

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, June 28, 2007, at 7:00 p.m.

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

The following members answered roll call:

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

Also in attendance:

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

INVOCATION: The invocation was given by Susan Stevens-Clarke, Chandler Bahai Faith

PLEDGE OF ALLEGIANCE: Vice-Mayor Huggins led the Pledge of Allegiance.

SCHEDULED PUBLIC APPEARANCES:

1. Service Recognition

Lt. Richard Speer was unable to attend the meeting.

2. Presentation – Employee of the Year Awards

MAYOR DUNN introduced the following 2007 City Employees of the Year:

- Curt Masterson, Maintenance Supervisor, Community Services
- Randy Meyer, Street Maintenance Supervisor, Public Works
- Tom Dwiggin, Fire Captain, Fire Department
- William Robinson, Supply Supervisor, Management Services
- Seth Tyler, Police Officer, Police Department
- Ramon Granillo, Water Plant Operator II, Municipal Services
- Jennifer Honea, Information Specialist, General Government
- Mike Simmons, Plans Examiner, Planning and Development

3. Proclamation – Recreation and Parks Month / Therapeutic Recreation Week

MAYOR DUNN was joined by Parks Maintenance Supervisor Mike Quihuis, Aquatics Coordinator Angela Lorenzo-Clavell and Therapeutic Recreation Coordinator Collette Jones as he read a

proclamation proclaiming July 2007 as Recreation and Parks Month and July 8-14, 2007, as Therapeutic Recreation Week.

4. Domestic Violence Commission Vision and Focus Statement – Tammy Clow-Kennedy

MAYOR DUNN introduced the Domestic Violence Commission Chair Tammy Clow-Kennedy who presented the Commission's vision as a culture where domestic violence is neither tolerated nor accepted in Chandler. The Commission's focus is to support empowerment of individuals who are victims of domestic violence. Ms. Clow-Kennedy related domestic violence statistics throughout the United States. In the City of Chandler, there were 1,837 reports of domestic violence filed with the Police Department. Forty-six percent involved a weapon and 32% had a child present. In 2006, Chandler courts recorded 1,075 orders of protection. During the last fiscal year, there were 736 hot-line calls for shelter assistance in the City of Chandler.

COUNCILMEMBER CACCAMO asked if there are any statistics available on unreported cases of domestic violence. Police Chief Kiyler said they are not prepared with numbers specific to Chandler, but there are national statistics that can be provided to Council. COUNCILMEMBER CACCAMO asked if there are any statistics on how many domestic violence cases against males are reports and are they less likely to report it. Chief Kiyler said that about 85% of all domestic violence cases involve a female as the victim. It is also a national statistic that it is more under-reported by men than women.

MAYOR DUNN asked if there is coordination between the courts and police department when orders of protection are filed. Victims Services Coordinator Tesha Hensley-Brown stated that the program provides advocacy support to survivors of domestic violence by providing assistance to assure they live a life free of violence.

COUNCILMEMBER DONOVAN thanked the Commission for their work.

UNSCHEDULED PUBLIC APPEARANCES:

None.

CONSENT:

MAYOR DUNN noted that Item #19 (Chandler Midway Corporate Center) has been withdrawn and Item #33 (Desert Viking development agreement) has been moved to Action.

COUNCILMEMBER CACCAMO stated he would not be voting on Item #23 (Unsafe Building Funds to Salvation Army).

MOVED BY CACCAMO, SECONDED BY VICE-MAYOR HUGGINS, to approve the Consent Agenda as amended with Item #19 withdrawn and Item #33 moved to Action. Motion carried unanimously (7-0).

1. MINUTES:

APPROVED, as presented, minutes of the Council Special and Regular meetings of June 14, 2007.

2. RIGHT-OF-WAY VACATION: Flint / Evergreen / Holy Trinity Church Ord. #3915

ADOPTED Ordinance No. 3915 vacating a portion of public right-of-way abutting the northerly limits of West Flint Street east of North Evergreen Street to Holy Trinity Church.

3. USE AGREEMENT AMENDMENT: Verizon Ord. #3917

ADOPTED Ordinance No. 3917 amending a Wireless Telecommunications Use Agreement with Verizon Wireless LLC, dba Verizon Wireless, for wireless telecommunications facilities at Snedigar Sportsplex.

4. POWER DISTRIBUTION EASEMENT: SRP Ord. #3920

ADOPTED Ordinance No. 3920 granting a no-cost power distribution easement to Salt River Project (SRP) for electrical power service to City facilities, Alamosa Well site, near the SWC of Ocotillo and Gilbert roads.

5. AGREEMENT: AboveNet Communications Ord. #3936

ADOPTED Ordinance No. 3936 authorizing an agreement between AboveNet Communications, Inc. and the City of Chandler for the use of City right-of-way and public places to establish a communication system.

6. No Item.

7. PROPERTY TAX RATE Ord. #3931

ADOPTED Ordinance No. 3931 establishing a tax rate of \$1.20 for fiscal year 2007-08.

State law requires that the tax levy necessary for funding the adopted budget be established by ordinance and be adopted fourteen (14) days following the public hearing and final adoption of the Budget but before the third Monday in August (8/20/07). As this tax levy ordinance is an administrative method of setting apart funds necessary for use and maintenance, it does not require an extraordinary (3/4) vote to make it effective immediately. This determination is based on a Supreme Court decision and is fully explained in the Municipal Budget and Financial Manual provided by the Arizona League of Cities and Towns.

Ordinance No. 3931 follows the prescribed form recommended for adoption and establishes a tax levy of an estimated \$34,872,434.00 set forth in the 2007-08 budget. In this ordinance, the City council directs Maricopa County to levy the amount allowed by law. The total tax rate will be \$1.20 per \$100.00 of assess valuation. Property value estimates have been received from the county Assessor's office and are available for public inspection in the office of the City Clerk and Management Services.

8. AERIAL EASEMENT: SRP Ord. #3934

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 3934 authorizing the assignment to Salt River Project (SRP) of a certain aerial easement acquired by the City of Chandler for the Pecos Road (Dobson Road to McQueen Road) improvement project.

In connection with the City road project for the widening and improvement of Pecos Road from Dobson Road to McQueen Road, the City acquired roadway and easements needed for the project which also included acquisition of an aerial easement ultimately intended for SRP. The easements that were conveyed to the City, took additional time to process all the parcels and are now ready to be assigned to SRP. It is needed to assure clear space to accommodate SRP's 69 kV transmission lines that were relocated as a consequence of the project.

9. POWER DISTRIBUTION EASEMENT: APS Ord. #3939

ADOPTED Ordinance No. 3939 granting a no-cost power distribution easement to Arizona Public Service Company (APS) and a consent to easement for the purpose of providing electrical service needed for the development of Sites 1,2,3 and 7, and declaring an emergency.

Development of Site 7 and Sites 1,2,3 required upgraded power facilities to provide facilities to provide sufficient power for future commercial/residential structures, as well as redundant power to Chandler Center for the Arts. To install this new infrastructure, power distribution easements are necessary on Site 7 and Sites 1,2,3. This action will authorize granting one of the easements across a portion of property owned by the City in Site 7. It will also grant a consent to Qwest, Inc. to grant a power distribution easement to APS across a portion of property in which the City has an interest.

An emergency is being declared to meet development timeframes and fulfill the public purpose dictated by the San Marcos Commons (Phase I) Development Agreement to which the City is a party.

Although there is no cost to granting this easement and the consent to easement currently, it is possible that there could be a deferred cost if it becomes necessary to relocate the facilities at a later date. Whether or not this ever occurs depends on future redevelopment plans for Site 7, in that our existing Development Agreement with Benton-Robb calls for property to be conveyed free of any encumbrances. Benton-Robb has been informed of these proposed actions and is supportive of Staff's recommendations.

10. REZONING: Pollack Dobson Plaza Ord. #3940

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 3940, DVR06-0048 Pollack Dobson Plaza, amendment of existing PAD zoning to allow a car rental use on approximately 8.5 acres at the NWC of Dobson and Elliot roads. (Applicant: Advantage Rent A Car, Gerry Karcher; Owner: Pollack Investments.)

The site contains typical retail uses and a Batteries Plus in the corner pad that received rezoning approval in 1996. A car rental use is not allowed in C-2 districts and thus requires rezoning.

West of the retail center is a mini-storage facility. North and farther west is a single-family neighborhood. The intersection's southwest and southeast corners are occupied by retail uses. The intersection's northeast corner is zoned C-2 and contains a former fuel station surrounded by a 9-acre vacant parcel.

Advantage Rent a Car currently inhabits a suite within a pad on the northern end of the center. The business conducts employee training in the suite, a use allowed under current zoning. No vehicle repair or sales will be conducted as part of the business. The rental use will involve no more than 10 vehicles parked on-site at any given time.

The center provides sufficient parking, even after the car rental use and previously approved Batteries Plus use are incorporated into the calculations. The center requires 205 spaces and provides 249 spaces.

This request was noticed in accordance with the requirement of the Chandler Zoning Code with a neighborhood meeting being held on April 25, 2007. There were no citizens in attendance. Staff has received 3 phone calls and a note in opposition due to traffic.

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

11. INITIAL CITY ZONING: SWC Appleby Road / Consolidated Canal Ord. #3941

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 3941, DVR07-0021 Southwest Corner of Appleby Road and the Consolidated Canal, authorizing the establishment of initial City zoning of AG-1 on approximately 35.5 acres at the SWC of Appleby Road and the Consolidated Canal. (Applicant: City of Chandler; Owner: PBI Arizona Mint, LP).

This request, initiated by Staff, serves to simply establish the site with a zoning designation of AG-1 (Agricultural District), which is most comparable to the site's previous County zoning designation of Rural-43. The approval of this zoning action insures that any future development on the site shall occur in conformance with City standards.

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

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

12. CONTINUED INITIAL CITY ZONING: NWC Lindsay / Chandler Heights Rds Ord. #3938

CONTINUED TO JULY 26, 2007, Ordinance No. 3938, DVR07-0026 Northwest Corner of Lindsay and Chandler Heights Roads, authorizing the establishment of initial city zoning of AG-1 on approximately 5.37 acres at the NWC of Lindsay and Chandler Heights roads. (Applicant: City of Chandler; Owner: Lindsay Heights, LLC.)

13. UTILITY EASEMENT: Hamilton / Armstrong Way Res. #4039

ADOPTED Resolution No. 4039 determining that acquisition of a City utility services easement from real property at the NEC of the intersection of the Hamilton Road and Armstrong Way extensions is a matter of public necessity; approving an agreement to fund acquisition of the easement; and authorized condemnation proceedings to acquire the easement and to obtain immediate possession of the easement area.

ViaWest Properties, LLC is in escrow to purchase property at and near the southwest corner of Willis Road and Hamilton Road to develop for light-industrial use. A condition of development is that public sewer service be extended to the site and other properties in the vicinity. Public Works Staff has determined that a portion of the line needs to run through a utility easement located on private land at the northeast corner of the intersection of Hamilton Road and Armstrong Way. The larger parcel is part of a dairy farm. The easement consists of 1,359 sq. ft.

at the SWC of the larger parcel. The easement will be for the purpose of all of the city-provided public utility services, including water, sewer and reclaimed water. The size of the easement is sufficient to allow for the utility lines and access to the lines.

ViaWest has been unable to obtain the easement by purchase from the owner of the underlying land. The easement is necessary because utility services need to be extended to the property being acquired by ViaWest. The easement location is reasonable since it is within an area that will most likely be dedicated for roadway when and if the dairy farm property is eventually developed for another use. Also, its location does not appear to have any significant, adverse impact on the dairy farm operation. To meet its development obligations, ViaWest is willing to fund the cost of the City acquiring the easement.

This resolution authorizes the City to proceed with acquisition of the easement through condemnation. However, before condemnation is initiated, legal staff will tender to the landowner a written purchase offer accompanied by an appraisal. If accepted, the matter will be placed in escrow and condemnation will not be necessary, except if immediate possession of the site is needed prior to the close of escrow.

This resolution also approves a written agreement with ViaWest for funding the cost of the acquisition. Execution of the agreement is the first step in the City acquiring the easement. Even though ViaWest is providing the funding, the City will be the easement holder and the utility lines will be maintained as public improvements of the City.

All costs are the responsibility of ViaWest. The fair value of the easement will not be known until an appraisal is completed.

14. INTERGOVERNMENTAL AGREEMENT AMENDMENT: Maricopa County Res. #4072

ADOPTED Resolution No. 4072 authorizing an amendment to an intergovernmental agreement with Maricopa County for improvements to Queen Creek Road from Arizona Avenue to McQueen Road, with an estimated County contribution of \$2,347,186.00 and City share of \$3,571,712.00 for a total of \$5,918,898.00.

The City of Chandler and Maricopa County have a joint project to improve Queen Creek Road from Arizona Avenue to McQueen Road. The project will improve this one-mile segment of Queen Creek Road to a six-lane roadway, with raised landscaped median, curb, gutter, sidewalk and new street lighting and traffic signals.

In July 2000, Council approved Resolution No. 3292 entering into an Intergovernmental Agreement (IGA) with Maricopa County for this project. The IGA gave the Maricopa County Department of Transportation (MCDOT) the lead for design and right-of-way acquisitions. The design was completed earlier this year and the project is ready to move to construction. This amendment to the original IGA gives the City the lead for the construction and construction management phases of the project, with financial contribution from the County.

The County financial participation described in this agreement is limited to road improvements to Queen Creek Road from Arizona Avenue to McQueen Road. However, for construction purposes, this is only one part of a multi-faceted City project on Queen Creek Road between Price Road and McQueen Road. Other improvements to be constructed that are outside the scope of this agreement include:

- ❑ Widening Queen Creek Road from Price Road to Arizona Avenue from four lanes to six lanes by reducing the median from 40 feet to 16 feet.
- ❑ Installing a new water line and sewer line from Arizona Avenue to McQueen Road
- ❑ Adding a reclaimed water line in the median from Price Road to Arizona Avenue

The project is in final design and a contractor has been selected. A Guaranteed Maximum Price (GMP) is currently being negotiated and construction is expected to start this fall and be completed in the fall of 2008.

The Transportation Commission reviewed this agreement on May 27, 2007 and unanimously recommends approval.

The total cost for the construction phase of the project covered by this amendment is estimated at \$5,918,898.00. For the majority of construction line items, the cost split is 50-50 between the two agencies; however, the City will pay 100% for items such as upgraded landscaping, fiber optics, communications conduit and lighted street name signs. Final cost splits will be based upon actual costs at the completion of the project, but the County contribution is estimated at \$2,347,186.00 and the City share is \$3,571,712.00.

15. GRANT AGREEMENT AMENDMENT: ADOT Res. #4087

ADOPTED Resolution No. 4087 authorizing the City to enter into a grant agreement amendment with the Arizona Department of Transportation (ADOT), Aeronautics Division, to extend the grant expiration date to June 30, 2008, for grant number E5S64.

The City received ADOT grant number E5S64 in 2005. The grant provided funding for the airport master plan update. While the study is essentially complete, the consultant, in conjunction with FAA and ADOT, is working to finalize several administrative aspects of the plan. Completion of this project is now anticipated by fall 2007. However, the associated grant is scheduled to expire June 30, 2007. ADOT has agreed to an amendment to extend the expiration date to June 30, 2008. This will allow adequate time to complete the remaining administrative work for which the grant was awarded.

There are no new financial responsibilities associated with accepting the amendment to this grant. The local matching share was identified at the time the grant was accepted.

The Airport Commission met on June 13, 2007, and voted unanimously to recommend approval of the extension.

16. GRANT AGREEMENT AMENDMENT: ADOT Res. #4088

ADOPTED Resolution No. 4088 authorizing the City to enter into a grant agreement amendment with the Arizona Department of Transportation (ADOT), Aeronautics Division, to extend the grant expiration date to June 30, 2008, for grant number E5S63.

The City received ADOT grant number E5S63 in 2005. The grant is for acquiring easement rights for the Runway Protection Zone (RPZ) at the west end of the north runway. To insure the appropriate parcels were acquired, the acquisition was delayed until completion of the Airport Master Plan update. This study assessed the requirements for this runway so Staff can continue the acquisition process. Completion of this RPZ acquisition is now anticipated by June 30, 2008. However, the associated grant is scheduled to expire June 30, 2007. ADOT has agreed to an

amendment extending the expiration date to June 30, 2008. This will allow adequate time to complete the remaining acquisition work for which the grant was awarded.

There are no new financial responsibilities associated with accepting the amendment to this grant. The local matching share to this grant was identified at the time the grant was accepted.

The Airport Commission met on June 13, 2007 and voted unanimously to recommend approval of the extension.

17. FIRE DEPARTMENT GRANT: Ak-Chin Indian Community Res. #4089

ADOPTED Resolution No. 4089 supporting a Fire Department grant request through the Ak-Chin Indian Community 12% Grant Program. This program is the vehicle that Ak-Chin has established to distribute 12% of its total annual contribution under Proposition 202 to nearby cities, towns and counties. The Fire Department's first grant application will request funding for a temporary Public Education Assistant (PES) to be hired for a two-year time period. The PES will increase the safety of citizens and firefighters by strengthening day-to-day program management and increase the number of lifesaving fire prevention and safety education programs provided to the community. Grant awards are made on a semi-annual basis; the first grant application has been submitted for review during July 2007.

18. On Action.

19. WITHDREW PRELIMINARY DEVELOPMENT PLAN: Chandler Midway Corporate Center

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

20. CONTINUED PRELIMINARY DEVELOPMENT PLAN: Advantage Business Park

CONTINUED to AUGUST 9, 2007, Preliminary Development Plan, PDP07-0006 Advantage Business Park for an office and retail development on an approximate 13-acre site at the SEC of Alma School and Pecos roads to allow the applicant time to address the Planning Commission's concerns with the building architecture creating more of a statement at the intersection.

21. CONTINUED ZONING AMENDMENT: Stevens Off Road

CONTINUED to AUGUST 9, 2007, Zoning DVR06-0045 Stevens Off Road amendment of existing I-1/PAD zoning to allow certain auto service and customization, including sand rails, located at 3210 N. Delaware Street to allow the applicant to conduct further outreach with neighboring businesses. (Applicant: Stevens Off Road, Inc.; Owner SGH IV LLC.)

22. DISBURSEMENT: Chandler Lions Club

APPROVED Disbursement of FY 2007/08 ongoing funds in the amount of \$35,000.00 to the Chandler Lions Club for the 4th of July celebration, upon commencement of FY 2007-08.

The Chandler Lions Club, in partnership with the City of Chandler, has been organizing and implementing the 4th of July Celebration over the past five years. Initially, the event was held

downtown and it is estimated that over 40,000 attendees came to this event. Since moving the event to Tumbleweed Park, over 100,000 attendees now enjoy this spectacular event.

The Lions Club saw a significant increase in expenses associated with organizing the 4th of July Celebration at Tumbleweed Park. Additional fencing, security, restrooms, parking attendants, trash and dust control are all elements that increased the events total cost since moving from the downtown area. Although various nonprofit groups like the Boy Scouts, the Jaycees and Hamilton High School Marching Band assist with vending sales and grounds setup, expenses are still incurred for their service.

The goal of the Lions Club is to keep this event free for the citizens of Chandler. The funds collected to organize and implement a large event such as this are collected from a number of various organizations. The City contribution to this effort will once again allow the Chandler Lions Club to put on an amazing 4th of July Celebration for the community. To mirror the Chandler Lions Club efforts in organizing such a large-scale event for the community, it would cost the City over \$80,000.00 without sponsorship.

As part of the FY 2007-08 budget amendment process, Council awarded ongoing funding in the amount of \$35,000.00 for the Chandler Lions Club 4th of July Celebration. FY 2007-08 funding totaling \$35,000.00 for the Chandler Lions Club will be from the General Fund, Administration Cost Center, other expenses account. The Department is seeking approval for disbursing FY 2007-08 funds as soon as FY 2007-08 begins as the Lions Club requests monetary support by July 3, 2007.

23. AWARD FUNDS: Salvation Army

AWARDED \$80,000.00 in FY 2006-07 funds from the Unsafe Building Program to the Salvation Army for demolition of vacant, substandard properties in and around 85 E. Saragosa Street and instruct Staff to execute all necessary documents.

The local Salvation Army branch located on E. Saragosa Street is in the process of expansion. In order to expand this important social service facility, the agency has acquired several properties adjacent to their existing facility. These properties contain at least 12 vacant, substandard units of housing in several buildings. As the units are vacant, the Salvation Army fears that they will become a nuisance (gang and transient use) until they begin construction of their facility (currently in the planning stage).

The agency serves hundreds of Chandler residents annually with youth programs, emergency financial assistance and food programs. The expansion of the facility would, in turn, expand human services delivery, particularly in and around downtown. Community Development Staff will monitor the use of these funds in accordance with standard contract provisions. The funds are currently in place and can accomplish two tasks; the removal of blighted structures (original intended use of funds) and aid in the expansion of a social service facility.

COUNCILMEMBER CACCAMO abstained from voting on this item.

24. SETTLEMENT: Menkin

APPROVED Settlement in the matter of City of Chandler v. Menkin, et al., condemnation action for the sum of \$159,000.00.

The City of Chandler filed this action to obtain right-of-way, a drainage easement and utility easement necessary to complete a roadway improvement project at Gilbert and Pecos roads. The appraiser retained by the City of Chandler valued the property interests to be condemned at approximately \$128,000.00, while the appraiser for the Menkins valued the property interests to be condemned at approximately \$223,000.00. The parties believe that a value of \$159,000.00 represents a reasonable compromise as to the value of the property condemned.

25. PUBLIC DEFENDER AGREEMENT: Alicia Morrison

APPROVED a Public Defender Agreement with Alicia Morrison for FY 2007-08. Defendants in criminal cases have the right to be represented by an attorney. In some instances, the attorney is court appointed. The court utilizes the services of court appointed attorneys to represent indigent defendants. The contract provides indigent defendants with access to a law office with demonstrated experience and expertise in the field of criminal defense with an office in the East Valley.

26. AGREEMENT: Environmental Remediation

APPROVED an Agreement with Spray Systems of Arizona, Inc. and Environmental Resolutions, Inc. for environmental remediation for properties acquired at the City Hall site in an amount of \$85,000.00 each for a total amount not to exceed \$170,000.00.

On May 25, 2006, Council approved the site selection study for the new City Hall. This study determined the departments to be located at the complex, their working relationships, space requirements and parking needs, and recommended a site near Arizona Avenue and Chicago Street. Prior to demolition of the structures in the identified area, the City will have to perform environmental remediation to clear the buildings of hazardous materials.

To make space for the City Hall Project, properties have been acquired and others are still in the acquisition phase. Under this Project Agreement, individual work orders will be issued for the remediation at each property as it becomes available. Approximately 12 properties will be cleared for the new City Hall.

27. AGREEMENT: Phoenix Demolition Company and Salvage, Inc. and Complete Decon

APPROVED an Agreement with Phoenix Demolition Company and Salvage, Inc. for demolition and site clearing at the City Hall site in a combined amount not to exceed \$85,000.00 and Complete Decon, Inc. in an amount not to exceed \$130,000.00 for a total of \$215,000.00.

On May 25, 2006, Council approved the site selection study for the new City Hall. This study determined the departments to be located at the complex, their working relationships, space requirements and parking needs, and recommended a site near Arizona Avenue and Chicago Street.

To make space for the City Hall Project, properties have been acquired and others are still in the acquisition phase. Under this Project Agreement, individual work orders will be issued for the remediation at each property as it becomes available. Approximately 12 properties will be cleared for the new City Hall.

28. AGREEMENT: Shannon S. Martin Company

APPROVED an Agreement with the Shannon S. Martin Company for restroom cleaning at 15 City parks for one year, utilizing the City of Glendale contract, in an amount not to exceed \$76,744.80. This will be the fourth and final extension of this agreement.

29. AGREEMENT: Valley Rain Construction Corporation

APPROVED Agreement #PR0706-401 with Valley Rain Construction Corporation for construction services for the Canal Park Canal Crossing in an amount not to exceed \$92,085.00.

On April 12, 2007, Council approved a project agreement to Valley Rain Construction Corporation for the pre-construction phase for development of Canal Park. On June 7, 2007, a public meeting was held to discuss the design elements of the park. Overwhelming support for a pedestrian crossing was expressed by citizens of the neighborhood confirming the concept proposed by the project team. The schedule for construction and the design of the pedestrian crossing have been coordinated with SRP representatives. This project will be constructed prior to the Canal Park construction in coordination with SRP's canal lining project and dry-up schedule. The Canal Park site is 9.34 acres and is located east of and separated from Pinelake Park by the Consolidated Canal in the square mile bordered by Ocotillo, McQueen, Chandler Heights roads and Arizona Avenue. In addition to the recently completed Pinelake Park, this park will serve the neighborhood park needs for the square mile.

30. AGREEMENT: Ernst & Young

APPROVED an Agreement with Ernst & Young to provide extended financial analysis in support of San Marcos Commons Phase II Development Agreement in an amount not to exceed \$16,000.00.

In April 2007, the City retained Ernst & Young to conduct an analysis of the cost of construction, appropriate lease rates and purchase prices related to the San Marcos Commons (Phase II) Development Agreement currently being negotiated. The cost of this analysis was \$29,929.00. This original analysis provided the negotiating team with a strong understanding of future revenue flows, taxes generated and developer cash flows. At this time, however, Staff finds it necessary to have additional financial analysis performed on the value of developer incentives being contemplated for this redevelopment project. Since the additional cost of \$16,000.00 places the overall contract amount over \$30,000.00, Staff is submitting the contract for approval.

31. AGREEMENT: Greater Phoenix Economic Council (GPEC)

APPROVED an Agreement with the Greater Phoenix Economic Council (GPEC) for FY 2007-08 in an amount not to exceed \$91,764.00.

The City of Chandler and other communities in Maricopa County contract with GPEC on an annual basis to provide regional economic development services. The City of Chandler and other major cities have contracted with GPEC since 1989 to conduct marketing and business lead generation activities for the Greater Phoenix market.

City Economic Development Staff participates with GPEC on regional economic development activities, including formulating GPEC's Action Plan for FY 2007-08. Staff participates on the Economic Development Director's Team (EDDT), made up of the lead economic development professional from each member organization (17 communities, Arizona State University, Maricopa Community College District, Arizona Public Service and Salt River Project).

The EDDT Team works with GPEC to market and attract new quality employers to the market and to develop and implement competitiveness strategies for the region. With input from the EDDT Team, GPEC's performance measures have evolved over the past several years to focus less on quantity and more on quality indicators, such as targeting companies that create higher average salary jobs and higher capital investment.

As part of the City's contract with GPEC, Chandler receives two GPEC Board of Director's appointments (Mayor Dunn and John Kelly). Additionally, Patrice Krause, Intergovernmental Affairs Coordinator, is currently Chairman of the GPEC Policy Development Team.

The annual contract amount for GPEC is determined by 2006 Maricopa Association of Governments (MAG) population estimate multiplied by a fixed amount per capita. Chandler's proportionate share, based on the MAG 2006 population estimate, is \$91,764.00.

GPEC and the City of Chandler have partnered on two corporate locate projects this fiscal year (Covance Laboratories, Countrywide Financial Data Center), as well as nine more since 2002. This has generated the following:

- ❑ 6,930 new jobs in Chandler from GPEC-assisted locates
- ❑ \$3.4 billion in capital investment
- ❑ \$324.7 million in new payrolls
- ❑ Absorption of 3,168,300 sq. ft. in new and existing industrial, office and distribution space
- ❑ 5,690 additional jobs region-wide for Chandler residents
- ❑ \$271 of direct revenue for every \$1 invested
- ❑ \$300 of total revenue for every \$1 invested
- ❑ \$177.9 million in new consumer spending generated by new Chandler jobs and employed Chandler residents – an addition of \$106.5 million created by multiplier effects – results in total consumer spending of \$284.4 million
- ❑ \$107.3 million in new Chandler direct revenues (boosted to \$118.7 million when including related multiplier effects of \$11.4 million)

The proposed FY 07-08 contract has identifiable and measurable performance targets for GPEC, with monthly and quarterly reporting mechanisms built in.

Staff recommends continued support of GPEC's regional economic development efforts.

32. AGREEMENT: Downtown Chandler Community Partnership

APPROVED an Agreement with the Downtown Chandler Community Partnership for the Enhanced Municipal Services for FY 2007-08 in the amount of \$117,200.00.

At the City Council meetings of April 16 and May 24, 2007, the Mayor and Council took all actions necessary to renew the Downtown Chandler Enhanced Municipal Services District. Currently, Staff is requesting approval of an Enhanced Municipal Services Agreement with the Downtown Chandler Community Partnership (DCCP). Through this action, the DCCP is designated as the entity that will manage and operate programs in the District. In addition to this designation, the Agreement also describes the organizational structure of the District Advisory Committee (DAC), comprised of a variety of District ratepayers. The District Advisory Committee develops the annual District budget and work plan and monitors the performance and provision of District

services with DCCP Board approval. The DCCP Board approved the content of this agreement at their meeting on May 17, 2007.

The Agreement also describes a clear work program to be performed in the District for the period beginning July 1, 2007, and ending June 30, 2008. The Agreement pledges the City's commitment to paying a voluntary contribution to the District during the aforementioned fiscal year and identifies how payments will be made from the City to the DCCP, both for City funds and for funds obtained through the assessment of private property owners through the Maricopa County Assessor's Office. The Agreement defines the service levels of the City and delineates the insurance coverages the City has specified to be carried by the DCCP.

Assessments for privately owned property in the District total \$142,001.00. Staff has forwarded these amounts to Maricopa County for inclusion in the fall property tax bills. The City's voluntary contribution of \$117,200.00 has been approved in the Downtown Redevelopment budget request for 2007-08. The total amount of the District budget for FY 2007-08 is \$259,201.00.

33. On Action.

34. AGREEMENT: Invensys Systems, Inc.

APPROVED an Agreement with Invensys Systems, Inc. a for five-year service maintenance for water and wastewater instrumentation/control systems, sole source, in an amount not to exceed \$811,762.00, plus annual adjustments.

The Foxboro Co., (now Invensys Systems) installed the Chandler Water Treatment Plant instrumentation/control system and has maintained it since the initial plant startup in 1989. In 1992 and 1997, the City Council approved two service maintenance agreements with Foxboro for five years each. In 1999, Council approved Addendum #1 adding the Airport Water Reclamation Facility equipment to the agreement.

This agreement provides 24-hour coverage, remote support service, parts exchange program, on-site corrective service and software support. Invensys Systems, Inc. is the sole manufacturer and distributor of the software and equipment.

35. AGREEMENT: SDB, Inc.

APPROVED Agreement #SW0704-401 with SDB, Inc. for landfill remediation in an amount not to exceed \$62,594.00.

This project will provide remediation at the City of Chandler landfill in accordance with the study provided by the landfill closure engineer, SCS Engineers. The remediation work is for compliance with the ADEQ post-closure plan and will enhance the drainage features to minimize damage from future rain events.

36. AGREEMENT: G & G Construction

APPROVED Agreement #C08-001 with G & G Construction for concrete curbs, sidewalks and handicap ramps in an amount not to exceed \$1,239,470.00.

The annual concrete repair contract began about 8 years ago to supplement City Staff and provide the necessary crew and equipment resources needed to successfully complete these

concrete projects. The work covered in this project agreement includes scheduled pavement rehabilitation work areas that require the City to upgrade sidewalks and curb ramps to comply with the Americans With Disabilities Act (ADA) guidelines.

37. AGREEMENT AMENDMENT: Stantec Consulting, Inc.

APPROVED Agreement #ST0401-201, Amendment No. 4, with Stantec Consulting, Inc. for the Dobson Road – Warner Road Intersection Improvements in the amount of \$31,116.00 for a revised contract total of \$818,473.00.

This amendment will allow for the supplementary engineering design costs associated with the scope of work changes requested by the project stakeholders, which include citizens and businesses. Modifications include median landscape design to add palm trees and electrical lighting enhancements within the landscape medians similar to the recently completed Chandler Boulevard – California Street to Colorado Street project. The fee includes electrical design services for the median landscape lighting and modifications to roadway plans and technical specifications.

This contract amendment includes 20 additional utility potholes per the request of SRP, Qwest, Cox and Southwest Gas and an update to the Phase 1 Environmental Site Assessment. The original Phase 1 Environmental Site Assessment expired on June 6, 2007. This update is required to complete right of way acquisition.

38. AGREEMENT: PB Americas

APPROVED Agreement #ST0701-101 with PB Americas for the Transportation Master Plan Update in an amount not to exceed \$299,741.00.

The Transportation Master Plan Update project includes updating the City's current Transportation Master Plan, which was adopted by Council in 2002, the City Bicycle Plan, which was adopted in 1999, and the City Transit Plan, which was adopted in 2002. The update will take approximately one year, will involve extensive public input and coordination with the City's Transportation Commission and will update and review of all capital improvement requirements and existing model assumptions. The update must address changes that have occurred including the increased growth and ridership and will define the future transportation system improvements for the City.

39. No Item.

40. AGREEMENT: B & F Contracting, Inc.

APPROVED Agreement #ST0724-401 with B & F Contracting, Inc. for utility services for Habitat for Humanity at 437, 441 and 481 S. Delaware Street in an amount not to exceed \$31,521.00, pursuant to the City's annual contract.

This project agreement is for the installation of streetlights and converting overhead utilities to underground for the Habitat for Humanity neighborhood project on 437, 441 and 481 S. Delaware Street. This was a team effort between APS, Cox Communications, Qwest and various City departments to provide these houses with street lighting and electrical connections. The private utility companies donated approximately \$88,500.00 towards the design and partial construction of this project and the City agreed to fund the remainder. This project will include joint trenching

of private utilities, installation of primary conduits, light conduits, single-phase transformer pads and underground service riders to existing buildings.

41. AGREEMENT: SDB, Inc.

APPROVED Agreement #ND0701-403 with SDB, Inc. for the Park Manors Neighbors in Action Neighborhood Sidewalks Phase II in an amount not to exceed \$91,224.00.

This project agreement provides for the installation of new sidewalks and ADA ramps in the Park Manors Neighbors in Action area, which encompasses Detroit Street between Hartford and Nebraska streets and Iowa Street north and south of Toledo Street. The installation provides sidewalks for 28 homes in the neighborhood. The work will modify driveways for homes to install sidewalk and relocate 2 fire hydrants in the area. This is the second of two phases of work being done by SDB, as requested by Neighborhood Programs, to improve living conditions in the area bounded by Erie, Hartford, Chandler and Arizona Avenue. The sidewalk and ADA ramp improvements are needs identified by the Park Manors Neighborhood.

42. AGREEMENT EXTENSIONS: Building Plan Review

APPROVED one-year Agreement extensions with Stantec Consulting, Inc., Willdan, MADERA Engineering, Inc., Brown Certified Inspection Services, Inc., and assign the Linhart Petersen Powers Associates contract to Bureau Veritas North America for building plan review services in a total amount not to exceed \$600,000.00.

For more than 10 years, Development Services has used consultant services in the area of Building Plan Review to augment permanent Staff. At one time, these services were funded from the fees collected to defray the cost of the services provided. For the last several years, the funding of these services has been from approved line items in the annual budget.

This is the first of three one-year extension options.

43. AGREEMENT EXTENSION: Praxair, Inc.

APPROVED a one-year Agreement extension with Praxair, Inc., utilizing the City of Glendale contract, for the purchase of liquid carbon dioxide for pH control in the water treatment process in an amount not to exceed \$36,600.00. This is the first of four one-year extensions.

44. AGREEMENT EXTENSION: Otto Logistics LLC

APPROVED a two-year Agreement extension with Otto Logistics LLC for transportation of sludge in an amount not to exceed \$1,094,000.00. This is the first of two additional two-year extensions.

The contract is to provide transportation of sludge generated at the City's water and wastewater plants, waste generated by street sweeping, water distribution operations, and sludge from the Reverse Osmosis Brine Ponds. The contractor will transport an estimated 41,700 tons of material annually to Waste Management's Butterfield Station for disposal under a separate contract.

45. AGREEMENT EXTENSION: ASU

APPROVED a one-year Agreement extension with Arizona State University (ASU) for water testing and chemical optimization recommendations for the Surface Water Treatment Plant in an amount not to exceed \$41,463.00. This is the third of four one-year extensions.

For the past eight years, the City of Chandler Surface Water Treatment Plant (SWTP) Staff has collaborated with ASU in real-time monitoring of source water and in-plant sites for taste and odor-causing agents Methylisoborneal (MIB) and Geosmin. Based on the information received from ASU, Staff has been able to reduce the amount of powder activated carbon needed to reduce MIB and Geosmin in the finished water.

46. AGREEMENT EXTENSION: Arizona Generator Technology

APPROVED Agreement Extension No. 1 for one-year with Arizona Generator Technology for generator maintenance in an amount not to exceed \$128,848.00. This is the first of four additional extensions and includes an 8% increase. The contract amount also includes \$45,100.00 for unforeseen repairs, which is not assigned to any particular cost center, but will be available for all to use as needed.

The City has 71 stand-by generators located at various city facilities, with an on-going requirement for maintenance and repair. The contract provides periodic maintenance, inspection and load bank testing (ensures generators are performing at rated kilowatt capacity), as well as any necessary repairs.

47. AGREEMENT EXTENSION: Progress Software Corporation

APPROVED a one-year Agreement extension with Progress Software Corporation for maintenance and support of Progress software, sole source, in an amount not to exceed \$34,179.00.

The City of Chandler's Law, Police and Courts Departments share access to the Criminal Justice Information System (CJIS) for law enforcement and case tracking requirements. The CJIS system is primarily built on the Progress Software platform. Progress is the only provider of Progress maintenance. This maintenance provides technical support, software patches and upgrades to stay current with technology and ensure application availability.

48. AGREEMENT AMENDMENT: Oracle Corp.

APPROVED Master Agreement Amendment with Oracle Corporation for consultant services in an amount not to exceed \$290,000.00.

The City of Chandler implemented the Oracle HR/Payroll modules in 1999. Over the years, functional improvements are made by Oracle and released through routine upgrades making it very difficult for City Staff to identify and understand what improvements may be available and how or if they would fit with the City's needs. Staff believes that an operational assessment of the Oracle system from a functional perspective is necessary in order to ensure that the City is utilizing the system efficiently and to its fullest capabilities. The following business flow processes will be reviewed as part of the assessment: Accounting to Financials, Procure to Pay, Order to Cash, Human Resource Management System (HRMS), and Functional Security. This agreement will also cover the Oracle Accruals requirement gathering and implementation, which is a project that will allow the City to move toward standard functionality for accruals and eliminate the need for custom programming to track the City's accruals.

49. AGREEMENT EXTENSION: Southwest Elevator Co.

APPROVED a one-year Agreement extension with Southwest Elevator Co. for elevator maintenance in an amount not to exceed \$12,000.00. This is the second of four one-year extensions without a price increase.

50. CONTRACT CHANGE ORDER: Hunter Contracting, Inc.

APPROVED Contract #WA0320-402, Change Order No. 3, to the construction manager at risk contract with Hunter Contracting, Inc. for the Surface Water Treatment Plant Expansion Project in the amount of \$229,216.00.

The project is currently 78% complete. Change Order No. 1 was to purchase Type 1 Granular Activated Carbon media for the filters. After the change order was issued, the supplier (Jacobi Carbons) withdrew their bid for the media. As a result, Calgon was brought on as the new supplier. This resulted in a cost increase for the media, and due to this delay, the U. S. Government imposed a tariff on imported Type 1 media. This resulted in additional costs to the contract totaling \$75,637.69, which will be covered in Change Order No. 3.

As a result of emergency work performed at the intersection of Dobson and Pecos roads in March 2007 to repair water mains, Emergency Change Order No. 2 was initiated in the amount of \$100,000.00 to the construction contract with Hunter Contracting, Inc. to expedite repairs and minimize impact to the public. Final costs for the work were submitted after all repairs were completed. The difference between Change Order No. 2 and the final total is \$53,578.31, which will also be covered in Change Order No. 3 and will compensate Hunter Contracting, Inc. in total for work performed.

In addition, because the project will be going through another shutdown in the fall, there will be an opportunity to complete additional work. Also included in Change Order No. 3 is \$100,000.00 to place in the Owners Allowance to deal with these issues as they arise for a total of \$229,216.00.

51. CONTRACT: Haydon Building Corporation

APPROVED Construction Manager at Risk Project Contract #ST0504-402 to Haydon Building Corporation for Price Road Improvements in an amount not to exceed \$6,261,095.00.

The Price Road Improvement project is required to relieve congestion along this major arterial corridor. It consists of roadway and waterline improvements on Price Road from Germann Road north to the Santan Freeway, including an additional through lane in both directions, curb and gutter, bike lanes, turn lanes, raised medians, storm drains, street lights, traffic signal interconnects, and extensive potable water, reclaimed water and sewer manhole improvements. Upgraded landscaping, including a gateway monument at the north end of the project is also included. City construction Staff will be responsible for construction oversight.

52. CONTRACT CHANGE ORDER: Haydon Building Corporation

APPROVED Contract #PR0209-402, Change Order No. 4, to Haydon Building Corporation for the Tumbleweed Park Recreation Center in the amount of \$62,157.00 for a revised contract total of \$13,279,727.18.

Tumbleweed Park is located south of Germann and west of McQueen roads and is currently in the process of a multi-phased development. As part of the 2000 Bond Election, funding was approved for the design and construction of a recreation center at Tumbleweed Regional Park. This recreational facility, which is currently under construction, will become a focal point of the 205-acre park. Change Order No. 4 includes a variety of minor design modifications and product specification changes. The design modifications will improve the overall functionality of the building and its infrastructure. Those components dealing with product specifications are intended to take advantage of newer product lines released since the original specifications were set over four years ago. The recommended product specifications will provide higher quality and more durable finishes that will pay for themselves over the product's lifecycle due to reduced maintenance and increased durability.

53. PURCHASE: NEC Unified Solutions, Inc.

APPROVED the Purchase of NEC Secure Services for support and maintenance on the City's Cisco networking software and equipment from NEC Unified Solutions, Inc., utilizing the State of Arizona contract, in an amount not to exceed \$106,000.00. These are annual recurring costs that cover hardware technical support, repair or replacement in the event of failure. Software upgrades and updates are included.

54. PURCHASE: Greentree Systems, Inc.

APPROVED the Purchase of two additional modules for the City's Applicant Tracking System from Greentree Systems, Inc., sole source, in an amount not to exceed \$9,000.00.

In August 2002, the City purchased the Greentree Employment Systems applicant-tracking program via a competitive RFP process. In 2005, the applicant-tracking program was upgraded to an internet-based system to allow for additional functionality including self-service options. The i-greentree system requires accurate and timely job information, salary information, grade information, position data and supervisor information in order to function properly. This data is currently entered manually into the I-greentree system. The Human Resources Division has been seeking a way to streamline the maintenance of the system by importing this data into I-greentree from the Oracle Human Resources Management System and other existing Microsoft applications in order to achieve greater efficiency and ensure the accuracy of the data. Greentree Systems, Inc. offers fully supported code loader tools to accomplish these importing tasks. They are the sole developer and distributor of these loader tools.

55. PURCHASE: Phoenix Highway Products

APPROVED the Purchase and repairs of traffic signal control equipment from Phoenix Highway Products, sole source, in an amount not to exceed \$300,000.00.

Traffic Engineering keeps an inventory of spare traffic signal control equipment. This inventory is used when field equipment has malfunctioned or becomes damaged by lightning or a motor vehicle accident. This purchase will re-stock and maintain equipment to keep pace with the expanding signal system installed through both Capital Improvement Projects and developer-based improvements. Traffic signal controllers and cabinets are included within this purchase, as well as the purchase and repairs of related hardware.

56. PURCHASE: Stop Tech. Ltd.

APPROVED the purchase of stop sticks from Stop Tech. Ltd., sole source, in the amount of \$23,675.00.

Chandler Police officers utilize stop sticks as an effective tire deflation device. It is a reliable device that is easily deployable. It is the standard tire deflation device installed in the Chandler Police Department patrol vehicles. This request is for 19 full sets of stop sticks and five replacement sections. Fourteen full sets will be placed in the new patrol vehicles. The remaining five full sets will be placed in patrol vehicles without stop sticks.

57. PURCHASE: Five Star Ford

APPROVED the Purchase of 16 police vehicles from Five Star Ford, utilizing the State of Arizona contract, in the amount of \$531,265.00. These vehicles are needed to meet the needs of the growing Department and the new Chandler Heights substation. Prices include taxes and accessories. The Department can start the ordering process on July 2, 2007, which will reduce delivery time.

58. PURCHASE: Sprint Communications

APPROVED the Purchase of data airtime for police 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 \$130,260.00. The amount includes 167 units at \$65.00 per month per unit that includes unlimited data airtime and all applicable taxes.

The Sprint data link network is used by the Chandler Police Department to provide wireless data services to the mobile data computers (MDC) used in police vehicles. Data airtime is required for fiscal year 2007-08 for continued operation of the police mobile data computers. These mobile data computers use this airtime to communicate with the Computer Aided Dispatch (CAD) and Field Reporting system. 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.

59. PURCHASE: Electrical Supplies

APPROVED the Purchase of electrical supplies for one year from Brown Wholesale Electric, Electric Supply, Inc. and Graybar in a combined total amount not to exceed \$300,000.00.

60. PURCHASE: Temporary Services

APPROVED the Purchase of temporary services from various vendors, utilizing the State of Arizona contract, in an amount not to exceed \$200,000.00.

Temporary services are used throughout the year primarily for short periods of time for vacancies, sick leave, vacations, special projects, etc. On an annual basis, departments do a cost/benefit analysis to determine if utilization of a full time or regular part time employee would be most beneficial. Review and analysis is done during the budget process by each department when considering personnel needs for the next fiscal year. Where applicable, volunteers, Cooperative Office Education (COE) students and grants are used to defray some of the costs for temporary services. Last FY, approximately \$140,000.00 was spent for temporary services. Staff provided an estimate of \$167,330.00 for FY 2007-08. A not to exceed amount of \$200,000.00 is requested to cover any unforeseen needs.

61. PURCHASE: Verizon Wireless and Sprint/Nextel

APPROVED the Purchase of cellular equipment and airtime from Verizon Wireless and Sprint/Nextel, utilizing the State of Arizona and Western States Contracting Alliance contract, in an amount not to exceed \$225,000.00.

The City has approximately 410 cellular phones under service with Verizon Wireless and Sprint/Nextel. Budget estimates vary due to user requirements in the field and whether phones are used for emergencies only.

62. WITHDREW USE PERMIT: 84 Lumber Company

WITHDREW, as requested by Staff, Use Permit UP06-0089, 84 Lumber Company, for a 1,000-gallon fuel storage tank on an industrial site at 275 E. Willis Road, approximately one-quarter mile east of the SEC of Willis Road and Arizona Avenue, to allow for re-filing as a Preliminary Development Plan application.

63. USE PERMIT EXTENSION: Remuda Ranch

APPROVED Use Permit UP06-0090 Remuda Ranch, extension for the use of a gravel parking lot for staff members at 111 S. Hearthstone Way. (Applicant: Bill Jones, Director of Facilities Management, Remuda Ranch.)

The site is south of the SWC of Chandler Boulevard and Chandler Village Drive. To the north of the subject site is the recently approved Metropolitan mixed-use development. Directly east is a vacant industrial zoned parcel. South is the Hearthstone Unit II single-family residential neighborhood. Directly west of the site is the Aspire gymnastic center.

The subject site is a former model home complex that included 7 one and two-story homes that was rezoning from I-1 (Planned Industrial) to Planned Area Development (PAD) approximately 13 years ago to allow the establishment of an extended care residential treatment center for women with eating disorders.

In 1997, the City Council granted approval to construct a one-story office building on the SWC of Country Club Way and Los Feliz Drive. Two years later in 1999, Council granted approval for an additional story on the building. Between 1999 and 2001, the owners of Remuda Ranch decided to hold off constructing the office building and applied for a temporary Use Permit to use the gravel lot for parking purposes until such time that the economics of the additional building were evaluated. After the Use Permit was approved, site drawings were submitted to pave the vacant lot for parking, which received approval in 2004. The gravel lot was not paved and in 2004, a request for an additional two-year Use Permit was granted. The intention was to pave the lot, but due to a rise in maintenance costs and the installation of fire sprinklers, the lot was not paved.

The application requests a Use Permit extension for two years in which the lot will be paved. The applicant is currently reviewing the previously submitted and approved paving plans for the parking lot. Plans to pave this area had previously been approved in 1999 when the proposed office building was approved. Once the paved parking lot between the water detention area and the vacant lot is completed, further Use Permit extensions will not be necessary as Code requirements regarding parking will be fulfilled.

There are currently 12 parking spaces being provided in the driveways of lots one through seven. Nineteen additional spaces are provided along the vacated Los Feliz Drive. The lot can accommodate twelve additional parking spaces and bring the total number of parking spaces on site to 43. The parking lot surface is currently well maintained and attractively landscaped. Additionally, between the vacant lot and water detention area, there is sufficient room to provide 11 more parking spaces.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on May 29, 2007. There were no neighbors in attendance and Staff has received one phone call in opposition due to the nature of the Remuda Ranch facility.

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

1. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the use of such gravel parking lot beyond the expiration date shall require re-application to and approval by the City of Chandler.
2. The temporary parking lot shall be surfaced with gravel or other suitable material and type of dust palliative. The subject parking lot shall be maintained at all times in a dust-free and weed-free manner.
3. The entrance/exist to the temporary gravel parking lot shall be restricted to Los Feliz Drive.
4. Signage to restrict and/or designate appropriate parking areas and pedestrian pathways shall be installed subject to Staff approval.
5. The applicant shall apply additional gravel to the existing parking lot to mitigate dust.
6. Approval of the Use Permit is subject to a Consent to Conditions Waiver signed by the property owner and delivered to the Planning Department within 2 weeks.

64. USE PERMIT: T.W. Steel Corporation Addition

APPROVED Use Permit UP07-0010 T.W. Steel Corporation Addition, for additional building structures beyond what was approved with the original site plan at 1100 N. Hamilton Street. (Applicant: Tony Sanchez.)

The site is located just east and north of Ray Road and the Union Pacific Railroad track. North, adjacent to the site, is the Festiva Court single-family residential neighborhood. Directly east is a self-storage facility. South of the site are two industrial businesses. West and adjacent to the site is the Union Pacific Railroad, and beyond that is vacant land zoned Planned Area Development (PAD) for residential. Access to the site, which does not have frontage along Ray Road, is provided via an access easement from Hamilton Street.

The site was originally approved in 1991 in order to construct and operate a steel fabricating facility. In order to allow for the steel fabrication, a Use Permit was granted by City Council. All development was required to be in substantial conformance with the approved exhibits.

The site was recently cited due to additional structures that were constructed without Building Permits or obtaining a new Use Permit. There are approximately 10 structures that have been built. With approval of the Use Permit, the applicant will then submit for the proper building permits. This application is requesting Use Permit approval to allow for the additional structures. The use has not changed since the original approval.

T. W. Steel specializes in the fabrication and welding of miscellaneous steel shapes for the construction of steel buildings within the Phoenix metropolitan area. There are approximately 35 shop and office employees and 15 field installers. The original site plan provided parking spaces for 50. Zoning code for this site would require a total of 91 parking spaces. At the time of approval, the parking was waived based upon the type of business, but a provision was made to require additional parking if necessary. Additional parking has not been required thus far.

This request was noticed in accordance with requirements of the Chandler Zoning Code with a neighborhood meeting being held on May 21, 2007. One neighbor was in attendance with general questions.

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

1. 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.
2. Use Permit approval does not constitute Final Development Plan approval compliance with the details required by all applicable codes and conditions of the City of Chandler and this Use Permit shall apply.
3. Approval of the Use Permit is subject to a Consent to Conditions Waiver signed by the property owner and delivered to the Planning Department within 2 weeks.

65. USE PERMIT: Regal Beagle

APPROVED Use Permit UP07-0038 Regal Beagle, Series 6, for the sale of liquor for on-premise consumption only within an existing restaurant at 6045 W. Chandler Blvd., Suite #7, in the Kyrene Village Shopping Center. (Applicant: CDT Phoenix, LLC, dba Regal Beagle.)

The property is located at the SWC of Kyrene Road and Chandler Boulevard within the Kyrene Village Center anchored by Basha's. The center is surrounded on all sides by mostly commercial and industrial uses, including vacant land to the south that has been approved for the Paloma Kyrene Business Community. The nearest residential neighborhood is south of the SEC of the main intersection. The business is a restaurant/sports bar that has operated at this location for over 3 years. The facility served alcohol under a Series 12 Restaurant License until 2006 when they received Use Permit approval for one year to serve under a Series 6 Bar License. The license change was prompted by a State audit that found food sales to be short of Series 12 requirements (at least 40% of sales must be in food and non-alcoholic beverages).

The establishment, which has a full menu of American food, provides seating for 125-145 persons, including space for 25 persons at the bar, 60 on the patio and 40-60 in the mall seating area. Hours of operation are 11:00 a.m. to 2:00 a.m. daily.

The property, previously occupied by Hitts and Howie's Pub & Eatery, originally received Use Permit approval to sell alcohol under a Series 12 license in 1988 and received amended Use Permit approval in 1992 in order to add a patio. Other active liquor Use Permits in the center include Series 10 (Beer & Wine Store) approval for Basha's, Series 6 (Bar) approval for Kyrene Lanes bowling alley, Series 12 (Restaurant) approval for Big Star BBQ, and Series 12 (Restaurant) approval for India Gate restaurant. Also, CVS Pharmacy, across the street on the SEC of the arterial intersection, has a Series 10 (Beer & Wine Store) license.

The business received much neighborhood attention in 2006 when applying for a change from the Series 12 Restaurant License to the Series 6 Bar License. Residents to the southeast, across Kyrene Road, noted litter problems in their area and raised concerns that the subject business would act more like a nightclub under the new license. Neither of these issues has apparently become problems over the past year. The Planning Commission and Staff recommend a three (3) year time limit in order to allow continued monitoring of these issues.

The 2006 Use Permit approval included a condition that "the applicant shall work toward the State of Arizona's Series 12 food sales requirements". The business' share of sales in food and non-alcoholic beverages has remained steady and has not progressed toward the 40% minimum for a Series 12 license. The business has taken a number of steps to attempt to increase food sales, including elimination of all but one pool table, increasing food prices and temporarily expanding hours to provide breakfast. It appears that the business continued to operate substantially like a restaurant/grill and not more like a nightclub as feared, and therefore, the business meets the spirit of this condition and continued to act as a good neighbor.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on May 29, 2007. There were no citizens in attendance. The Police Department has been informed of the application and has responded with no issues or concerns. Staff has received no correspondence in opposition to this request.

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

1. The Use Permit granted is for a Series 6 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. No alcohol shall be carried outside of the building into the parking lot or off-premises. Sales of "to go" liquor shall be prohibited.
4. 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.
5. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication and approval of the Use Permit.
6. The Use Permit shall remain in effect for three (3) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
7. There shall be no music outside. Indoor music shall not disturb area residences.
8. Transfer of ownership shall require a new Use Permit.
9. The applicant shall provide security on the weekends, if necessary.
10. The applicant shall maintain a liaison program with the adjacent neighborhood that allows neighbors to directly contact a representative of the establishment with their concerns.
11. The applicant shall work to mitigate litter issues resulting from the use.

66. USE PERMIT: Rumbi Island Grill

APPROVED Use Permit UP07-0040 Rumbi Island Grill, Series 12, for the sale of liquor for on-premise consumption only within a new restaurant at 885 N. 54th Street in the Casa Paloma center. (Applicant: Andrea Lowther.)

The subject site is located within the Casa Paloma shopping Center. The restaurant is located north of Harrison Street, and shares the building with a Starbuck's Coffee shop, an insurance agency and a salon. East of the site, within the vicinity, is Cost Plus World Market, Petsmart and Ultimate Electronics. South of the subject site is Jilly's Restaurant.

Rumbi Island Grill is a fast-casual restaurant that specializes in island-style cooking and will be open Tuesday thru Saturday from 11 a.m. to 9 p.m., Sundays and Mondays from 11 a.m. to 8 p.m. and will employ approximately 30, including one District Manager and one full-time Manager. There will be no live music and no smoking in the outdoor patio area.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on June 4, 2007. There were no neighbors in attendance. Staff has received no correspondence in opposition to this 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.

67. USE PERMIT: Rubio's Fresh Mexican Grill

APPROVED Use Permit UP07-0046 Rubio's Fresh Mexican Grill, Series 7, for the sale of liquor for on-premise consumption only within a new restaurant at 2970 E. Germann Road, Suite 6. (Applicant: Alan Lessard.)

The site is located within the Crossroads Towne Center and within the Harkins Theater portion of the center. Rubio's Fresh Mexican Grill is a fast-casual restaurant with two other locations in Chandler. They will be open Monday thru Thursday from 10 a.m. to 10 p.m., Friday and Saturday 10:30 a.m. to 11 p.m. and Sunday 11 a.m. to 10 p.m. There will be approximately 25 employees, including 5 managers.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on June 13, 2007. There were no neighbors in attendance. Staff has received no correspondence in opposition to this request.

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

1. The Use Permit is granted for a Series 7 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.

68. LIQUOR LICENSE: Rubio's Fresh Mexican Grille

APPROVED a Series 12 Restaurant Liquor License (Chandler #114033L12) for Christopher Curt Bartos, Agent, Rubio's Restaurants, Inc., dba Rubio's Fresh Mexican Grille, 2970 E. Germann Road, Suite #6. A recommendation for approval of State Liquor License #12077117 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.

69. USE PERMIT: Tu Suong

APPROVED Use Permit UP07-0029 Tu Suong, Series 12, for the sale of liquor for on-premise consumption only within a new restaurant at 2055 N. Dobson Road, Suites 3-4. (Applicant: Viet Nguyen.)

The site is located at the NWC of Dobson and Warner Roads, within the Dobson Park Plaza Shopping Center. It is part of the recently built in-line shops and shares the same building as Phoenix Palace Buffet, a gelato store, specialty teashop and hair salons. The main anchor in the shopping center is Lee Lee's Market.

The restaurant will also provide live music on Friday's and Saturday's from 7 p.m. to 12:30 a.m. The banquet room, which is soundproof, will provide an area for karaoke Monday thru Thursday from 12 p.m. to 1 a.m. and Friday thru Sunday from 12 p.m. to 1:30 a.m.

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. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. The Use Permit is non-transferable to other store locations.
5. Customer access into the restaurant from the rear, thru the service door, shall be prohibited.
6. No noise shall be emitted so that it exceeds the general level of noise emitted by uses outside the premises of the business.

70. LIQUOR LICENSE: Tu Suong

APPROVED a Series 12 Restaurant Liquor License (Chandler #113777L12) for Viet Hoang Nguyen, Agent, Tu Suong, 2055 N. Dobson Road. A recommendation for approval of State Liquor License #12077078 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.

71. USE PERMIT: Sau'tee

APPROVED Use Permit UP07-0039, Sau'tee, Series 12, for the sale of liquor for on-premise consumption only within a new restaurant at 4949 S. Alma School Road. (Applicant Dan Choan.)

The restaurant is a stand-alone building, but shares the same vicinity with a future AJ's Fine Foods. Sau'tee is not a chain restaurant.

Sau'tee is an urban bistro-style restaurant specializing in a variety of foods, utilizing sauté-style cooking in an open exhibit display kitchen. The restaurant will be open Sunday thru Thursday from 11 a.m. to 10 p.m. and Friday and Saturday from 11 a.m. to 11 p.m. and will employ approximately 85. The applicant does not intend to have outdoor smoking, but in the event the owner would like to provide the option, the outdoor patio will need to meet the Smoke Free Arizona requirements.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on June 4, 2007. There were no neighbors in attendance. Staff has received no correspondence in opposition to this 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.

72. LIQUOR LICENSE: Sau'tee

APPROVED a Series 12 Restaurant Liquor License (Chandler #114208L12) for Daniel Paul Chaon, Agent, Sau'tee Fulton Ranch Restaurant LLC, dba Sau'tee, 4949 S. Alma School Road. A recommendation for approval of State Liquor License #12077136 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.

73. WITHDREW LIQUOR LICENSE: Anise Vietnamese Restaurant

WITHDREW, at the request of the applicant, Liquor License, Series 12, for Thanh Nguyen, Agent, Ann Nga Nguyen Partnership, dba Anise Vietnamese Restaurant at 2090 N. Dobson Road, Suite 4.

74. LIQUOR LICENSE: Antojitos Mexican Food

APPROVED a Series 12 Restaurant Liquor License (Chandler #111087L12) for Martha Elia Medina, Agent, Miguel Martha Medina J.T.W.R.O.S. dba Antojitos Mexican Food, 1018 N. Arizona Avenue. A recommendation for approval of State Liquor License #12077125 will be forwarded to the State Liquor Department. The Police Department reports no objections to the issuance of this license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code. This application reflects a change in ownership; however, Planning and Development advises that a new Use Permit is not required since this will be a continuation of the location's previous use as Martinez Mexican Food.

75. LIQUOR LICENSE: Citrus Cafe

APPROVED a Series 12 Restaurant Liquor License (Chandler #113749L12) for Andrew Carlo Paparella Jr., Agent, Paparella, Inc., dba Citrus Café, 2330 N. Alma School Road, Suite 118. A recommendation for approval of State Liquor License #12077120 will be forwarded to the State Liquor Department. The Police Department reports no objections to the issuance of this license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code. This application reflects a change in ownership; however, Planning and Development advises that a new Use Permit is not required since this will be a continuation of the location's previous use as Citrus Café.

76. LIQUOR LICENSE: Zorba's Restaurant

APPROVED a Series 12 Restaurant Liquor License (Chandler #112413L12) for Eric James Perrin, Agent, Cajun Specialty Foods LLC, dba Zorba's Restaurant, 1964 N. Alma School Road, Suite 10. A recommendation for approval of State Liquor License #12077143 will be forwarded to the State Liquor Department. The Police Department reports no objections to the issuance of this license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code.

This application represents a change of ownership. On March 22, 2007, Council recommended disapproval for a new Series 12 Restaurant Liquor License application for this business. On May 15, 2007, that license application was withdrawn from the Arizona Department of Liquor Licenses and Control. The LLC has since been restructured and Eric James Perrin remains as the sole member of the LLC. Planning and Development advises a new Use Permit is not required since this will be a continuation of the location's previous use as Zorba's Restaurant.

77. CONTINUED LIQUOR LICENSE: Fresh & Easy Neighborhood Market

CONTINUED to SEPTEMBER 20, 2007, Liquor License, Series 10, for Randy Nations, Fresh & Easy Neighborhood Markets, Inc., dba Fresh & Easy Neighborhood Market, 5805 W. Ray Road, Pad A, to allow the applicant time to complete the requirements for their Use Permit.

78. SPECIAL EVENT LIQUOR LICENSE: Chamber of Commerce

APPROVED a Special Event Liquor License for the Chandler Chamber of Commerce for the Business After Business Fund Raiser on July 19, 2007, at the Castle at Ashley Manor, 1380 S. Price Road. The Police Department reports no objections to the issuance of this license. As this applicant is a non-profit organization, no sales tax license is required; however, the special event liquor fee has been paid.

79. PRELIMINARY CONDOMINIUM PLAT: Lot 1 of Paloma Kyrene Business Community

APPROVED Preliminary Condominium Plat, PPT07-0014, Lot 1 of Paloma Kyrene Business Community, for an office and industrial development, which includes medical offices, industrial and retail uses on 16.27 acres south of the SWC of Kyrene Road and Chandler Boulevard. (Applicant: V3 Companies of Arizona.) This plat does not include the mini-storage (lot 2) portion of the development. The plat creates the lots and tracts, establishes the necessary easements and dedicates the required right-of-way.

80. PRELIMINARY CONDOMINIUM PLAT: Santan Crossing Professional Plaza

APPROVED Preliminary Condominium Plat, PPT07-0018 Santan Crossing Professional Plaza, for an office development consisting of 11 office buildings located on 8.05 acres east of the SEC of Cooper and Pecos roads. (Applicant: Cooper Commons Office LLC.) The plat creates lots, tracts and easements necessary for the property's development.

The Planning Commission and Staff recommend approval subject to the following condition:

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

81. PRELIMINARY PLAT: Chandler Airport Commerce Park

APPROVED Preliminary Plat PPT06-0031 Chandler Airport Commerce Park, for an industrial business park development with office and showroom retail uses on an 80-acre parcel located south of the SEC of McQueen and Queen Creek roads. (Owner: A. Brent Payne; Chandler Airport Property Investors L.P.) The plat creates the lots and tracts, construction-phasing lines, establishes the necessary easement and dedicates the required rights-of-way.

82. PRELIMINARY PLAT: Portico Place

APPROVED Preliminary Plat, PPT07-0011 Portico Place, for a planned commercial retail and office development located on a 14.5-acre former industrial manufacturing facility at the SWC of Chandler Boulevard and Dobson Road. (Applicant: Carter & Burgess.) The plat creates the lots and tracts, construction-phasing lines, establishes the necessary easements and dedicates the required rights-of-way.

83. PRELIMINARY CONDOMINIUM PLAT: Alma-Elliot Business Center

APPROVED Preliminary Condominium Plat PPT07-0017 Alma-Elliot Business Center, to divide the ownership of a 5-unit commercial building on approximately 1.1 acres into separate units at the NWC of Elliot and Alma School roads. (Applicant: Survey Innovation Group, Inc.) The plat creates the lots and tracts, establishes the necessary easements and dedicates the required rights-of-way.

84. PRELIMINARY/ FINAL CONDOMINIUM PLAT: Artisan Village At Gila Springs

APPROVED Preliminary / Final Condominium Plat PPT07-0020 / CPT07-0001 Artisan Village At Gila Springs, for an 85-unit residential condominium development on approximately 6.99 acres north and west of the NWC of Chandler and Gila Springs boulevards. The plats create the lots

and tracts, construction-phasing lines, establishes the necessary easements and dedicates the required rights-of-way.

85. CONDOMINIUM PLAT: Chandler Pavilion Condominiums

APPROVED Condominium Plat CPT07-0004 Chandler Pavilion Condominiums for a 94-unit residential condominium development on 6.7 acres west of the NWC of Harrison and 56th streets. (Applicant: Jason R. Kack, DEI Professional Services, LLC.) The plat creates the units and tracts, establishes the necessary easements and dedicates the required rights-of-way.

86. FINAL PLAT: Pollack Business Park North III Lots 1 thru 5

APPROVED Final Plat FPT07-0017 Pollack Business Park North III Lots 1 thru 5 for a retail, showroom retail and light industrial development on 10 acres at the NEC of Arizona Avenue and Elliot Road. (Applicant: Pollack Investments.) The plat creates the lots and tracts, construction phasing lines, establishes the necessary easements and dedicates the required right-of-way.

87. FINAL PLAT: Downtown Ocotillo Lots 1 thru 9 and Tract A

APPROVED Final Plat FPT07-0030 Downtown Ocotillo Lots 1 thru 9 and Tract A for a mixed-use development featuring commercial retail, office, hotel and multi-family residential condominiums at the SWC of Queen Creek and Dobson roads. (Applicant: Terrascope Consultant.) The final plat creates the lots and tracts, establishes the necessary easements and dedicates the required rights-of-way.

88. On Action.

89. On Action.

90. PM-10 COMPLIANCE

Res. #4091

ADOPTED Resolution No. 4091 and scope of compliance measures for a 5% PM-10 emission reduction as mandated by the U. S. Environmental Protection Agency.

In 2006, there were 21 days in which the Phoenix metropolitan area violated the PM-10, 24-hour ambient air standard. Because of these violations, the U. S. Environmental Protection Agency has imposed a requirement to reduce PM-10 emissions by 5% each year until the area has demonstrated three years of compliance with the standard.

To accomplish this reduction, the Maricopa Association of Governments (MAG), acting as the regional planning agency, has identified measures to reduce PM-10 emissions. Nine of these measures require action on the part of municipalities. The additional cost to implement these new measures over a three-year period is \$5,181,500.00.

Failure to submit an approvable 5% plan with adopted control measures by the December 31, 2007, deadline could result in the imposition of federal sanctions by the U. S. Environmental Protection Agency. Such sanctions include withholding of Federal Highway Funds and tighter controls on major industrial sources (two to one offset requirements for stationary sources). The U. S. Environmental Protection Agency could also impose their own Federal Implementation Plan, which would require emission reductions.

Compliance measures include road paving, road shoulder improvement, alley stabilization and paving/stabilization of parking areas plus enforcement of existing trespass and vacant lot access restrictions. Implementation of mandated measures over a three-year period will cost \$74,494,500.00. Currently, the approved CIP budget includes \$69,313,000.00 of these measures. This resolution will commit to implement \$5,181,500.00 in additional measures not currently budgeted. This expenditure would be made over a three-year period requiring the following budget commitments:

FY 2007-08 -- \$2,013,500.00
FY 2008-09 -- \$1,668,500.00
FY 2009-10 -- \$1,499,500.00

91. PROPERTY PURCHASE: Buffalo/Arizona/Chandler/California Res. #4094

ADOPTED Resolution No. 4094 authorizing the purchase of property north of Buffalo Street, west of Arizona Avenue, south of Chandler Boulevard and east of California Street for downtown redevelopment.

Three properties need to be acquired in the redevelopment of Sites 1,2 and 3. Qwest owns one property, commonly referred to as Exception Lot 1. On April 22, 2003, the City and Qwest entered into a development agreement for improvements on the Qwest property and the sale of a portion of Qwest's land to the City. This agreement was amended on December 30, 2003. Specifically, the agreement provided for the conveyance of Exception Lot 1, which is the property north of Buffalo Street, west of Arizona Avenue, south of Chandler Boulevard and east of California Street, upon completion of environmental remediation.

The other two properties are owned by affiliates of Desert Viking. Valhalla Investments, L.L.C. owns Parcel 1 and Desert Viking Downtown Ventures, L.L.C. owns Parcel 3. The properties are part of the Master Development agreement for Sites 1,2 and 3 and need to be conveyed to the City in order to execute further development.

The environmental remediation is taking far longer than anticipated and it is critical that the City move ahead with acquisition of these properties to enable the completion of development for Sites 1, 2 and 3. Exception Lot 1 is needed to provide utility access to the townhomes currently under construction on Sites 1, 2 and 3. It also is needed for construction access on the commercial phases of Sites 1, 2 and 3. It is unclear how much longer remediation of the property will take, but there are no conditions that would preclude the use of the property for utilities and construction access.

The City is purchasing the other two parcels in order to facilitate the reduction of property taxes, which is a key element in the San Marcos Commons (Phase I) Development Agreement currently under negotiation. These two parcels will be the home of new commercial development including retail, restaurant and office.

Per the existing agreement, the City will pay \$246,348.00 to Qwest for Exception Lot 1; \$32,300.00 for the completion of parking lot improvements; and \$71,027.00 for the design and construction cost of colonnade improvements; for a total payment of \$349,675.00. Additionally, the City will pay \$398,000.00 to Desert Viking Downtown Ventures, LLC for Parcels 1 and 3. Sufficient funds exist to pay for this cost.

ACTION:

18. DEMOLITION: 130 N. Hamilton Street, Unit 16

Res. #4090

No action taken - Resolution No. 4090 authorizing the demolition of a four-bedroom apartment on City-owned trust property located at 130 N. Hamilton Street, Unit 16, and authorized the Housing and Redevelopment Manager to sign all related contracts, certifications and supportive documents related to the demolition.

HOUSING AND REDEVELOPMENT MANAGER KURT KNUTSON said that in April 2006, the Public Housing Authority Commission adopted Resolution No. H0035, which authorized the submission of the 2006 Public Housing Annual Plan to the U. S. Department of Housing and Urban Development (HUD). As a part of the Annual Plan, the Housing Division outlined three public apartments that were identified for possible demolition. Apartment 16 at 130 N. Hamilton Street, a four-bedroom unit, was identified for potential demolition whenever it became vacant. In April 2007, apartment 16 became vacant.

130 N. Hamilton Street is the highest density family apartment site the Housing and Redevelopment Division operates. The site contains 53 apartment units, at a density of 11.86 single story apartment units per acre. By comparison, the other family sites contain no more than 40 apartment units and site densities range from 6.14 to 10.02 apartment units per acre.

The site at 130 N. Hamilton Street is notably under-allocated for open space and parking space by today's standards. There are 68 parking spaces including handicapped accessible spaces. There is a lack of open space and green space.

Each year, as an update to the five-year capital improvement plan, Housing Staff meets with and polls public housing residents on what physical improvements they would like to see made to the apartments and the sites. Parking and open space related issues consistently rank in the top five improvements desired by residents. This would allow a more community feel to the area.

Mr. Knutson said this is a difficult decision to recommend. He noted there are 1500 people currently on the waiting list, but only about 2% of that number is for a 4 or 5-bedroom apartment. He reported that it is staff's opinion that this will enhance the viability and marketability of this site. HUD is moving to a market driven formula and feel that each apartment site should be self sustaining.

COUNCILMEMBER WENINGER stated that he felt Council should preserve things as they are and come back in the near future with the suggested recommendations to install benches, grass, etc. He stated that after driving the area, he noticed that there are some open areas, with some being right next to homes. He questioned if it is too close to the homes to have as a community open area. Mr. Knutson said that most of the open spaces are toward the front of the complex, but they can be enhanced. When enhancements are done, because of the close proximity to the homes, people feel it is their front yard and take ownership of the areas and there are concerns with noise. However, they can be designed to minimize that.

COUNCILMEMBER WENINGER suggested that they come back using some of the recommendations that were brought forward. He saw places where small grassy areas with benches could be installed without tearing the building down and use those funds to make those improvements.

COUNCILMEMBER SEPULVEDA asked what the replacement value of the unit is and the future of expansion. Mr. Knutson responded that under current code, for the structure, it would be between \$120,000 - \$150,000.00. Staff is exploring various future opportunities with tax-credit projects in particular. If some properties can be identified and getting a developer or consortium together where it would be economically feasible to build something, the existing sites could be considered for redevelopment or for sale. COUNCILMEMBER SEPULVEDA commented that it does not make sense to tear the units down when we have a waiting list and agreed with COUNCILMEMBER WENINGER'S comments.

VICE-MAYOR HUGGINS said that at the time these housing units were built, the Planning Department was opposed to the density. If these same complexes today we build today, he asked how Planning feel about the density. Doug Ballard responded that there are multi-family projects that run from 5-18 units per acre. In the downtown area and by the mall, there are higher density developments. The Housing Division is also exploring scattered-site public housing. The density is not out of line where the current project is located.

COUNCILMEMBER DONOVAN clarified that there are 303 HUD-subsidized sites. Mr. Knutson concurred. COUNCILMEMBER DONOVAN asked if we are at the maximum for HUD funds or if funds were available to purchase more sites to qualify for additional HUD subsidies. Mr. Knutson said that HUD is not supplying any additional funds for development. He noted there are funds from some past development that have been identified for possibly constructing or acquiring some additional single-family homes and those will be brought forward to PHAC and Mayor and Council shortly. COUNCILMEMBER DONOVAN said that, as a City, we have to provide the funds to purchase a single-family home for scattered-sites, but if we have those purchased, it wouldn't be unlimited HUD funds for the subsidies. Mr. Knutson agreed and added that the subsidies over the last 7 years have trended down and each year the allocation decreases. This year the initial allocation for funding was at 78%, however, it was increased to 84% in January.

COUNCILMEMBER DONOVAN asked how the 84% relates to the 303 subsidized units. Mr. Knutson explained that HUD provides a subsidy per unit for the actual management of the public housing units. That subsidy should have been approximately \$632,000.00 this year. With the proration, it was closer to \$550,000.00. To adapt, they review repairing rather than replacing and using temporary instead of full-time help to cut costs.

In response to a question from Councilmember Donovan, Mr. Knutson said on the units considered for purchase, we are not looking at using federal subsidies, but rather using affordable rents. There are a many restrictions to using federal funds and staff want to have the flexibility of being able to set a between-market rent that's affordable but not controlled by HUD subsidies. HUD subsidies do not allow cities to predict what the rent would be because it is 30% of adjusted income. We could conceivably have someone move into the units that would not create a revenue stream that would allow us to operate them.

COUNCILMEMBER CACCAMO asked if there is a trend toward off-site subsidized housing versus project-type cluster housing and what the City's position was. Mr. Knutson responded that there is still a mix, but the push from HUD is for joint ventures with a mix of income. He explained the HOPE 6 program is a federally subsidized program that has been successful in the cities of Phoenix and Tucson. They redevelop public-housing sites with a mix of conventional multi-family-type houses with a mix of income, which may include single-family and commercial. He noted that scattered sites are desirable because they are not stigmatized and there is a deconcentration throughout the community. However, they are the most expensive units to

operate with traditional multi-family housing being the most economical. If there is a full mix of income, it is sustainable through the rents while intermingling with the market-rate homes.

COUNCILMEMBER CACCAMO asked what percentage of our housing is off-site. Mr. Knutson replied the City has 103 scattered-site, single-family homes, 163 family apartment sites and 37 units on one elderly site.

MAYOR DUNN asked if there are improvements Staff could make in the area if Council decides not to demolish this unit. Mr. Knutson said that improvements would be considered along with suggestions made by Councilmember Weninger. Staff was aware that curb appeal of the units was an issue that would need to be addressed.

MAYOR DUNN clarified that this action is requested to try to improve our position to obtain future HUD money. He asked if that would still be the position without the demolition. Mr. Knutson said that the current position could be sustained while trying other units.

MAYOR DUNN said it seems that the consensus of the Council is that they feel "uncomfortable" moving forward with the demolition; that a motion is not needed and Staff direction would be sufficient. Mr. House said that if Council does not intend to adopt the ordinance, no motion is necessary and direction could be given to Staff.

MOVED BY COUNCILMEMBER CACCAMO to APPROVE Resolution No. 4090 authorizing the demolition of a four-bedroom apartment on City-owned trust property located at 130 N. Hamilton Street, Unit 16, and authorize the Housing and Redevelopment Manager to sign all related contracts, certifications and supportive documents related to the demolition.

THE MOTION DIED DUE TO A LACK OF A SECOND.

COUNCILMEMBER ORLANDO asked if this unit is livable. Mr. Knutson said it could be ready for occupancy within the next 20 days.

33. DEVELOPMENT AGREEMENT NEGOTIATIONS: Desert Viking Properties, LLC

AUTHORIZED Staff to negotiate a development agreement with Desert Viking Properties, LLC for redevelopment of the site designated in the downtown mixed-use development (Site 6).

Downtown Redevelopment Manager Teri Killgore said that in March 2007, the City issued a Request for Proposals for an "overall design concept for an urban, mixed-use project on Site 6 that may include a variety of components, such as commercial, cultural, entertainment, hotel, institutional, office, restaurant/retail, supporting parking and other compatible uses. Additionally, it is the current policy of the City to locate the Chandler Historical Museum on the site". Two responses were received from Desert Viking Properties, LLC and Sterling Centrecorp US, Inc.

A selection committee was formed to review the proposal and hosted interviews on May 24, 2007. The Desert Viking Properties, LLC proposal provided for a mix of residential, office, retail/restaurant and public space. The proposal by Sterling Centrecorp US, Inc. included an ice rink, office and retail/restaurant space. The selection team concluded that the proposal by Desert Viking Properties, LLC was the superior proposal and was generally more consistent with the vision for downtown.

Follow up discussions were held with Desert Viking Properties, LLC regarding concerns in the layout of the project and its interaction with neighboring properties. Based on these discussions, significant redesign of the project is anticipated and both parties have agreed to work together. To this end, Staff recommends that through a collaborative process, they be authorized to work with Desert Viking to modify the proposal, develop a Preliminary Development Plan, and negotiate a subsequent development agreement.

Desert Viking Properties, LLC included some requested incentives as part of this project; however, given the redesign, it is premature to estimate the financial impact of any agreement at this point. Staff will return to Council for further discussion of any incentives.

MAYOR DUNN asked what the process would be and the timeline. MR. PENTZ said that Staff has had several meetings with Desert Viking to discuss how to move forward. A planning consultant would be retained and the cost would be split with Desert Viking. It is anticipated that it be completed during July and another six months to agree on a site plan and develop the business terms for the development agreement ordinance. There are some issues with one being the conference center study that will be completed in November and how the findings may impact the land use on and around Sites 6, 4 and 5.

VICE-MAYOR HUGGINS asked if the museum could be put on the "front burner" for this project. MR. PENTZ said that it is on the front burner. He stated that when a site-plan agreement is reached along with a development agreement, the developer will move forward and work with Staff on the PAD and PDP necessary for the project. The Mayor and Council will then need to address operating costs, which will be a major issue that needs to be resolved.

COUNCILMEMBER SEPULVEDA also addressed the issue of a phased development. Mr. Pentz said that the development could be phased in terms of development such as is occurring on Sites 1, 2 & 3. Before a development can be phased, there must be an overall master plan and land use plan to see how everything will fit together including traffic patterns, parking and how residential and commercial will relate. Staff will be rethinking the site, and have had such discussions with Desert Viking, and how the site relates to the downtown to the north and south and whether there should be a change in the street pattern. Within the six-months, Staff anticipates reaching an agreement with regard to the site plan and have the business terms for the development agreement worked out.

JIM PATTERSON, President of the Chandler Historical Society, said that they have worked on plans for the downtown area. Two bond issues have been passed to build a new museum and they are concerned with the timeline and process. They feel that they are back to square one. They would like to see the original stakeholders group brought back together, be involved in the process as it goes forward and continue to be informed as it proceeds. They are requesting that the stakeholders group reconvene by mid-July to find out exactly what is going on so they are not surprised at the last minute. They are amenable to a multi-use project and think that works in the best interest of the City. There should be some definite timelines and they would like to see it happen in less than six months.

COUNCILMEMBER SEPULVEDA asked Mr. Patterson to address the timelines submitted by Ms. Killgore today in a memo. Mr. Patterson said that he is concerned that the stakeholders will not be updated for 2 months; there is too much time until the year end as mentioned; they feel it can be done quicker; holding team meetings to talk about the museum; it should be included in the dialogue; stakeholder representatives meeting by the end of the summer instead of mid-July so they can be informed. COUNCILMEMBER SEPULVEDA asked Mr. Patterson how often the

stakeholders should meet. Mr. Patterson said they would be agreeable to monthly. COUNCILMEMBER SEPULVEDA said he did not see any reason why stakeholders could not be updated monthly.

MR. PENTZ said that this timeframe was worked out with the developer and Staff feels it is a reasonable process and has points when the stakeholders can be briefed. It is important that the work that goes into reworking the site plan be done by the developers, the consultant and City Staff. If it works more as a design by committee process, the likelihood of drawing the process out beyond six months will increase. We need to keep everyone informed, but in such a manner that the work continues. Mr. Pentz continued that there is a question as to who the stakeholders are. We do know that the DCCP, the Museum Board, the Historical Society and a number of property owners and businesses will be interested as stakeholders. The process has to be managed and the work in developing a site plan is something Desert Viking, Staff and the consultant can do and apprise interested stakeholders and the Mayor and Council.

Mr. Patterson said that the stakeholders the last time were those Mr. Pentz just listed and they were able to keep their groups informed. He does not feel they prolonged the process and does not wish to this time. The taxpayers are also stakeholders and need to be represented. MAYOR DUNN said that the taxpayers are represented by the Mayor and Council.

COUNCILMEMBER WENINGER asked Mr. Patterson if he is speaking on behalf of the Historical Society. Mr. Patterson said he was. COUNCILMEMBER WENINGER asked what other major groups in the downtown area would be considered major stakeholders. Mr. Patterson said that other than those already mentioned, there was a representative from the Museum Advisory Board.

MAYOR DUNN commented that a 6-month timeframe for the project is extremely aggressive, maybe more so than any other development has been downtown, but the process should not be jeopardized.

NEILS KREIPKE, with Desert Viking, thanked the Mayor and Council for their consideration in developing this project. As mentioned by COUNCILMEMBER SEPULVEDA, a phasing plan can be incorporated into the design. He acknowledged the importance of the museum to the stakeholders and it needs to be a part of the beginning phase. It is also important to incorporate the conference center into the site plan. They are anxious to move forward and are willing to participate with stakeholders.

MAYOR DUNN said he is comfortable with the timeframe for involvement of the stakeholders and suggested the possibility of a monthly newsletter to provide a status report. Mr. Pentz said Staff could consider a newsletter, but with the process being so fast, the newsletters will be dated by the time they are drafted.

COUNCILMEMBER ORLANDO commended Staff and the developer for drafting the timeframe. He said currently Staff and Councilmembers meet monthly with the DCCP and the stakeholders. He noted they could put this on their agenda and Staff could provide an update.

MOVED BY COUNCILMEMBER CACCAMO, SECONDED BY COUNCILMEMBER ORLANDO, TO AUTHORIZE STAFF TO NEGOTIATE A DEVELOPMENT AGREEMENT WITH DESERT VIKING PROPERTIES, LLC FOR REDEVELOPMENT OF THE SITE DESIGNATED IN THE DOWNTOWN MIXED-USE DEVELOPMENT (SITE 6).

BECKY JACKSON, President and CEO of the Chandler Chamber of Commerce, thanked the Mayor and Council for moving forward with the development of Site 6 by Desert Viking. The Chamber is one of the stakeholders and they appreciate the opportunity to be part of the stakeholder groups along with the Museum Advisory Board and DCCP. The timeline is very aggressive and can appreciate the effort put forth by Mr. Pentz and Staff. Communication is very important in this process. They would like to have a meeting mid-July to keep everyone informed.

COUNCILMEMBER WENINGER said that it is important that Council receive the same communication as the stakeholders.

MOTION CARRIED UNANIMOUSLY (7-0)

RECESS: The meeting recessed at 8:23 p.m. and reconvened at 8:43 p.m.

88. USE PERMIT: SVK Religious Cultural Center

COUNCILMEMBER DONOVAN stated that her parents live close to the site and asked the City Attorney if she should declare a conflict of interest. MR. HOUSE responded that because her parents live in close proximity to the site, it gives COUNCILMEMBER DONOVAN a conflict of interest under Arizona law and she should not participate. COUNCILMEMBER DONOVAN left the dais during the discussion and did not participate.

Use Permit UP06-0087 SVK Religious & Cultural Center to allow a place of worship within the AG-1 zoning district at 590 N. Dobson Road. (Applicant: Zamir Hasan & Associates, Inc.; Owner: Sujnana Religious and Charitable Foundation.)

SENIOR PLANNER JODIE NOVAK said that the property is located at the SWC of Dobson Road and Galveston Street, 590 N. Dobson Road. This site is one of several parcels that are a part of the Clemens Place subdivision along the south side of Galveston Street. The property is zoned AG-1 (Agricultural) which permits single-family dwellings, field crops, raising of livestock and uses permitted by Use Permit that are compatible with other uses in the area and consistent with the General Plan. The application requests Use Permit approval to allow a place of worship.

The parcel is surrounded by single-family residential homes to the south, west and north. It is bounded by Galveston Street to the north and Dobson Road to the east. There is an existing church at the NEC of Dobson Road and Galveston Street. North of the church is a multi-family residential development. There is a medical/dental office condominium development at the SEC of the intersection. South of the office development is a post office facility.

The site currently has a single-family residence on approximately 1.8 acres. The application requests approval to redevelop the site and construct a 7,500-square foot place of worship. The SVK Religious and Cultural Center is a place of worship planned by the Pontiff from India. The facility provides a place of worship for followers of Hindu faith.

The building includes a 2,500-square foot main prayer hall and approximately 5,000-square feet of adjoining facilities. The facilities include a dining hall, kitchen, classroom and living quarters for priests. The prayer hall is the main congregation area for prayer. The prayer hall is open typically from 10 a.m. to 1 p.m. and 6 p.m. to 9 p.m. each day of the year. The facility accommodates a maximum of four devotees living at the center including a Pontiff, two priests and one facility manager. The Pontiff will only reside at the center when he is visiting the Phoenix area.

The development is in conformance with the City's development standards. The building height is approximately 20'4" with architectural features and ornamental towers extending up to 42' in height. The main building entrance is on the east side facing Dobson Road. The hall accommodates a maximum of 218 seats with a 1,750 square foot area for seating. At one parking space per four seats required by Code, 55 parking spaces are required. The development provides 72 parking spaces.

Services or organized prayers by the priests are held twice a day each day of the year. The development estimates three to five families (averaging 3 persons per family) attending during the weekday morning Monday through Friday and five to ten families during the weekday evenings. On weekends, twenty to thirty families are expected to attend the morning and evening services. On festival days, approximately 150 to 200 families attend the services throughout the day.

A traffic analysis was provided and reviewed by City Staff. The site accommodates required parking and provides appropriate access to and from the site. The site provides full-turning movement access to and from Dobson Road. There is an exit only, right-turn movement access to Galveston Street to allow vehicles to utilize the existing signalized intersection. The proposed development is expected to have a low impact on current traffic counts for Galveston Street. Galveston Street is a collector street intended to accommodate typically 1,000 to 12,000 vehicles per day. In 2001, Galveston Street had 2,400 to 2,500 vehicles per day. The traffic volume went down in 2004 to 2,200 vehicles per day. In 2006, the traffic volume went back to 2,400 - 2,500 vehicles per day. Galveston Street is a low traffic volume collector street. Frye Road, which is a collector street west of Arizona Avenue, has 11,000 vehicles per day. Galveston Street serves to collect and distribute traffic in the area bounded by the Loop 101 Price Freeway to Dobson Road and from Chandler Boulevard to Ray Road. Galveston Street also intersects with Coronado Street, which is the north/south collector street for this area.

Historically, the City has approved churches and places of worship in many residential neighborhood areas, subject to compliance with City codes and development standards. Schools and churches are encouraged within single-family residential areas and are an integral component of neighborhood design. The Zoning Code allows churches and places of worship within residential zoning districts subject to Use Permit approval. The request does not represent any negative land use impacts upon the surrounding area.

The building is one-story in height and exceeds the minimum building setback requirements adjacent to residentially zoned property to the west and south. There are architectural features and ornamental towers extending above the roofline. It is separated from adjacent residential properties by a ten-foot wide landscape tract, parking spaces 19-feet in length, a 24-foot wide drive aisle and walkways adjacent to the building.

The site provides required dissimilar landscape buffering adjacent to residential property on the west and south sides, which includes 12-foot high trees at a maximum spacing of 2-feet on center. Staff is of the opinion that the use is compatible with the area's existing single-family residential, office and church uses. The development meets the City's development standards including site layout, parking, landscaping and access.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held April 10, 2007. There were approximately 80 neighbors in attendance. Following this meeting, Staff and the applicant received correspondence in

opposition to the request. A second neighborhood meeting was held on May 30, 2007, to present vehicular access and building height changes. There were approximately 34 in attendance.

Staff and the applicant are aware of neighborhood opposition to this Use Permit request as a place of worship. Residents' concerns include: 1) A place of worship is an incompatible land use next to large lot and custom residential homes; 2) The architecture of the building is out of character and does not fit with the surrounding residential neighborhoods; 3) The use of this property other than for single-family will generate a large amount of traffic that will impact adjacent streets and the residential area; 4) Allowing a commercial use in a residential area will lower housing property values, and 5) Allowing a place of worship will set precedence for consideration of other commercial development along Galveston Street, further allowing commercial to encroach into the residential area.

Over 60 people attended the Planning Commission meeting with approximately 30 speaking, both in favor and in opposition. Neighbors submitted information regarding the Clemens Place CC&R's conveying the property is only to be used for residential purposes. City Staff clarified that the City does not regulate CC&R's.

MAYOR DUNN asked how the height of the main tower compares with the height of the church across the street and if they were visible from the west side. Ms. Novak said the towers are only located on the east elevation and will be visible on the south, west and north. The building is approximately 55' in width. From the west side of the property plus landscaping, drive aisle and another 55' is where the towers are located. The tallest part of the tower is 42' in height in comparison to the LDS church across the street, which is 71' in total height to the top of the steeple. The towers are for ornamental purposes only.

MAYOR DUNN asked how the right-turn only on Galveston would be controlled. Ms. Novak responded that it could be controlled by signage and/or design. The applicant has agreed that they would be installing no left-turn signs at the driveway. In addition, Staff is working with the applicant to design the driveway such that a radius diverting the cars to the right only.

MAYOR DUNN addressed the issue of parking. While there is adequate parking for normal use of the facility, he asked if the facility is designed for future expansion. Ms. Novak said that there is not enough room on the site for additional expansion. MAYOR DUNN asked about over-flow parking issues such as when the festivals are held. Ms. Novak said that the applicant may work with other places of worship in the valley to have their larger events. They may work with the office complex across the street for shared parking on the weekends. Many of their events are day-long with people coming and going all day long preventing a large congregation of people at one time. Since Galveston is a public road, it can be utilized for parking.

COUNCILMEMBER CACCAMO clarified that Galveston Street could accommodate parking. Ms. Novak said that Galveston Street was a collector street and there is room to accommodate parking.

COUNCILMEMBER SEPULVEDA confirmed that the applicant is in conformance with all City Codes and asked if there were any waivers granted. Ms. Novak said they are not requesting any deviations.

COUNCILMEMBER WENINGER asked if we could be creative with some of the landscape areas and create more parking to help address some concerns if the applicant was agreeable. Ms. Novak responded that the Council has the ability to ask the applicant to work with Staff to create

additional parking areas. PLANNING DIRECTOR DOUG BALLARD added that when a parking lot is designed, areas have to be designed to retain runoff. A lot of the landscaped areas are designed to accept that runoff. Ms. Novak added that maneuverability in the parking lot would also have to be considered.

COUNCILMEMBER ORLANDO asked about the living space requested. Ms. Novak said that the building itself is 7,500 square feet with a prayer hall that is 2,500 square feet. The prayer hall consists of other uses so approximately 1,500 square feet of the 2,500 square feet is the actual seating area for the prayer hall. In addition to the prayer area, 5,000 square feet of the building include the dining hall, kitchen, classroom and living quarters for the priest, which is not unusual.

ZAMIR HASAN, architect for the project, said that there were two public meetings and they incorporated many of the comments into the plan and will continue to do so. Hindu temples have some basic principals that are followed, but are flexible on some aspects of color or design. MAYOR DUNN asked Mr. Hasan if they are planning to make further design changes based on comments from the Planning and Zoning Commission. Mr. Hasan said that the only comment was to make the design more contemporary and they can work on that.

COUNCILMEMBER SEPULVEDA asked about the timeframe. Mr. Hasan said that, upon approval, approximately 5-6 months for design drawings, 3 months to get through the City of Chandler permitting process and construction 5-9 months. Time is a factor for the client.

COUNCILMEMBER WENINGER asked Mr. Hasan if they would be willing to work with Staff in adding more parking. Mr. Hasan responded they would. He has spoken to his civil engineer and there is a small piece on the south that retention can be worked out without that area and some additional parking could be added, if needed.

DEAN ELLSWORTH, 2111 W. Galveston, said the he and others bought the land in the area from Mr. Oppenshaw in 1973. It was agricultural land outside of the City. They built homes on large lots. Shortly thereafter, the City of Chandler approached them to annex into the City. They refused until 1985 when Anderson Springs started development. They agreed to the annexation with the understanding and promise that the zoning and use would remain the same. Mr. Oppenshaw passed away and his widow sold the home and it was sold again to the present owner. Mr. Ellsworth said the property is not conducive to a temple because of the lot size, traffic and the neighborhood will change entirely if one property is allowed to change existing use.

Addressing a comment made by Mr. Ellsworth, PUBLIC WORKS DIRECTOR DAN COOK said that there are no future plans to widen Dobson Road; however, there are intersection improvements scheduled for some of the intersections along Dobson.

ANANTH RAO, 2419 W. Megan St., spoke in support of the project.

JAMES MOWBRAY, 700 N. Dobson #51, La Glorietta subdivision, spoke in opposition to the project because of the inconsistency of the zoning; decrease in value of properties in the vicinity; and the style of the building is not characteristic with the buildings in the area.

ANANTH KRISHNAN, 429 W. Secretariat Drive, Tempe, stated that the project is for the entire Hindu community in the metro-Phoenix area and follows the Hindu tradition. The reasons this site was chosen include location, suitability, size and accessibility. They researched various areas for years before deciding on this site. This project will add to the cultural and social diversity in Chandler.

MIKE RATHER, 700 N. Dobson Rd. #43, La Glorietta subdivision, spoke in opposition as he felt the property is not big enough for the project. There are only 3 other temples in the metro area. There will be attendees from all over the valley because there are a limited number of temples in the valley. He noted there is a deed restriction on the property and he understands it is civil rather than civic and recommended that Council not vote tonight and research whether or not a temple can be legally built on this property.

COUNCILMEMBER SEPULVEDA asked the City Attorney if worship services could be held in the current structure. MR. HOUSE responded that it would require either a use permit or rezoning; however, there could be limited use for worship purposes.

COUNCILMEMBER WENINGER asked if there is protection for the construction of churches under federal law. CITY ATTORNEY HOUSE said that in addition to the normal standards that apply to the review of a use permit, there is a federal law called the Religious Land Use and Institutionalized Persons Act (RELUIPA), which must be taken into consideration when making zoning decisions regarding places of worship. That act provides that "no government shall impose or implement a land use regulation that imposes a substantial burden on the religious exercise of a person including a religious assembly or institution unless the government demonstrates that the burden a) is in furtherance of a compelling governmental interest and b) is the least restrictive means of furthering that compelling governmental interest. Thus, the Council must consider whether denial of the permit, which is requested, or the granting of the Use Permit, subject to specified conditions, will constitute a substantial burden on the religious exercise of the applicant. If so, the question is whether such a burden is justified as the least restrictive means of furthering a compelling governmental interest."

An example would be if a particular concern could be identified related to the public health or safety and wished to impose a requirement to address the issue, under this law, it could only be least restrictive means of furthering that interest.

VIDYANATH TIRUMALA, 900 N. Rural Rd. #1006, Chandler, spoke in support of the request. He commented that Hindus have a limited number of places where they can worship, meditate, perform rituals, celebrate festivals and share common cultures and traditions with others. The closest temple similar to the one being proposed is in northern California. A Hindu temple is as much as place for learning as it is for worship.

LAREE DUDDING, 2041 W. Galveston, spoke in opposition to the request. She has lived in her home for 32 years on the west side of the property and is concerned with property value. She cited concerns to the height of the temple tower and size of the property. She feels the owners have misrepresented themselves by stating there would be no two-story structures and now there will be; they said they would never use the parking at the medical center, but they are. She is against them parking along Galveston Street and expressed concerns with parking availability when large groups come. She stated a more suitable location needs to be identified.

ASHOK CHANDRASETCHER, 4888 W. Tyson Street, Chandler, said that they chose to live in Chandler after living in Phoenix and Tempe because they wanted someplace vibrant. His children go to school here and they need someplace to pray. He said the City Council could take the necessary action if the rules were not followed.

LAURA WOLFE, 2318 W. Galveston, Chandler, spoke in opposition to the request. If anything other than residential is constructed on this lot, she is concerned that AG-1 would be approved for

a non-residential use. She said this tall, ornate structure is out of context with homes in the area. This is a high-density use in a low-density area. The LDS church across the street is on 5 acres in a planned mixed-use area. At the Planning Commission meeting, 13 of the 30 people who spoke in support of the temple were not Chandler residents. They also stated there were 500 – 800 members affiliated with the church which is a lot more than the 30 families previously represented by the applicant. She commented that it would be better to build on a site now that has room for expansion as the congregation increases.

HARI KANDADAI, 2109 W. Wildhorse Dr., Chandler, spoke in support of the temple. Just as Christianity has different denominations, so do the Hindus. Even though there will be an influx of people from the Phoenix area, they will not all be going to the same temple. With regard to crowd management, they are restricted by the fire code and they will enforce it. There are celebrations and festivals where there may be 600-800 people, but another facility will be used. They want to be good neighbors and insure parking is taking place within their lot.

CHRISTY QUICK, 2402 W. Galveston, Chandler, spoke in opposition to the request as she felt the project is not in harmony with the neighborhood. There has been talk of schools and churches being located in master planned communities, but this neighborhood is not a master planned community. The only commercial in the one square mile is on Chandler Boulevard. It is even residential on Ray Road. The only multi-family residential is on Coronado which sides to the 101.

S. MUKKAVILLI, 1549 E. Kaibab Dr., Chandler, spoke in support of the project. In addressing the occupancy issue, when attendance is more than the maximum number allowed, they intend to shift the prayer or festival services to the north Phoenix Hindu U. S. Cultural Center. Even though services are held daily in the morning and evening, devotees will come at different times during the day. They are all professionals and have a vested interest in the cultural and religious diversity of Chandler.

HILDA ROY, 2401 W. Harrison St., Chandler, spoke in opposition. She learned about the Hindu culture and religion while residing with them in Ireland. She said the lot is too small and in a residential area. The facility is also geared to serve not only the Hindus of Chandler, but also the entire state. The area from Ray Road to Chandler Boulevard, on the west side of the street, every lot is residential and not commercial as portrayed by the Planning Department. The east side is more mixed-use. Malls and parking lots are built based on expected attendance. Religious centers should be the same. She does not feel 70 parking spaces proposed for this temple are adequate.

AHEESH BHARADWAJ, 3600 W. Ray Road, Chandler, spoke in support of the project. There is no place of worship in Chandler for the Hindu community.

TAMMY BOONE, 2680 W. Tulsa St., Chandler, spoke in opposition to the project. There is no room for future growth; parking will be a problem and the tower heights are too high. She asked the Council to keep it as residential.

SATISH VISHWANATHAN, 3600 W. Ray Road, Chandler, spoke in support of the project. The basic tenetance of Hinduism is not about religion, but rather about inner peace and meditation.

SHERRIE SOMMER, 2406 W. Harrison St., Chandler, spoke in opposition. The exit on Galveston, where there is right turn only onto Dobson, is very short and she is concerned with long lines and accidents to get onto the 101. There is a misunderstanding in that the neighbors

are not opposed to the Hindu religion or them building a church; they just don't feel this is the right location.

COUNCILMEMBER WENINGER asked if there is a criterion that must be met in order to have police officers directing traffic at a church. MS. NOVAK said she does not believe there are any requirements other than the churches contacting the police to have officers assist with traffic. MR. COOK added that any such requirement would be related to traffic safety and the ability to move traffic off the site and onto the arterial street.

COUNCILMEMBER SEPULVEDA asked about the right-out onto Galveston or Dobson. MS. NOVAK said they have worked with staff in the Traffic Division to make sure it would meet the City's requirements and not create and conflicts with the existing lane configurations and turning movements. There are two existing driveways on the site, but the most western is the only one being used. TRANSPORTATION ENGINEER MIKE MAH added that the driveway is approximately 100 feet from the stop bar. There should be enough "storage" for five cars and capacity of approximately 200 vehicles per hour. It is not unusual and should operate satisfactorily.

COUNCILMEMBER SEPULVEDA asked about the neighbor's concerns with the right out on Galveston. MR. MAH said that the right-out could help alleviate westbound traffic on Galveston.

BRUCE STRAHAN, 2900 W. Galveston, Chandler, spoke in support of the project. He lives approximately one mile away at the corner of Galveston and Coronado. His "neighbor" on the east side is a Qwest facility and his "neighbor" on the west is a large, four-story apartment complex. He hasn't been bothered by traffic and nothing has affected his lifestyle. Driving down Galveston, there are only 8 houses that front on Galveston. Those living in La Glorietta live in a gated-community which backs up to Galveston and Dobson and will not see the temple except when they drive by. He does not see anyone building residential on the proposed corner.

KIM RUGGIERO, 700 N. Dobson #58, Chandler, said that she drove to the Hindu temple in Scottsdale on Hayden between Thomas and Osborne. The temple did not have spires and had a flat roof in keeping with the aesthetics in that location. It was in disrepair and not structurally maintained. The grounds looked unkempt, the building had stucco around the windows and was not painted over to match the building. It looked like a tear-down. The Council should be concerned with the lack of care at the temple and the affect on property values.

PRABHU HIREMATH, 1608 E. Canyon Way, Chandler, spoke in support of the project. Hinduism is the third largest, but not in Arizona. He is hearing "not in my backyard" because of noise and traffic. His wife is Catholic and Hispanic and supports the project as he would support a church for her. We need co-existence and more diversity. He does not feel property values would be affected.

ALLYN BARNUM, 700 N. Dobson #26, Chandler, spoke in opposition. It is not about the religion. It is simply about not being the right location and there are deed restrictions. He encouraged help to find another location.

COUNCILMEMBER CACCAMO asked Mr. Barnum to explain the deed restriction. Mr. Barnum said that the original deed restriction states that "all sub-plots are residential plots only" and continues that "it shall be in harmony with the neighborhood". Putting commercial in a residential neighborhood is not in harmony. The deed restriction is a civil matter that should be handled before the Use Permit is considered.

COUNCILMEMBER ORLANDO asked if the civil process has begun. Mr. Barnum said they have not. CITY ATTORNEY HOUSE said that deed restrictions are private matters between the property owners and are not to be considered by Council in deciding this case. COUNCILMEMBER ORLANDO asked what happens if the case is approved by Council and then there is a civil case. MR. HOUSE said that he couldn't give an opinion as it is outside his area of expertise. MAYOR DUNN explained that if there were a deed restriction enforceable by a court, the project would not be built. It does not depend on the City's Use Permit. If the City does not act on the Use Permit to wait for private legal action, it creates liability for the City. Mr. Barnum added that all parties are becoming aware of a potential legal issue.

PAUL HANSEN-MITEV, P.O. Box 6343, Chandler, spoke in support of the project. He lived at 590 N. Dobson. There is a bus stop on that property. It is a good location for the temple because it has access to public transportation.

SITARAM INGUVAM, 4351 W. Maldonado Rd., Laveen, spoke in support of the project as Hindu's need someplace to practice their religion.

SRIRAM DATAGURU, 3290 W. Shannon Place, Chandler, said that one of the main concerns mentioned by the neighbors is managing crowds on the site. In the Hindu religion, they do not practice their religion on a particular day of the week. People come to the temple at different times of the day and different days. If there is a large congregation, they can move to the Scottsdale location.

CHITHRA PURSENA, 2375 E. Longhorn Place, Chandler, addressed a comment earlier about the disrepair of the Scottsdale temple. There are other facilities in the valley that are very well maintained. There are rules governing where cars are parked and those rules are followed.

COUNCILMEMBER ORLANDO asked the applicant about the significance of the three towers and different sizes. The architect, MR. HASAN, said that it was designed with the help of the chief priest. It mimics the 13th century temple in Ruby. The spires have to be placed with the tallest in the center in descending order. COUNCILMEMBER ORLANDO asked about the additional parking spaces. MR. HASAN said he would have to sketch it out, but felt it would be approximately 4 or 5.

COUNCILMEMBER ORLANDO asked about the size of the trees to be installed. MR. HASAN said that the City has an intensive landscape requirement, which they followed. On the west and south, 12' high trees have to be planted every 20'; on the northeast there is extensive plant setback.

COUNCILMEMBER ORLANDO asked Mr. Hasan if he had considered lowering the height of the spires. MR. HASAN responded that they have. It was 60' and they lowered it to 40'. They are working with Ms. Novak and are willing to lower them more if necessary.

COUNCILMEMBER ORLANDO asked about the density. When comparing other houses of worship to the one being proposed, it is the least intensive. Only 10% of the site is dedicated to the building structure. MS. NOVAK said she did an analysis of 8 places of worship that have had Use Permit and zoning approvals on sites similar to this one.

MOVED BY COUNCILMEMBER WENINGER, SECONDED BY COUNCILMEMBER SEPULVEDA, TO APPROVE USE PERMIT UP07-0087 SVK RELIGIOUS & CULTURAL CENTER, TO ALLOW A PLACE OF WORSHIP WITHIN THE AG-1 ZONING DISTRICT

LOCATED AT 590 N. DOBSON ROAD, SUBJECT TO CONDITIONS RECOMMENDED BY THE PLANNING COMMISSION AND STAFF AND ADDING THAT STAFF WORK WITH THE APPLICANT TO SEE IF THE PARKING CAN BE EXPANDED WHILE MAINTAINING THE PROPERTY DRAINAGE REQUIREMENTS AND PRESERVING THE AESTHETIC APPEAL OF THE PROJECT. STAFF WILL ALSO WORK WITH THE APPLICANT TO POSSIBLY LOWER THE SPIRES IF POSSIBLE. THE FOLLOWING STIPULATIONS ARE ALSO INCLUDED:

1. Development shall be in substantial conformance with the Development Booklet entitled "SVK Religious & Cultural Center", kept on file in the City of Chandler Planning Services Division, in File No. UP06-0087, except as modified by condition herein.
2. Expansion or modification beyond the approved exhibits (Site plan, Floor Plan, Landscape Plan, Building Elevations and Narrative) shall void the Use Permit and require new Use Permit application and approval.
3. Use Permit approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Use Permit shall apply.
4. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
5. Landscaping shall be in compliance with current Commercial Design Standards.
6. The landscaping shall be maintained at a level consistent with or better than at the time of planting. The site shall be maintained in a clean and orderly manner.
7. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner.
8. The property shall be maintained in a clean, weed free, and orderly manner.
9. The site shall be solely used as a place of residence until the new building for a place of worship is constructed and occupancy is permitted.
10. The applicant shall create a liaison program with the adjacent neighborhood to advise of upcoming special events before they occur at the site, allowing neighbors to directly contact a representative of SVK with their concerns.
11. The applicant shall work with Staff to provide a modification to the building elevations to achieve a more contemporary look.
12. Staff shall work with the applicant to see that the parking can be expanded while maintaining the proper drainage requirements and preserving the aesthetic appeal of the project. Staff shall also work with the applicant to possibly lower the spires (towers) if possible.
13. Use Permits granted by the City Council shall be void if the use is not commenced or substantial construction has not taken place within one (1) year of such Council action or within a time period stipulated by Council.
14. No allowance to build a second-story on this facility.

COUNCILMEMBER SEPULVEDA ADDED THE TIME STIPULATION THAT "USE PERMIT GRANTED BY THE CITY COUNCIL SHALL BE VOID IF THE USE HAS NOT COMMENCED OR SUBSTANTIAL CONSTRUCTION HAS NOT TAKEN PLACE WITHIN ONE YEAR OF SUCH COUNCIL ACTION OR WITHIN A TIME PERIOD STIPULATED BY THE COUNCIL".

COUNCILMEMBER SEPULVEDA ALSO ASKED THAT A SECOND STIPULATION BE ADDED PROHIBITING THE ADDITION OF A SECOND STORY.

COUNCILMEMBER WENINGER asked if we have treated churches similarly in the past. CITY ATTORNEY HOUSE said that the time stipulation is required by ordinance for Use Permits.

COUNCILMEMBER SEPULVEDA referred to the Muslim mosque that was approved 12 years ago that did not have a time stipulation and it is still a vacant building. COUNCILMEMBER WENINGER ACCEPTED THE TWO ADDITIONAL STIPULATIONS.

MR. HOUSE said there are certain findings that have to be made under the terms of the Chandler Zoning Ordinance in order to grant a Use Permit. It is not ordinarily done by Council in non-controversial Use Permit cases, but recommended those findings be done in this case and read them into the record:

“That the finding be made that the requested use is in conformance with the General Plan, will not be detrimental to persons residing or working in the vicinity to adjacent property, to the neighborhood or the public welfare in general and will be in full conformity with the conditions, requirements, and standards prescribed by the Code or such higher standards as may be deemed necessary by the Council.”

MAYOR DUNN expressed concern with the timing of the Use Permit involving religious buildings. He is concerned with consistency. He asked Mr. House if there was a use permit ever given to a church or religious body in Chandler without the one-year time period stipulation. Mr. House responded that it is an ordinance requirement, but it does say one-year of Council action or within a time period stipulated by the Council. He does not know if a longer time period has been stipulated for other Use Permits. MR. BALLARD said that for Use Permits in general, Council has granted longer time periods and sometimes waived any time stipulation. He does not recall where a longer time period has been granted to a church. MAYOR DUNN clarified that when a sign says “future home of.....”, it is by rezoning and not Use Permit. Mr. Ballard concurred.

MAYOR DUNN asked what defines commencing construction within one year. MR HOUSE responded that it requires substantial construction. MR. BALLARD said that in other religious establishments, a public infrastructure needed to support a particular use was built within a one-year period and Staff felt it was adequate to meet the time stipulation. That could include tying into a water line or extending a sewer line. Mr. Ballard added that it basically means the expenditure of significant funds on behalf of the applicant for the purpose of supporting the project.

COUNCILMEMBER WENINGER asked if the clock is running if the applicant is tied up in court with a civil case. MR. HOUSE responded that there is no exception for any delay. If the time period could not be met because of litigation, it would be necessary to come back to Council and extend the time period.

COUNCILMEMBER WENINGER clarified that the one-year stipulation is automatically placed on a Use Permit through the ordinance and it is not necessary to specifically state it. Mr. House concurred.

MAYOR DUNN added that his concern is with consistency and making sure all places of worship are being treated equally. He also clarified with COUNCILMEMBER WENINGER about adding additional parking, but not with the intent of removing any landscaping buffer areas or any setbacks. COUNCILMEMBER WENINGER said it was not his intent to remove any landscaping. MAYOR DUNN asked the applicant if his earlier statement that he was willing to modify the design was voluntary on his part. Mr. Hasan confirmed that it was.

COUNCILMEMBER CACCAMO asked if taller trees could be added to help mitigate some of the concerns. He would also like to see more restrictions in parking on Galveston Street. This would not be a stipulation but rather a voluntary action. MAYOR DUNN said that was addressed with the requirement to plant 12' trees.

MOTION CARRIED UNANIMOUSLY (6-0) WITH COUNCILMEMBER DONOVAN ABSTAINING.

The meeting recessed at 10:55 p.m. and reconvened at 11:05 p.m.

89. AGREEMENT AMENDMENT: Cactus Towing / ACT Towing

APPROVED Agreement Amendment No. 1 with Cactus Towing for police towing service, extending for one year through August 31, 2008, and assignment of the contract to ACT Towing LLC dba All City Towing.

PURCHASING MANAGER ROBERT COMBS clarified that the award was originally made to ACT Towing dba Cactus Towing. As Staff proceeded with the extension agreement, ACT Towing dba Cactus Towing informed Staff that the contract would be reassigned to ACT Towing dba All City Towing.

In December of 1995, the City began utilizing a contract for towing service. Contract towing service has proven to be a successful alternative to the previous rotation program. Some of the benefits provided by contract service include lower cost to the citizens, fewer customer complaints and a streamlined workload for the Police Department. The Police Department utilizes the contract for vehicle towing, storage and impounding services including removal of wrecked vehicles, vehicles abandoned on City streets, vehicles left unattended in a traffic way, vehicles towed for evidentiary purposes, vehicles impounded and vehicles towed due to an arrested driver.

On August 10, 2006, City Council awarded a contract for Police Towing Service to Cactus Towing. The contract was awarded for a one-year period through August 31, 2007, and contained provisions to extend up to four additional one-year periods. The contractor has agreed to extend one year with no price increases.

Mr. Combs continued that this is the first of the four one-year extensions. Allegations have been made by Auto Citi Towing against All City Towing, which have been investigated by Staff. Based on a positive experience and no complaints regarding over-charges, Staff recommends extension of this contract with ACT Towing dba All City Towing.

MAYOR DUNN asked the City Attorney what Council's choices are based on the advertisement of this item. MR. HOUSE responded that Council's choices would be to approve the extension of the current contract with ACT Towing dba All City Towing or to not extend which would cause termination of the contract on August 31, 2007. There is not an option to not extend the contract and award the contract to another firm. If the contract is not extended, there would have to be another invitation for bid to contract with another company.

MAYOR DUNN asked if the contract were not extended, would it be cancelled. MR. HOUSE said the contract is for one year, which expires on August 31st, and the contract would continue until that time, but would not be renewed. MAYOR DUNN asked if Council would have the authority at this meeting to direct Staff to proceed with an invitation for bid if the contract were not renewed. Mr. House said Council could give that direction to Staff under this item.

MAYOR DUNN asked what would be done for interim services if the contract were not extended. MR. HOUSE said he understands that we could possibly utilize a contract from the City of Tempe or use a rotation basis. It would have to come back to Council for approval. Chief Kiyler concurred.

COUNCILMEMBER WENINGER referred to a color coded chart provided by All City Towing with green representing allowable charges, yellow representing questionable charges and red representing billing errors. He asked what is deemed an inspection which depicts a questionable charge and why is it questionable. MR. COMBS replied that an inspection would be questionable depending on who owns the car at the time of the inspection. Typically, an inspection is conducted by either the owner wanting to retrieve property or an insurance agent wanting to examine the damage. If the owner is still the owner, the charge is not permissible. If the towing company has possession of the title, the charge is permissible. COUNCILMEMBER WENINGER asked who is being charged the fee if the towing company has possession of the vehicle. Mr. Combs responded that it would be charged to the insurance company.

COUNCILMEMBER WENINGER asked what the \$10 staging fee is for. MR. COMBS responded that staging means delivering the vehicle to the City street where the owner or another towing firm may take possession of the vehicle. Under the current contract, this charge is not allowed.

COUNCILMEMBER WENINGER asked if the charges were allowed under the previous contract. Mr. Combs responded that he believed plate removal and staging were, but inspections were not mentioned; however, citizens were charged the fee.

COUNCILMEMBER WENINGER asked if the City has ever audited any towing invoices. Mr. Combs responded that we have not, but we do have that right. COUNCILMEMBER WENINGER suggested that whatever the outcome of this action is, an audit should be done based on a spreadsheet provided by the contractor.

TODD DEMASSEO, 1600 N. Delaware, Chandler, representing ACT Towing dba All City Towing, said that the history of service provided to Chandler has been exceptional. They have had no complaints from citizens, City Staff or the Police Department. The only complaint has been from a competitor. It is a very competitive business. He said they performed their own internal audit in response to a letter sent to the Mayor and Council in May by a competitor. He expressed the desire to work with the City and have an investment in the City.

VICE-MAYOR HUGGINS asked what the percentage of error was on the internal audit. Mr. DeMasseo responded that it was less than 1%. The comparison was done on dollars instead of units because if there was an error and someone wanted to say it was an overcharge, there would be a refund check. The error margin for the last nine months was 0.89%. Mr. DeMasseo added that if they discover an error, they would fix it. They are implementing new procedures and policies to try to prevent errors.

COUNCILMEMBER SEPULVEDA asked Mr. DeMasseo to explain the 17% overcharges referred to by Mr. Hatch in a letter to Council dated June 28, 2007. Mr. DeMasseo responded that he couldn't explain how Mr. Hatch got his numbers.

COUNCILMEMBER WENINGER asked Mr. DeMasseo what a citizen request fee is. Mr. DeMasseo said it would be an instance when they respond based on the police providing the customer the name of the contractor who provides service for the City. If they do not have one,

the officers will provide a reference to his company. They will not generate a police tow sheet because it is not a police-ordered tow. A citizen's request would be a private request with private rates.

COUNCILMEMBER WENINGER asked about causes for some of the mistakes shown on the summary. Mr. DeMasseo said that there was personnel turnover and when the two companies merged, they also merged software which had different reference codes for each company that had to be combined causing errors. To his knowledge, there have been minor mistakes since the first of the year.

COUNCILMEMBER WENINGER asked about the discrepancy between what Mr. Combs said about charging for inspections. Mr. DeMasseo is saying they can charge for inspections, but Mr. Combs said they could only charge for inspections if the tow company has title to the vehicle. Mr. DeMasseo responded that they have discontinued the charge, but there is nothing in the contract that provides for the insurance companies to go into their storage yard to inspect the vehicles. They have to escort them to the vehicle where they do a property damage assessment. The contract provides for them to provide access to the registered owner.

MR. COMBS said that, per the current contract, the name of the owner, the date and time of tow, the police department case number and an itemized statement with any and all fees and charges are the only four things that are required to be reported by the towing company. The City did not request what All City Towing has provided in the way of listing the fees or additional information.

Referring to the analysis summary provided by All City, MR. COMBS said that at the beginning of the contract in September, because of software issues, the old rate of \$20.00 was charged instead of the new rate causing a considerably high error rate. There were 416 tows, 109 miscellaneous charges in that month, four of which were found to be authorized acceptable charges under the agreement. Subtracting four from 109, divide by 416 provides the error rate. The error rate drops off dramatically down in February where there were none and a couple in March and April. The overall error rate is 5.5% through the term of this contract.

COUNCILMEMBER WENINGER asked if miscellaneous charges were being reported in January and February. MR. COMBS said they were not miscellaneous charges, but reportable charges. In January, there were two "red" charges that occurred when the old towing charge of \$20.00 was used rather than the current rate of \$10.00. There were two in February which were administrative fees possibly associated with taking title to the vehicle. Those were reported by All City, but they are not unauthorized, unfair or illegal charges. Overall, throughout the first nine months of the current contract, the rate of charges that anyone may question is 5.5%.

COUNCILMEMBER WENINGER asked for clarification on allowable inspection charges. MR. COMBS stated that the contract clearly identifies what charges can be made. The inspection fee is not an allowable fee.

COUNCILMEMBER WENINGER asked Mr. DeMasseo if they charged the inspection fees and did not include them in miscellaneous after the first of the year. Mr. DeMasseo responded that to his knowledge, they did not. Mr. DeMasseo said they were advised by their counsel that they could charge the fee, but believed they have stopped. If they have charged it after the first of the year, it will be refunded. COUNCILMEMBER WENINGER said of the overcharges, that was a hundred of them. If it did happen after the first of the year, that would dramatically affect how much these overcharges had decreased.

COUNCILMEMBER WENINGER asked Mr. DeMasseo if he knew how many salvaged vehicles they have had since the beginning of this contract. Mr. DeMasseo said he did not. COUNCILMEMBER WENINGER asked what determines when the towing company can take ownership of a vehicle. Mr. DeMasseo responded that, based on state statute, once a vehicle is in their possession, they are required to file an abandoned vehicle notification with the State Motor Vehicle Division after the 10th day. The DMV sends out a certified mailer to the last known registered owner and/or lien holder. Those 10 days are charged at \$7.50 per day excluding the first day. COUNCILMEMBER WENINGER asked if the \$189.00 admin fees shown on the analysis summary is the charge for salvaged vehicles. Mr. DeMasseo responded that it was. Once ACT Towing receives the title in their name, they apply an internal charge. If they were to receive a claim to retrieve the vehicle after ACT has received title, it would be a fee charged in addition to the accumulated storage and towing fees.

COUNCILMEMBER WENINGER asked why some of the storage fees are lower than what they should be if the car was in storage for at least 10 days at \$7.50 per day. Mr. DeMasseo said the fees should be higher because in most instances it takes 30-60 days to receive title. He does not know why the fees are showing so low because storage does not stop accruing until they get the title. Mr. DeMasseo said the low tow fees could have been when the owner came to their facility to release the title and they could have waived the towing and storage fees for them signing their title over to them for disposal.

MAYOR DUNN asked Mr. DeMasseo how they will be refunding citizens and how long would it take. Mr. DeMasseo said they have already mailed 191 checks and will continue to do so until they are done.

VICE-MAYOR HUGGINS asked Cmdr. Christensen if they are satisfied with the service level of the current company has provided. CMDR. CHRISTENSEN replied that they are satisfied with the service level. They have received two complaints not related to charges and have received no complaints from police officers.

TOM O'BRIEN, 1731 N. Arizona Avenue, Chandler, General Manager of Auto Citi Towing, stated that last year, Auto Citi was the lowest responsive bidder and was recommended by City Staff to be awarded this contract. Council had some issues with Auto Citi's experience and he provided his background in the industry. He spoke with Mike Mandt on May 14th who advised him this would be going to Council and he asked to review of all of Cactus' records. He found approximately 257 overcharges. According to their contract, Cactus is not allowed to charge for anything other than the line items listed. Mr. O'Brien recommended the City conduct an internal audit on all of Cactus' invoices and that the agreement not be renewed.

COUNCILMEMBER ORLANDO asked Mr. O'Brien if he does regular audits on his firm. Mr. O'Brien said they do. Their error rate is 1-5%. COUNCILMEMBER ORLANDO commented that there is a high error rate in this business. Mr. O'Brien said there appears to be a pattern of overcharges by Cactus.

COUNCILMEMBER SEPULVEDA asked about Mr. O'Brien's statement that Auto Citi was the low bidder on this contract and Staff recommended awarding the contract to them. Mr. Combs confirmed that Auto Citi was the low responsible, responsive bidder and Staff did recommend awarding the contract to them. Following subsequent conversations regarding them doing police towing, it was awarded to ACT Towing dba Cactus.

COUNCILMEMBER SEPULVEDA asked how the 17% of overcharges was derived in Mr. Hatch's letter of June 28th. Mr. O'Brien said they took the total number of tows for those months of approximately 1000 with 257 overcharges with some being multiple overcharges on the same vehicle.

TROY MYERS, 1731 N. Arizona Avenue, owner of Auto Citi Towing, explained that when they perform a tow, the driver calls dispatch and tell them how far they have towed the vehicle. Using a software system where the rates have been set and locked, when the account is put in they are towing for, the rates are automatically there. Entering the number of miles automatically produces a total. They get paid, the driver fills out an invoice and drops it into a box in the evening. The next day, it is opened by office staff that double check the amounts. If there is an error, it is corrected. If it is a purchase order for a dealership, it will be billed and mailed. Their margin for error is slim to none. As far as no complaints being filed against Cactus for overcharges, if you don't know what the towing rates are in Chandler, you can't complain. Last year the experience of Cactus was discussed. They have to either be a great company with a lot of experience or they are a company that makes a lot of mistakes. They cannot excel in both areas.

BRIAN HATCH, 1423 S. Higley Rd. #110, Mesa, attorney representing Auto Citi Towing, said that Cactus Towing has overcharged and charged citizens in excess of those items allowed by the contract. He referred to the request for proposal issued last year that includes a provision allowing the City to terminate the contract and award it to the next bidder.

ROD JARVIS, 2415 E. Camelback Rd. #1050, representing Auto Citi Towing, spoke to the error rate issue. The error rate depends on what is caught through the double-checking system. If an experienced company is operating correctly and ethically, the errors could virtually be eliminated which is what Auto Citi Towing does.

COUNCILMEMBER WENINGER referenced e-mail from former Assistant City Attorney Judy Skousen sent in December 2006 to Robert Combs and copied to Mike Mandt,

"If Cactus continues to refuse to provide all the information requested and in the formal electronic that we require, Purchasing needs to go up the chain of command for a policy decision of whether to start the process to cancel the contract for breach. It is our legal opinion that it is a breach of contract, but whether or not to cancel the contract is a policy issue."

MR. HOUSE said that Section 4.6 of the contract requires certain information to be reported. It specifically states that the information on the report "shall include vehicle owner, date and time of tow, departmental case number if applicable, an itemized statement of any and all fees charged to the vehicle owner or agent". It is his understanding that City Staff was asking for additional information to be reported. MR. COMBS said that was not correct. He said that Ms. Skousen requested the information. MR. HOUSE continued that Ms. Skousen was of the opinion that additional information other than what was listed in the contract could be requested because the first part of Section 4.6 states that "the contractor shall provide a report in a form and content approved by the City". He stated that Ms. Skousen opined that we could require additional information because we could prescribe the form and content of the report. Cactus disagreed which is what prompted the e-mail. It is his understanding that the information being provided by Cactus Towing was acceptable to Staff and the additional information was not necessary.

COUNCILMEMBER WENINGER asked about reporting the inspection fees. MR. HOUSE responded that it would; however, the inspection fee is not permitted under the contract. COUNCILMEMBER WENINGER likened it to the miscellaneous charges. If they are being reported after January 1 and are supposed to be reported and not supposed to be charged, he asked Mr. House if it was his opinion that if the fees are charged, they must be reported. Mr. House said the contract is specific on what fees can be charged and this is not one of those charges. Any fees charged need to be reported.

MAYOR DUNN asked if it is agreeable with Mr. DeMasseo to report all fees being charged. Cactus Towing has admitted making mistakes and is taking steps to rectify the situation. He questioned what information Cactus needs to continually provide to the City to make sure mistakes are not made. Mr. DeMasseo said he is willing to make that commitment to the Council. He said that fees covered by the contract should be provided, but fees not covered under the scope of the contract may be not provided. He felt their may be some proprietary information may be there. MAYOR DUNN said he wants to be assured that fees not allowed are not being charged in another category. As stated earlier, citizens do not know what fees they can be charged.

COUNCILMEMBER WENINGER clarified with Mr. DeMasseo that they would no longer be charging inspection fees. Mr. DeMasseo concurred.

MOVED BY VICE-MAYOR HUGGINS, SECONDED BY COUNCILMEMBER SEPULVEDA, TO APPROVE CONTRACT PD6-968-2247, AMENDMENT NUMBER 1, EXTENSION FOR ONE YEAR THRU AUGUST 31, 2008, TO ALL CITY TOWING.

MAYOR DUNN asked how the audit would be handled. MR. HOUSE said the auditing would be done by the Police Department or Purchasing. MR. COMBS said that a senior auditor has recently been hired. All City Towing has been very forthcoming with their reporting and open discussions they have had. MAYOR DUNN asked the City Attorney if the audit condition needs to be included in the motion. MR. HOUSE responded that if there is something unclear or needs to be changed in the current agreement, it would need to be incorporated into the agreement. An amendment to the agreement may be necessary. MR. COMBS said that the only thing that would need to be revised in the contract is some reporting procedures. He feels All City Towing would provide the information on a routine basis.

COUNCILMEMBER ORLANDO asked if this could be tentatively approved and have Staff come back at the next Council meeting with a contract amendment specifying what the audit procedures would be. MR. HOUSE commented that he did not see what the affect of tentatively approving the agreement would be. Councilmember Orlando said that if Council is concerned with getting something in writing, it should be continued to the next meeting with direction to Staff and the towing company to change the scope of the contract. Mr. House said that would be his recommendation since we do not have the language to make the change.

MAYOR DUNN said he did not feel it was necessary. He was not looking for something that formal. Management Services is responsible for monitoring all contracts. He does not feel it is necessary to specify audit procedures in the contract if Management Services is satisfied with the contractor's willingness to provide the information. If that does not happen, there is an option of canceling the contract.

COUNCILMEMBER WENINGER clarified with Mr. Combs that Staff has the ability to request the invoices. MR. COMBS said that we have the right to audit. It does not specifically say we can

request specific invoices or select them randomly, but he assumes it would fall under the scope of "audit". MR. HOUSE added that the degree by which an audit to done is up to us. MR. COMBS said that there are four elements required by the contract. All City Towing has chosen to provide the additional information, with the exception of the disappearing miscellaneous column. If "miscellaneous" included the remainder of any other fees charged to a customer or customer's agent, and if they would agree to a monthly random sampling of invoices selected by the Police Department and reviewed by the Management Services Senior Auditor, we could accomplish the goal. Mr. DeMasseo agreed.

VICE-MAYOR HUGGINS AND COUNCILMEMBER SEPULVEDA, AS THE MOTION MAKER AND SECOND, AGREED TO INCLUDE MR. COMBS' ADDITION TO THE MOTION.

DAVID SCHWARTZ, 30 W. First Street, Mesa, addressed the e-mail mentioned earlier by COUNCILMEMBER WENINGER with regard to information requested by Ms. Skousen. The information she was requesting dealt with re-tows. There is a federal law that prohibits states, counties or political subdivisions from interfering and regulating towing contracts and prices. There is an exception under the public health and safety, which allows Council to award tow contracts and regulate the pricing of the initial tow up through the time the car is released to the owner. The RFP last year included an attempt to regulate the pricing of the re-tow fee. They filed a law suit to challenge that portion of it and were successful in getting a preliminary injunction against the City because Judge Campbell felt there was a probability of success that it was unlawful for the City to regulate them and even require it as part of the bidding. Those provisions were withdrawn by the City and the IFB went forward and the award was made. The lawsuit was dismissed because it was considered moot and it was that area the deals with the re-tow hook fees that was disputed with Ms. Skousen. He said that All City will provide all information requested for an audit except for the re-tow fee because the City cannot regulate it and they don't feel they should be required to report that fee in the audit.

COUNCILMEMBER SEPULVEDA clarified with Mr. Schwartz that All City is amenable to providing the other information for audit. Mr. Schwartz agreed.

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

PUBLIC HEARINGS:

P. H. #1 ANNEXATION: SEC Riggs Road and Arizona Avenue

Mayor Dunn opened the public hearing at 12:22 a.m., Friday, June 29, 2007.

PLANNING DIRECTOR DOUG BALLARD said that the subject property, under the ownership of GE Industrial Plastics, is located on the south side of Riggs Road between the Consolidated Canal and the Union Pacific Railroad. The property is zoned IND-3 within the County. The Southeast Chandler Area Plan, a land use element plan of the Chandler General Plan, designates the area as a "Traditional Suburban Character" area. Residential development densities within the range of 2.5 to 3.5 dwelling units per acre are proposed as a major element within this Character Area. The landowner intends to develop the property for residential purposes.

While the property is largely vacant, there are limited industrial operation sites within the overall land holdings that will be removed prior to the development of the property. Existing and/or

planned land uses adjacent to the site include: north, City golf course; east and south, single-family residential; west, industrial. The property is contiguous to the City of Chandler along its northern border with Riggs Road.

COUNCILMEMBER SEPULVEDA clarified that the property is zoned IND-3 in the county and would come into the City not as industrial. Mr. Ballard said it would be give interim City zoning of AG-1 and the applicant would process a rezoning request. There would probably be pre-annexation agreements coming forward. COUNCILMEMBER SEPULVEDA asked what the area is specified for in the General Plan. Mr. Ballard responded that the Southeast Chandler Area Plan calls for it to be residential.

The Mayor closed the public hearing at 12:25 a.m.

SPECIAL ORDERS OF THE DAY

A. Mayor's Announcements:

MAYOR DUNN announced that the Chandler Police Department is asking for the public's help in identifying a suspect in the serial rapist case. Anyone with information regarding those crimes is encouraged to contact the police department.

MAYOR DUNN encouraged everyone to attend the 4th of July Celebration from 4:00 to 10:30 p.m with fireworks at 9:30.

MAYOR DUNN added that the City of Chandler will host a booth at the 4th of July Celebration providing information to veteran's. A representative from the Carl T. Hayden Medical Center will be available to answer health-related questions.

B. Councilmembers' Announcements:

None.

C. City Manager's Announcement:

None.

Adjournment: The meeting was adjourned at approximately 12:37 a.m., Friday, June 29, 2007.

ATTEST: _____
City Clerk

MAYOR

Approved: July 23, 2007

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 28th day of June 2007. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this _____ day of _____, 2007.

City Clerk