Permit from City Council. The applicant has operated a residential childcare home at this location for the past three years without the need for a Use Permit and has operated as a childcare provider for the past 13 years. The applicant is currently in the process of getting licensed by the State for the increased number of children.

The residential home is single-story and approximately 1,800 square feet on a 9,000 square foot lot. The hours of operation are Monday thru Friday from 7:30 a.m. to 5:30 p.m. and will not be open Saturday or Sunday. Parking for the drop-off and pick-up of children will be provided on the

driveway as well as in front of the home. The layout of the lot is angular providing for approximately 90 feet of street frontage, which can accommodate approximately four cars. In addition to the applicant, the applicant's husband and a neighbor will assist in caring for the children. The neighbor will not drive to the site.

There was some concern expressed at the Commission study session relating to parking areas due to the fact that the applicant was using the driveway as permanent parking rather than their garage. However, the applicant has stated that the vehicles that were parked in the driveway will now be moved into the garage due to State requirements mandating that the driveway be used for drop-off and pick-up during business hours. Additionally, the applicant indicates that a number of the children receiving care are siblings, which will require fewer vehicle trips.

There was also some discussion regarding the number of children being requested. The applicant has indicated that the request for ten children is not meant to allow for the continuous care of ten children, but rather if there are overlaps with pick-up and drop-off, and the occasional neighbor's child coming over, that the allowance for ten children would prevent the applicant from getting cited by the State if there were overlaps.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held June 4, 2009. There were no neighbors in attendance. Staff has received one telephone call from a neighbor outside of the notification area in opposition due to concerns with the number of children being requested.

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

1. The residential childcare home shall have no more than ten (10) children at any time.
2. Should the applicant sell the property, this Use Permit to operate a childcare home shall be null and void.
3. This 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 reapplication and approval by the City of Chandler.

40. USE PERMIT: Sandbar Mexican Grill

APPROVED Use Permit UP09-0025 Sandbar Mexican Grill, Series 12, for on-premise consumption only indoors and on an outdoor patio at a new restaurant at 7200 W. Ray Road. (Applicant: Amy Nations, AZLIC.)

The subject property is located on the north side of Ray Road and east of 54th street in the Lowe's Home Improvement-anchored commercial center. The property is the former Bahama Breeze restaurant. Sandbar Mexican Grill is renovating the property for a new restaurant. The outdoor area is located along the building's south side facing Ray Road and includes its own bar, shade cabanas and seating within a paved outdoor patio covered with sand and a water feature.

The restaurant will be open 7 days a week from 10 to 2 a.m. The restaurant includes live entertainment via a disc jockey 2-3 times a week and will have 20 speakers for amplified music. There are 4 speakers on the outdoor patio. The remaining speakers are in the interior. The restaurant also has dancing on weekends. There are approximately 10 to 20 televisions both indoors and outdoors. Sandbar's weekend events include food and drink specials as well as dancing.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on July 6, 2009. There were no neighbors in attendance. Staff has received no correspondence in opposition to this request. The Police Department has been informed of the application and has responded with no issues or concerns.

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 12 license only, and any change of licenses shall require re-application and new Use Permit approval.
3. The Use Permit is non-transferable to other restaurant locations.
4. The site shall be maintained in a clean and orderly manner.
5. The patio shall be maintained in a clean and orderly manner.

41. LIQUOR LICENSE: Sandbar Mexican Grill

APPROVED a Series 12 Restaurant Liquor License (Chandler #125366 L12) for Randy D. Nations, Agent, South Sand LLC, dba Sandbar Mexican Grill, 7200 W. Ray Road. A recommendation for approval of State Liquor License #12078047 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.

42. USE PERMIT: Buono's Pizza

APPROVED Use Permit UP09-0026 Buono's Pizza, Series 12, for on-premise consumption only within an existing restaurant at 2820 S. Alma School Road, Suites 6-8. (Applicant: Dave Goode, Owner.)

The subject site is located north of the NWC of Alma School and Queen Creek roads, within the Ocotillo Plaza shopping center. The restaurant is located at the endcap of inline shops. The site is surrounded by commercial businesses on the north and west, with a parking lot directly south. East, across Alma School Road, is the Las Tiendas shopping center.

The restaurant is approximately 2,100 square feet and provides seating for approximately 64 patrons. There is no live entertainment, outdoor patio, or bar area. It will be open Monday through Thursday from 11 a.m. to 8:30 p.m., Friday and Saturday 11 a.m. to 9:30 p.m. and Sunday 12 p.m. to 8 p.m.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on July 9, 2009. There were no neighbors in attendance. Staff has received no correspondence in opposition to the request.

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

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

COUNCILMEMBER ORLANDO abstained from voting on this item declaring a conflict of interest as his son is employed there.

43. LIQUOR LICENSE: Buono's Pizza

APPROVED a Series 12 Restaurant Liquor License (Chandler #122919 L12) for David L. Goode, Agent, SAGS LLC, dba Buono's Pizza, 2820 S. Alma School Road, Suites 6-8. A recommendation for approval of State Liquor License #12078049 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.

COUNCILMEMBER ORLANDO abstained from voting on this item declaring a conflict of interest as his son is employed there.

44. USE PERMIT : Nate's Third Base Restaurant

APPROVED Use Permit UP09-0018 Nate's Third Base Restaurant, Series 12, to allow liquor sales and service as permitted for on-premise consumption indoors and within an outdoor patio at a new restaurant at 1949 W. Ray Road, Suite 11, within the Boardwalk at Andersen Springs. (Applicant: Nate Myres.)

The subject property is located at the SEC of Ray and Dobson roads within the Boardwalk at Andersen Springs Shopping Center. This center is zoned Planned Area Development (PAD) and is surrounded by a man-made lake and condominiums to the south and east, a shopping center to the north across Ray Road, and single-family homes to the west across Dobson Road.

Since 1997, the Groovy Mundo and Boardwalk Grill restaurants have occupied the restaurant tenant space. The original Use Permit for a Series 12 Restaurant License was issued to Waterfront Grill, LLC. The original restaurant owner, with the name changed to Groovy Mundo Grill, was issued a Series 6 Bar License with a 1-year time limit in September of 2000. The Series 6 License was issued with the understanding that the applicant acquire a Series 6 license for its catering business and for the operation of a full service restaurant and bar. The Use Permit excluded uses such as cocktail lounges and nightclubs. In October 2001, the restaurant was sold to the second owner who chose to emphasize the restaurant's menu and food service. The new owner, keeping the restaurant's name Groovy Mundo Grill, applied for and received a Series 12 Restaurant License without expiration.

Ownership changed hands again in the years to follow with the third owner changing the restaurant's name back to the Waterfront Grill and offering a smaller bar menu, choosing later operating hours and bringing in live entertainment. These changes altered the character of the business and the restaurant was no longer able to operate under the Series 12 license. Under a new (fourth) owner, the site received Use Permit approval for a Series 6 Bar License Use Permit for one year in May 2006. The last liquor Use Permit was approved in 2007 as a Series 6 Bar License for Waterfront Grill with a one-year time limit, which has since expired.

This current application requests approval of a Series 12 Restaurant License for a family-style American cuisine restaurant. The restaurant intends to be open Monday through Friday from 10 a.m. to 2 a.m. and Saturday/Sunday 8 a.m. to 2 a.m.

The request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on June 15, 2009. There were no neighbors in attendance. Staff has received no correspondence in opposition to the request. The Police Department has been informed of the application and has responded with no issues or concerns.

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 12 license only and any change of licenses shall require re-application and new Use Permit approval.
3. The Use Permit is non-transferable to other restaurant locations.
4. The site shall be maintained in a clean and orderly manner.
5. The patio shall be maintained in a clean and orderly manner.
6. There shall be no live entertainment outdoors including acoustic groups, bands and the like.
7. Indoor music is limited to an acoustic group and karaoke no more than once a week for each. Any change in entertainment including pool tables, arcade games, live music and the like shall require re-application and new Use Permit approval.
8. Noise shall be controlled so as to not cause a nuisance for nearby residences.

45. LIQUOR LICENSE: Nate's Third Base Restaurant

APPROVED a Series 12 Restaurant Liquor License (Chandler #125138 L12) for Nathaniel Jay Myres, Agent, Straight, No Chaser LLC, dba Nate's Third Base Restaurant, 1949 W. Ray Road, Suites 11-13. A recommendation for approval of State Liquor License #12078030 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.

46. USE PERMIT: Kiley's Grill

APPROVED Use Permit UP09-0032 Kiley's Grill, Series 12, for on-premise consumption only within an existing restaurant at 2394 N. Alma School Road. (Applicant: Andrea Lewkowitz, Lewkowitz Law Office PLC.)

The subject site is located approximately ½ mile north of the NWC of Alma School and Warner roads and occupies the vacated Garcia's Restaurant. Due to a zoning condition specific to the Garcia's Restaurant, a new Use Permit is necessary to serve alcohol to restaurant patrons.

The site is part of a larger commercial shopping center and is surrounded by commercial businesses to the west and south. North, across Mesquite Street, is a realty office. East, across Alma School Road, is the Mastercraft East single-family subdivision.

The request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on July 9, 2009. There were no neighbors 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. The Use Permit is granted for a Series 12 license only and any change of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to other store locations.
4. The site shall be maintained in a clean and orderly manner.

47. LIQUOR LICENSE: Kiley's Grill

APPROVED a Series 12 Restaurant Liquor License (Chandler #125462 L12) for Ronald Steven Lubarsky, Agent, Chem-Tech CA Corp, dba Kiley's Grill, 2394 N. Alma School Road. A recommendation for approval of State Liquor License #12078058 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.

48. LIQUOR LICENSE: Circle K Store #9187

APPROVED a Series 10 Beer and Wine Store Liquor License (Chandler #124885 L10) for Kim Kenneth Kwiatkowski, Agent, Circle K Stores, Inc., dba Circle K Store #1987, 295 S. Arizona Avenue. A recommendation for approval of State Liquor License #10075814 will be forwarded to the State Liquor Department. As this application reflects a change in ownership, Planning and Development advises a new Use Permit is not required since this will be a continuation of the location's previous use as Mobil On The Run. The Police Department reports no objections to the issuance of this license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code.

49. LIQUOR LICENSE: Circle K Store #9161

APPROVED a Series 10 Beer and Wine Store Liquor License (Chandler #124891 L10) for Kim Kenneth Kwiatkowski, Agent, Circle K Stores, Inc., dba Circle K Store #9161, 4040 W. Chandler Boulevard. A recommendation for approval of State Liquor License #10075788 will be forwarded to the State Liquor Department. As this application reflects a change in ownership, Planning and Development advises a new Use Permit is not required since this will be a continuation of the location's previous use as Mobil Oil. 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.

50. LIQUOR LICENSE: Circle K Store #9162

APPROVED a Series 10 Beer and Wine Store Liquor License (Chandler #124881 L10) for Kim Kenneth Kwiatkowski, Agent, Circle K Stores, Inc., dba Circle K Store #9162, 1995 W. Chandler Boulevard. A recommendation for approval of State Liquor License #10075789 will be forwarded to the State Liquor Department. As this application reflects a change in ownership, Planning and

Development advises a new Use Permit is not required since this will be a continuation of the location's previous use as Mobil Mart. 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.

51. LIQUOR LICENSE: Circle K Store #9182

APPROVED a Series 10 Beer and Wine Store Liquor License (Chandler #124890 L10) for Kim Kenneth Kwiatkowski, Agent, Circle K Stores, Inc., dba Circle K Store #9182, 3989 W. Ray Road. A recommendation for approval of State Liquor License #10075789 will be forwarded to the State Liquor Department. As this application reflects a change in ownership, Planning and Development advises a new Use Permit is not required since this will be a continuation of the location's previous use as Mobil On The Run #15018. The Police Department reports no objections to the issuance of this license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code.

52. LIQUOR LICENSE: Circle K Store #9183

APPROVED a Series 10 Beer and Wine Store Liquor License (Chandler #124887 L10) for Kim Kenneth Kwiatkowski, Agent, Circle K Stores, Inc., dba Circle K Store #9183, 3033 W. Queen Creek Road. A recommendation for approval of State Liquor License #10075826 will be forwarded to the State Liquor Department. As this application reflects a change in ownership, Planning and Development advises a new Use Permit is not required since this will be a continuation of the location's previous use as Mobil On The Run #18184. 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.

53. LIQUOR LICENSE: Circle K Store #9160

APPROVED a Series 10 Beer and Wine Store Liquor License (Chandler #124884 L10) for Kim Kenneth Kwiatkowski, Agent, Circle K Stores, Inc., dba Circle K Store #9160, 1015 N. Rural Road. A recommendation for approval of State Liquor License #10075786 will be forwarded to the State Liquor Department. As this application reflects a change in ownership, Planning and Development advises a new Use Permit is not required since this will be a continuation of the location's previous use as Mobil On The Run #10608. 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.

54. LIQUOR LICENSE: Circle K Store #9163

APPROVED a Series 10 Beer and Wine Store Liquor License (Chandler #124884 L10) for Kim Kenneth Kwiatkowski, Agent, Circle K Stores, Inc., dba Circle K Store #9163, 2020 W. Warner Road. A recommendation for approval of State Liquor License #10075801 will be forwarded to the State Liquor Department. As this application reflects a change in ownership, Planning and Development advises a new Use Permit is not required since this will be a continuation of the location's previous use as Mobil #10663. 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.

55. PRELIMINARY PLAT: Chandler Christian Church

APPROVED Preliminary Plat PPT09-0003 Chandler Christian Church for an expansion of the Chandler Christian Church campus on approximately 25 acres at 1825 S. Alma School Road. (Applicant: Site Consultants, Inc.) The plat creates the lots and tracts, construction phasing lines, establishes the necessary easements and dedicates the required rights-of-way.

ACTION:

5. REZONING: Sante Chandler

Ord. #4174

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4174, DVR09-0011 Sante Chandler, rezoning from AG-1 to PAD Multi-Use for Assisted Living, Nursing and General/Medical Office uses on approximately 9.7 acres at the SEC of 94th and Fairview streets with PDP on approximately 5 acres for the construction of a transitional rehabilitation center. (Applicant: Mike Perry, Whitneybell Perry, Inc.)

MR. KEVIN MAYO, Acting Planning Manager, provided an overview of the request. Mr. Mayo said a neighborhood meeting was held on April 7th and 8 people attended the meeting including one neighboring property owner and seven people representing the health care community.

Those representing the healthcare community expressed opposition citing the project would add too many beds to the area and that the site is zoned for agricultural uses and not commercial. A follow-up neighborhood meeting was held on May 14, 2009, with the healthcare community representatives. This meeting was held to address the over-saturation concerns raised at the first meeting. The applicant had conducted a market study and presented those results at this meeting. Staff has received numerous phone calls from neighboring residents in Via De Cielo as well as nearby healthcare facilities. Opposition has been conveyed mostly on a "competition" basis. Staff has affirmed that the proposed use is consistent with the underlying Area Plan.

Mr. Mayo said this week, Council began receiving e-mails and letters in opposition to this request. He said the two focused concerns seem to be: 1) a perceived anticipated discriminatory business practice by this applicant; and 2) this request is not in conformance to the General Plan and the applicable Area Plans.

Mr. Mayo explained the voters ratified the most recent General Plan in November last year. The site is identified to be in one of the three types of growth areas. One of the growth area nodes identifies healthcare related uses as being appropriate. The glossary does define healthcare related uses and he considers this request consistent with the General Plan.

The subject site also falls within the Santan Freeway Corridor Area Plan and falls into an area designated Special Use Commercial. He said there is also a Santan Area (Gateway) Plan and identifies the subject site as Multi-Use intended for medically related office, assisted living and nursing uses. The request is consistent with the two applicable Area Plans.

Mr. Mayo reiterated that a legal protest is in affect. Upon finding consistency with the General Plan and the Santan Area Plan, the Planning Commission and Staff recommend approval subject to the conditions listed in the ordinance.

MR. JASON MORRIS, Withey Morris, 2525 E. Biltmore Circle, on behalf of the applicant. Mr. Morris said he was retained this morning on this case. He noted there is unanimous Planning Commission recommendation and a staff recommendation for approval. He stated the protest is far from a land use issue. Mr. Morris said he would like to have the opportunity to listen to the speakers in order to be able to determine if the case would need continuance or if questions can be addressed tonight.

COUNCILMEMBER ORLANDO referred to the competitive nature and asked if this was any different than allowing multiple grocery stores in the same area as long as the zoning permits. A reason for denial based on a competitive nature would not be a basis to deny. CITY ATTORNEY WADE stated that was not normally a land use issue as what the protestor is suggesting.

CAROLYN OBERHOLTZER, from Rose Law Group. Ms. Oberholtzer spoke in opposition to this case. She referred to a letter from D.R. Horton, an adjacent condominium developer, expressing opposition to the case, based on the special use commercial designation of this property in the Santan Freeway Area Plan. She commented that she understood there are layers of plans that apply to this property. She said the Plan designates this property for mixed use destination oriented high quality commercial development, may include a combination of retail service, entertainment, and office development; intended to connect to the paseo trail system. She said the Plan also states that mixed use is preferred over single use. She referred to another portion that indicated that several of the special use commercial areas located in the Hospital Gateway Area Plan *may* be well suited for medium and high density residential, including to adult care living subject to quality, site suitability, demand, need, compatibility and infrastructure. Ms. Oberholtzer said it was the position of her client that this is not an assisted care living facility, although it is a rehabilitation facility, it is transitory in nature. She said this single story, low intensity use is not what is contemplated for this site in the Plan.

In response to a request from COUNCILMEMBER WENINGER, MR. MAYO said Ms. Oberholtzer was referring to the Santan Freeway Corridor approved in October 1999 after the adoption of the Gateway Area Plan in June 1999. Mr. Mayo explained that when working through the regulatory land use documents, you begin with the General Plan. The next is the area plan and basically covers the 1-mile north and south of the 202 freeway. It has various areas designated as various land uses. He noted the "special use commercial" does not just apply to areas around the hospital. There is some near Germann, east of the Canal and near Chandler Boulevard. In that language for special use commercial, it identifies there is another area plan for this site. It also identifies that that special use commercial could be considered for medium and high density residential. A form of medium and high density residential is adult assisted care. Mr. Mayo said this is a hybrid between a nursing home and medical office for a transitional rehab facility. He said while it *could* be considered for those medium and high density residential even on a senior living nature, that is a separate item in itself from what this request is. The Plan does not specify that it should be that; it is for consideration. He said the Gateway Area Plan further breaks down the special use commercial language to allow for multi-use that may include assisted living, nursing, office and medical office of which a hybrid version is being presented in this case.

COUNCILMEMBER SELLERS referred to the correspondence from the Rose Law Group that refers to the Santan Area Plan and states that the unique provision *requires* there to be a need in order for the Council to approve this use at this location. Mr. Mayo said that reference refers to the medium and high density residential component, including adult assisted living, that you would have to submit a demand study showing there is a demand for that type of high density residential infused within that special use commercial designation as high density residential is not commercial. The market study requirement refers to the residential aspect.

COUNCILMEMBER HEUMANN asked about the reference to the paseo. Mr. Mayo said the plan identifies the paseo as in eastern Chandler along Germann, there are also special use commercial areas and is not applicable to the case in question. Councilmember Heumann said he found it ironic the protest includes multi use when not only is the D. R. Horton parcel calls for multi-use and multi-use fits many things. Councilmember Huemann also said most concerns are about high intensity uses and this is not.

DORIS CHAMBERS said she was representing herself as a citizen and an employee. She expressed her opposition to a transitional rehab as she felt it was a discriminatory type basis as they only want Medicare patients and only want to take care of them for the first 20 days. She felt that was unfair to other facilities that provide care for people to wait to get a Medicare patient. She felt the facility should take care of all people needing care after a hospital stay.

COUNCILMEMBER ORLANDO asked the applicant to explain the use of the facility and what type of care is being given. Before the applicant spoke, MR. MORRIS gave an example of his mother having a stroke and having a choice of recovering in a long term care facility where there were long term residents living there or going to a transitional facility that specialize in just the rehabilitation of her particular disorder. He explained that is what the facility serves.

GLEN Disussa (sp), 4440 N. Civic Center Plaza, Scottsdale as a minority owner in the Sante Development Group. He gave his background as being a licensed nursing care institution administrator since 1989. He owns and operates a skilled nursing facility in Mesa and in Sun City area. He described the facility as a transitional rehabilitation and care facility. The focus of care is towards a patient who needs transitional services in between a hospital stay and a return to home. He said traditionally long-term care facilities are generally aimed at patients that are "custodial" or residential and will reside at the facility for a long-term basis. He explained the transitional rehab patient is a patient that is interested in recovering and returning to an independent level of functioning. He said it is because the evolution of the health care industry and the focus of patients to return to independent living, that is what has created a need for a facility like this, which doesn't exist in Chandler at this time. He said there are 5 skilled nursing facilities in Chandler and the average age of those facilities is 23 years old. He said that concepts like this (TRC) were not known or understood. He acknowledged that the vast majority of their patients probably would be Medicare patients, but Medicare is the program that provides coverage to the patients with these particular care needs. Segregating them from non-Medicare patients is no more discriminatory that in the hospital environment when segregating an ICU patient from a medical/surgical patient. The focus is on a particular program of care and that is the focus of this type of facility.

COUNCILMEMBER ORLANDO asked how long he has been around the new concept in facilities. Mr. Disusso replied that his background is from the traditional skilled nursing and nursing home industry, but as far as the transitional rehab concept, he has been involved in that with the last 4 years. Mr. Orlando said this product was then not around in 1999 when these plans came into existence. Mr. Disusso said the transitional rehab patient was formerly batched together with the long-term nursing home environment.

COUNCILMEMBER WENINGER asked if it was shared rooms. Mr. Disussa said that in this particular facility, these are all private rooms. This is not only due to patient demand, but function in preventing the spread of infection that can occur with cohabitating in semi private rooms.

Councilmember Orlando asked what happens when a patient needs care outside of the short term. Mr. Disussa said that usually the criteria of the admission of the patient is such that it can be determined if the patient will not need additional care. That the prognosis for recovery and return to independence is part of the criteria. If not, options could include returning to home supplemented by home health care, another could be placement in an assisted living facility, a group care home. It is very medical and patient specific. He stated that in absence of a facility like this, patients needing long term care will elect to go to a nursing home that provides custodial/residential services as well as some rehabilitative services or they may chose to go home with home health care.

MARY ANN STANFORD, Executive Director of Chandler Healthcare, voiced her opposition to the project. She stated one of her concerns was loss of job and employment. She said that 50% of their facility is short-term rehab and that has been provided for many years. There are two separate units. The short-term unit provides private and semi private rooms with the amenities. She said that care has been not only provided by her facility but with the four existing facilities. She clarified that what they mean by discriminate is that they don't refuse service if they aren't Medicare. Between the four facilities, they take every health plan.

COUNCILMEMBER ORLANDO asked if there was a waiting list for short-term care. Ms. Stanford said there are beds available and there are always beds available amongst the four of the facilities.

COUNCILMEMBER HEUMANN said according to the law firm there is about a 93% occupancy rate. He asked if patients were mixed if there were not enough rooms. Ms. Stanford said the long-term units stay full occupancy and they do not co-mingle their patients. She said the skilled unit side is short term and revolving.

MR. MORRIS said there was a single land use issue raised and complimented staff for dispatching that issue. He said while there is language within the general plan documents that discuss the mixtures of uses, that language is not particular to parcels; it is meant for larger areas. He noted that there has been concern expressed about competition. He said despite the fact that there are dwindling clients in any industry; it is not the Council's job to pick winners and losers, but to try to raise the service with good facilities and good service for all the residents in Chandler.

COUNCILMEMBER ORLANDO said the opposition has provided a market survey and asked if the applicant has reviewed that. MR. MORRIS said while he is very familiar with Mr. Pollack's work, but in this instance, there are three other reports available. Not only did the reports show a need and demand, but those were also accepted by the HUD agency that oversees this facility.

COUNCILMEMBER HEUMANN said he believed the land use has been addressed and he believes that competition is healthy. He offered a motion.

MOVED BY COUNCILMEMBER HEUMANN, SECONDED BY VICE MAYOR CACCAMO TO INTRODUCE AND TENTATIVELY APPROVE ORDINANCE NO. 4174, DVR09-0011 SANTE CHANDLER.

VICE MAYOR CACCAMO gave the opinion that competition would increase business to both and attract more patients to the area.

MOTION WAS APPROVED UNANIMOUSLY (7-0).

RECESS: The meeting was recessed at 8:25 p.m. and reconvened at 8:35 p.m.

56. DISCUSSION regarding Chandler Lieutenants and Sergeants Association (CLASA) compensation.

COUNCILMEMBER WENINGER said he wanted to provide a chance to air out the differences. He asked Mr. Benjamin if he wanted to speak.

MR. KEITH BENJAMIN, President of the CLASA, read a statement that was prepared by CLASA. In summary, Mr. Benjamin said he represents 63 supervisors, many with more than 20 years experience and 60 who possess Bachelor or Master degrees. He stated his confusion on the need to talk about the Memorandum of Understanding that expires in June 30, 2011. He stated the membership believed that upon signing the agreement last year, they would be left alone until then. He said each of the Council received a packet last week from CLASA explaining their position on the City Manager's decision to implement one-time payments rather than to honor the continued practice of merit increases.

He said the City would alternate a market study and cost of living adjustment (COLA) each year. While this continued for a few years, the process was discontinued and employees went several years without a pay adjustment. At the same time, employee benefits were made with hand shake agreements, thus sometimes causing the parties involved to forget what was agreed upon or simply the City not following through with what the agreements were. Employees had little or no say and there was no system in place to protect the employee's rights. With the persistent effort of fire and police personnel, the meet and confer ordinance was voted in.

Mr. Benjamin questioned if the City Manager's office was conducting cooperative, harmonious relations with CLASA by withholding benefits for sergeants, as there are benefits in the contract that cannot be achieved if the City Manager's office implements this merit freeze. He asked if good faith negotiations were being practiced if there was not intent to honor the agreement. He asked why these expenses were not budgeted after CLASA was requested to sign a 3-year agreement and questioned further why there were not given a one-year contract as with the other unions. Mr. Benjamin said they believe the City Manager's office never intended to honor the agreement. He said this disingenuous behavior that has led to so much distrust between the labor groups and the City Manager's office. Mr. Benjamin said that it is their belief that the Personnel Rules dictate that Chief Kiyler and not the City Manager's office must give a recommendation to grant merit increases based on performance. He felt this was an obvious punitive salary decrease for junior sergeants and lieutenants. He commented that the Council received a legal opinion and questioned the experience of the city's legal advisor regarding labor law. He stated their labor and legal attorney have a different opinion that believes the Mayor and Council have the right to intervene. CLASA believes the differing of legal opinions will only lead toward litigation, citing breach of contract and misinterpretation of personnel rules.

The payment of merit increases has been interpreted and applied for 15 years.

Mr. Benjamin stated he was before the Council two years ago, asking for a bypass of mediation as they were at impasse. CLASA was asked to follow and respect the process. Questioned why the Manager's doesn't.

He gave the argument that Mr. Pentz's employment contract is still valid and all provisions in his contract are in effect and asked why CLASA's contract is not getting the same respect.

Mr. Benjamin said CLASA is hoping to avoid the formal grievance process set forth in the meet and confer ordinance for breach of contract. He asked the City Council to ask the City Manager to recuse himself from rendering any type of final decision as they felt he is responsible for the breach of contract.

COUNCILMEMBER WENINGER said there have been differing opinions on whether the merit pay is in the contract. He asked about "top-out" pay. Mr. Benjamin said if Mr. Pentz were allowed to freeze the merit increase, he would not allow junior sergeants to reach the top of the range. In order to get supervisory incentive pay, you must be at the top of the range and you must show an added value. He said if this freeze is put into place, the junior sergeants will never get to top step to get this benefit which was a negotiated benefit in the contract. Councilmember Weninger equated this to "taking away the ladder" to attain it.

COUNCILMEMBER ORLANDO asked Mr. Benjamin when he found out that there weren't any ongoing dollars and there would be a lump sum merit pay. MR. BENJAMIN responded that he received a phone call that there was some verbiage pertaining to them on the agenda at the last Council meeting in late June. Councilmember Orlando asked what date the budget was adopted. MR. PENTZ said he believed it was June 25th. MR. BENJAMIN said the item at the meeting that night was for unrepresented employees, but there was information in a memo regarding CLASA and their contract. Mr. Benjamin said an official letter was received July 2 from Greg Fretz indicating there were some options available, but they were not notified before. COUNCILMEMBER ORLANDO said unfortunately this probably could have been addressed before the final adoption of the budget and added the information was a surprise to him.

COUNCILMEMBER ORLANDO asked about the pilot police structure and what it was trying to accomplish. POLICE CHIEF KIYLER said it was done to establish a pay structure that would ensure that we created and maintained a range between ranks. With the difference in negotiations, there were difficulties in inversions, having a differing amount in rank to rank. Councilmember Orlando said it was admirable as he could see the issues that could develop. Councilmember Orlando asked how many Lieutenants are below the maximum range currently. Police Chief Kiyler replied 5 and 1 Commander. She said there is one amount for Assistant Chief. Councilmember Orlando asked for clarification on the increases each would receive if an adjustment were made, as he was not clear on 5% increments. Ms. Kiyler said if the sergeants were to receive an increase in the market study, whatever the percentage the sergeants are increased, the total increase for the lieutenants would be the same percentage. Chief Kiyler said she believes that all parties were clear and in agreement at the time of the pilot pay structure that they would receive the same percentage increase as the sergeants did. She stated she would verify. MR. PENTZ added that they could provide examples to Council to help clarify.

MAYOR DUNN said he understood that the merit increase itself was not a term of the contract. That the argument is about an implied provision based on the fact that it was given in previous years. MR. BENJAMIN said without the merit increase, employees could not reach the top step. It was implied over the years, so they did not feel there was a reason to have that language in the contract. Because that provision for supervisory incentive pay protected the merit increase pay. MAYOR DUNN noted that merit increases are specifically provided as a term. Mr. Benjamin said he didn't believe it was until this year. MR. GREG FRETZ said there was no language in the previous police officer's agreement, but there was specific language in the Fire and SEIU agreements.

MAYOR DUNN said there is a commitment to perform a market adjustment. MR. FRETZ agreed and explained that in September there will be a survey of seven cities and the results will

determine what the increase or decrease would be retroactive to July. The contract language commits the City to keep them fourth looking at the maximum of the other cities. Mayor Dunn confirmed with Mr. Pentz that money would be made available for that.

MAYOR DUNN said it was his understanding offers have been made by the City and a potential meeting has been set. MR. PENTZ said an offer was made and it was rejected. The offer was again extended this week and CLASA has asked to return a reply next week. MAYOR DUNN said consistency is key in this issue. He understands there are issues on how this should be applied, but he asked both management and CLASA to try to resolve this to protect the meet and confer process and to avoid litigation.

MR. BENJAMIN clarified that there were not multiple offers; the offers were the same. MR. PENTZ said as with the other unions, there was an offer for ongoing merit with a provision of some form of reduction in pay or benefit. MR. BENJAMIN said the budget was passed in June and the letter was received in July. He questioned if Mr. Pentz expected CLASA to take the offer. They were not contacted in February as with the other unions and that led him to believe the budget was approved with their merit increases based on their contract. MR. PENTZ clarified that the offer was revenue neutral and the resolution with the other unions was expenditure neutral and that was the same offer extended to CLASA.

COUNCILMEMBER HEUMANN asked for clarification on the contract for CLEA. MR. FRETZ said that CLEA contract was the same as the CLASA contract but they City was in negotiations with CLEA, SEIU and Fire this year and CLEA had to offer something to maintain their regular merit increase. Councilmember Heumann asked if it had been in their contract. Mr. Fretz responded yes for several years. Councilmember Heumann said the timing is troubling. He expressed his hope that both parties can work it out and if not, then there is a process for that. He stated he is troubled by communication that went on.

COUNCILMEMBER WENINGER stated they have been told that it isn't Council's decision at this point. He asked if this was placed in the budget, if it would be Council's decision at that time. CITY ATTORNEY WADE said if it were placed under the personnel rules, then in that sense it would be Council's decision. Councilmember Weninger said his concern is the timing. He stated his frustration that unless he would have read CLASA's contract and the communication wasn't there, he wouldn't know to retain that power to be able to codify that in the budget.

MR. PENTZ said what occurred is they advised Council they were budgeting the one time payment for all City employees back in February. In lieu of an ongoing merit increase, which builds into the base salary and is an obligation in the future, that they were proposing and budgeting a one-time merit increase.

COUNCILMEMBER WENINGER said he was unsure how it would have been known, especially to the new Councilmembers, if that included someone who had signed a three-year contract.

MAYOR DUNN said the issue is obviously there is one-time money and ongoing is becoming a real problem. He commented that everyone has learned about the one time merit increase and the affect it has on on-going and that was worked on in trying to achieve the goals of the unions and the city's financial situation.

VICE MAYOR CACCAMO stated the communication breakdown has been discussed and he received the communication the same way that Councilmember Weninger did. He said when the

one-time merit was talked of, he thought that applied to the employee groups that were ending and about to be renegotiated. He stated the need to honor this contract.

COUNCILMEMBER ORLANDO said normally before the meet and confer process, the Council, based upon the recommendation they are given, gives direction to staff and back out of it. He said in this case, CLASA was not told in February that it would be a one-time funding and not given an opportunity like the other organizations were. He asked if the meet and confer policy was breached as they were not given the same opportunity until after the budget was approved.

CITY ATTORNEY WADE replied she did not believe this violated the meet and confer process. Both sides had the opportunity to put the specifics on wages in the contract when it was negotiated. It has been negotiated and put in other contracts, but she did not know why it was not in this one. She said she assumed during the budget process when the one-time merit money was placed in the budget it included all employees, as there were three unions under negotiations, there are the non-union employees and then CLASA.

COUNCILMEMBER ORLANDO said the frustration is that there were assumptions that the CLASA contract would be maintained and not touched as it was a three-year agreement.

MR. PENTZ said that was correct. CLASA could ask to open the agreement.

COUNCILMEMBER ORLANDO expressed his frustration with the assumptions made.

MR. PENTZ said that when the collective bargaining process was started, one of the purposes was to have written agreements and they are very detailed agreements. There is a provision in the CLASA contract to pursue resolution if they don't agree or they feel that that contract has been violated and Mr. Benjamin has been advised of that.

MAYOR DUNN said if both sides agree, the contract could be opened up to look at that provision. He noted there have been offers made. He agreed that attorneys would have differing opinions. The Mayor commented that the City Attorney has dealt with labor issues in her years with the County, City of Tempe and now Chandler. He stated that while things could have been handled differently, this year has been unique in so many ways and may have the same issues next year.

COUNCILMEMBER WENINGER asked the City Attorney if she had concern that a way to attain something was taken away from the contract. MS. WADE replied that section of the MOU does not guarantee that you will get "to the top of the ladder", it states "when" you do get "to the top of the ladder" you shall get the special merit pay. There is no guarantee that you will get to the "top of the ladder" within a certain amount of years. COUNCILMEMBER WENINGER again expressed his concerns about the top out pay being codified as part of the contract, but the ability to get there being taken away, along with the timing of this issue.

COUNCILMEMBER HEUMANN asked if the sergeants received a merit last year, even though it wasn't in the contract. MR. BENJAMIN replied they did. Councilmember Heumann said he looks at it as implied consent after being in place all these years. He expressed his concern that negotiations will be more difficult next year based on this.

MR. BENJAMIN stated CLASA would follow the process and inform the city of their decision.

MR. JAMES KAME, SEIU President, said he stated his concern on June 25th that CLASA should not be in this type of discussion right now and the City Manager should honor the contract and comply with the provisions of the contract.

57. DISCUSSION AND POSSIBLE ACTION regarding Personnel Rule 3.

COUNCILMEMBER WENINGER asked for a brief overview.

CITY MANAGER PENTZ explained that Personnel Rule 3, as referred to by CLASA's attorney in the material provided to Council, does provide organization wide and has been the basis for the awarding of merit increases. Although it may be referenced in the union contracts it is also in the City's personnel regulations.

COUNCILMEMBER WENINGER said he would look forward to hearing what happens next week.

BRIEFING: RETAIL ANCHOR CENTER STATUS UPDATE

MR. JAMES SMITH, Economic Development Specialist, said upon the request of Councilmember Orlando, a memo and spreadsheet detailing the vacant large retail space in the city are provided.

He stated cities around the country are experiencing trouble with these large retail spaces, especially with the economy and the bankruptcies seen with those spaces. Economic Development staff recognizes this challenge and is one of the items recognized in the marketing plan for this year. He noted that freestanding restaurant pads are also recognized as vacancies to be focused on this year.

He said when it comes to these mini anchors of 10,000-15,000 s.f. range, of particular concern is Alma School and Arizona Avenue corridors. As the loop 202 opened, many of the anchors and mini anchors moved to the 202 freeway and Arizona and Alma School corridors were significantly affected. Mr. Smith listed the many businesses that had closed.

Mr. Smith noted there was positive activity occurring, as there are a few proposals for adaptive reuse along Arizona Avenue and Alma School. There is an educational institution that is interested in the old Smitty's building at the SWC of Warner and Alma School. He noted the former Linens N' Things at Chandler Festival will open in September as a BuyBuy Baby. The Mill Crossing has Sears Appliance and JC Penney will open in October.

He explained they target retailers who know are interested in expanding to the Arizona market and subscribe to several databases that have announcements. With the help of some summer interns they have sent about 100 packets out in the last month. They have also promoted the infill development program and have attended tradeshow to promote that.

Mr. Smith reviewed the spreadsheet he provided.

COUNCILMEMBER ORLANDO thanked him for the comprehensive approach. He said he does recognize that retail is the number one approach in the recent economic plan. He noted the vacancy rate of 7.8% in Chandler where Maricopa County is at 10.4%. He asked what the

absorption rate was. Mr. Smith said there is not a way to break out the newer space vs. the older space absorption rate. He added that the region is performing poorly as it is the fourth worst region in the nation as of year to date, along with Atlanta, Los Angeles and San Francisco. There has been a negative absorption of 2.3 million s.f. YTD. In Chandler, that number is about 88,000 s.f. negative. Councilmember Orlando asked about the average age of the space available. Mr. Smith said that couldn't be broken out by the larger space. On average, our retail space has been on the market for 12.1 months. Our rents are about at the regions average at about \$18.78 per s.f. Mr. Smith said while searching for mini anchor space, if there is contiguous space that is included in the analysis as they could assemble that.

Councilmember Orlando asked about working with the Economic Development Council. Mr. Smith said they are working with them. He added that as part of the Council's goals and objectives, in order to target a family-type use, there has been an effort to target some of those big boxes and they could be good uses. Mr. Smith said they do not have a formal infill project yet, but they believe there could be something in the future.

MAYOR DUNN asked if an indoor go-kart facility has been explored. Mr. Smith said they have not specifically targeted them, but they will look into that. Mayor Dunn commented that one of the requests he has made of staff is to look at suggestions for temporary signage relief for small businesses during these economic times.

COUNCILMEMBER WENINGER concurred with the Mayor's comments. He referred to the center his own business was in – Las Tiendas – and commented that some of the smaller shops drive more cars through there than some of the big boxes. Some times it is the smaller business driving business to the larger one.

COUNCILMEMBER HEUMANN commented how the larger tenants are the ones with the street signage and the smaller tenants don't. He encouraged working with developers on that. He added how the retail structure of this country is changing and the importance of looking at the reuse plans and viability of the retail uses in the areas.

COUNCILMEMBER ORLANDO added the importance of looking at that for future planning and how that relates to budgeting (sales tax).

ECONOMIC DEVELOPMENT DIRECTOR CHRIS MACKAY complimented the many landowners that are subsidizing their tenants to keep them. She commended Mr. Smith on his efforts with the Infill project. She said that he is close to securing the first family oriented recreational entertainment and a lease has been signed.

COUNCILMEMBER SELLERS extended his personal congratulations for her efforts on securing the passage of Senate Bill 1403 (solar energy bill) and the follow-up work being done. Ms. MacKay thanked all of those involved with it's passage as she felt it would be the most attractive program of it's kind in the country.

SPECIAL ORDERS OF THE DAY

A. Mayor's Announcements:

The former Motorola site has been purchased by Capital Commercial Investments. Mayor Dunn said the individuals involved are committed to the City's vision of the site to what it could be in terms of bringing a planned science and technology park into this area.

The City has received the Most Playful City award from KaBOOM for the third consecutive year.

The Center for the Arts is promoting an "Adopt a Seat" fundraising program. The Mayor issued a challenge to Council as he has purchased two seats.

B. Councilmembers' Announcements:

Councilmember Orlando referred to a memo from the City Manager's office about the great various money saving and cost avoidance activities employees are doing and requested to know how much was saved and how those projects are doing. Additionally, he recognized Detective Best for his suggestions through the Police Department.

C. City Manager's Announcements:

None.

Adjournment: The meeting was adjourned at approximately 9:50 p.m.

ATTEST: _____
City Clerk

Mayor

Approved: August 13, 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 30th day of July 2009. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this _____ day of August 2009.

City Clerk