

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, May 28, 2009, 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
Bob Caccamo	Vice-Mayor
Trinity Donovan	Councilmember
Rick Heumann	Councilmember
Matt Orlando	Councilmember
Jack Sellers	Councilmember
Jeff Weninger	Councilmember

Also in attendance:

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

INVOCATION: Pastor Kevin Hartke – Trinity Christian Fellowship

PLEDGE OF ALLEGIANCE: Councilmember Heumann

SCHEDULED PUBLIC APPEARANCES:

1. Service Recognitions

COMMUNITY SERVICES DIRECTOR MARK EYNATTEN recognized ART WOMACK for his 30 years of service to the City. Art has always had a reputation for his exemplary work ethic. For the past 13 years, Art has worked at the Snedigar Sportsplex. Prior to that he worked on the landscaping at Folley Park. He was very well loved by the children of the neighboring Frye Elementary School and became their ace pitcher during their end of year school softball game. During his time at Snedigar, Art continues to take tremendous pride in his work and the details. Mr. Eynatten said he is known for his infectious smile and positive attitude.

CHIEF SHERRY KIYLER recognized SGT. CHARLES COTE for his 15 years of service to the City. He graduated first in his academy class and was assigned early on to train new officers. He was recognized for his service to the motor unit and as a detective where he worked on the most horrific cases of homicide and sex crimes. His supervisors commended his investigative ability and the victims appreciated both his sincerity and compassion. After serving as a recruit training officer at the Police Academy, he returned to be promoted to the rank of sergeant. He currently serves a supervisor to the DUI squad. He has served as the Chairman of the East Valley DUI Task Force and is responsible for taking a record number of impaired drivers off of the roads during the holiday season. He coaches youth hockey teams and is also one of the founder organizers of the Police Hockey Team, annually raising thousands of dollars for charity.

2. James Kame – Water Drive

JAMES KAME, announced the 2<sup>nd</sup> Annual Bottled Water Drive. He reported that nearly 1,000 cases were donated to the Chandler Food Bank, Salvation Army and I.C.A.N. He stated that this year, Gilbert would join the cities of Tempe and Chandler in the challenge of collecting 1,500 cases each. He relayed the challenge by Tempe's Asst. City Manager Jeff Kulaga to Mr. McDermott. He thanked the Police and Fire units for contributing too. In response to questions from Council, he noted that Chandler was last year's winner. Those wishing to contribute could drop it off at the Chandler Christian Community Center or may arrange a drop-off by calling him. The challenge runs from June 3 – July 2<sup>nd</sup>.

3. Alejandro Diaz – All year bus pass

Mr. Diaz, 151 S. Longmore, spoke about the benefit of an all year bus pass to veterans. He said he would address others regarding the abolishment of Roe v. Wade and the abolishment of the death penalty.

UNSCHEDULED PUBLIC APPEARANCES:

None.

CONSENT:

MAYOR DUNN ANNOUNCED ITEM 24 (Bus shelter furniture) is being removed from consideration from the Consent Agenda.

MOVED BY COUNCILMEMBER ORLANDO, SECONDED BY COUNCILMEMBER SELLERS, TO APPROVE THE CONSENT AGENDA AS AMENDED. MOTION CARRIED UNANIMOUSLY (7-0).

1. MINUTES:

APPROVED, as presented, minutes of the City Council Regular Meeting of May 14, 2009.

2. POWER DISTRIBUTION EASEMENT: SRP Ord. #4142

ADOPTED Ordinance No. 4142 granting a no-cost power distribution easement to Salt River Project (SRP) for electrical power service to City facilities located at the Tumbleweed Park Recharge Facility.

3. DEDICATION IN FEE: City-owned Property Ord. #4149

ADOPTED Ordinance No. 4149 authorizing the dedication in fee of portions of City-owned Fire/Parks/Police properties for three public roadways and the dedication of three public utility easements located at Desert Breeze Park.

4. SUBSTANTIAL AMENDMENT: FY 2008/09 Annual Action Plan Res. #4287

ADOPTED Resolution No. 4287 authorizing a substantial amendment to the FY 2008-09 Annual Action Plan and receipt of \$376,240.00 in Community Development Block Grant Recovery Program funds in accordance with the recommendations of the Chandler Housing and Human Services Commission and City Staff.

On March 19, 2009, the City of Chandler was notified of a potential allocation from the Department of Housing and Urban Development's (HUD) Community Development Block Grant Program Reinvestment funds (CDBG-R) in the amount of \$376,240.00. The formula for the allocation of CDBG-R funds is the same formula used for Chandler's annual CDBG entitlement. The funds are part of \$1.5 billion designated for this purpose by Title XII of the 2009 American Recovery and Reinvestment Act (Recovery Act) that was signed by President Obama in February 2009.

Funding available under the Recovery Act has clear purposes, i.e. to stimulate the economy through measures that modernize the nation's infrastructure, improve energy efficiency and expand educational opportunities and access to health care. To this extent, HUD strongly urges grantees to use CDBG-R funds for hard development costs associated with infrastructure activities that provide basic services to residents.

Generally, the intent of CDBG-R funds is to carry out, on an expedited basis, eligible activities under the CDBG program. CDBG enables state and local governments to undertake a wide range of activities intended to create suitable living environments, provide affordable housing and create economic opportunities. Under the Recovery Act, recipients shall give priority to prudent projects that can award contracts based on bids within 120 days of the grant agreement.

The American Recovery and Reinvestment Act requires that CDBG-R funds be allocated to projects that can be under contract within 120 days. HUD is placing particular emphasis on programs that support job creation and economic stimulus activities, particularly infrastructure projects. In an effort to meet this directive, Staff met with the Public Works Department to discuss any potential projects that would meet all federal requirements and be under contract within the 120-day timeframe. It was determined that the Knox Road Traffic Calming Project would be best suited for the expenditure of CDBG-R dollars.

The Knox Road Traffic Calming project was one that was initiated two years ago by residents affected by traffic speeds along Knox Road between Alma School Road and Arizona Avenue. Knox Road is an 80-foot wide collector street with one lane in each direction and parking on both sides of the street. The posted speed limit is 25 MPH; however, studies indicated that 85% of automobile speeds are in excess of 40 MPH. The average traffic volume between Alma School and Arizona Avenue is 6,000 vehicles per day. In addition, over 300 students use the two existing crosswalks on Knox Road to attend Knox Elementary School.

In March 2008, Staff of the Traffic Engineering Division met with the residents of the Knox Neighborhood to devise a traffic-calming plan along Knox Road to improve the safety for pedestrians and bicyclists. The proposal included a raised crosswalk, bulb-outs, bike lanes, landscaped medians and defined parking areas. In December 2008, the Traffic Engineering Department submitted a \$250,000.00 proposal to the Safe Routes to Schools Program for monies to help complete the project. Unfortunately, the project was not funded. With the allocation of \$376,240.00 in CDBG-R dollars, Staff could complete the project.

The design plans for the Knox Road improvements are 80% complete and a contractor will be selected through a formal bidding process no later than August 1, 2009. Staff will be seeking Mayor and Council approval of the winning contract for work to begin no later than September 30, 2009. The funds have been set aside for City use pending HUD's approval of the substantial amendment; the CDBG-R funding is not a competitive process. The substantial amendment is to be submitted to HUD on June 29, 2009.

All funding associated with the Federal Community Development Block Grant Recovery funds will be paid by the federal government and do not require repayment on the part of the City of Chandler.

5. ZONING EXTENSION: TSYS Western Operations Center

APPROVED a 3-year Zoning Extension for DVR09-0002, TSYS Western Operations Center, for a 15-acre office/data center development located north of the NWC of Price and Queen Creek roads. (Applicant: John Werstler, CBRE.)

The Planned Area Development (PAD) zoning approval was granted for a period of three (3) years, which expired on January 12, 2009. The three-year extension will be calculated to begin from the previous approval expiration date resulting in an extension to January 2012.

The subject site is located on Price Road in south Chandler within the South Price Road Employment Corridor as designated in the General Plan. The property is bordered on the west by the Gila River Community, on the south by the Wells Fargo office campus, and on the north by a vacant parcel. West, across Price Road, is the former Motorola campus. The approved PAD zoning and Preliminary Development plan included a data center with an office building.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on March 5, 2009. There were no property owners 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 of the 3-year extension with all of the conditions in the original approval remaining in effect.

6. ZONING EXTENSION: Pollack Business Park North Phase II

APPROVED a 3-year Zoning Extension for DVR09-0004 Pollack Business Park North Phase II for retail, light industrial and showroom uses on approximately 10 acres at the NEC of Elliot Road and Arizona Avenue. (Applicant: Robert Kubicek Architects and Associates.)

The Planned Area Development (PAD) zoning approval was granted for a period of three (3) years, which expired on March 23, 2009. The three-year extension will be calculated to begin from the previous approval expiration date resulting in an extension to March 2012.

The site received its PAD zoning in 2006 in order to allow a mix of retail, light industrial, and showroom uses. Previously, it was zoned Planned Industrial (I-1)/PAD as part of the larger Arizona Corporate Park that flanks both sides of Elliot Road on the east side of Arizona Avenue that is designated for Employment by the General Plan. The rezoning to PAD allowed a logical transition from retail uses that would be more viable along the street frontages to the pure warehouse/industrial uses in the heart of the corporate park, while still maintaining the employment focus. A Preliminary Development Plan was processed concurrently with the 2006 rezoning that provided for the site layout, architecture, landscaping and signage.

This request was noticed in accordance with the requirements of the Chandler Zoning Code. In lieu of a neighborhood meeting, a letter describing the request and a site plan were sent to all

property owners within 600' of the subject site and Registered Neighborhood Organizations within ¼ mile. Staff has received no correspondence in opposition to the request.

Upon finding consistency with the General Plan, the Planning Commission and Staff recommend approval of the 3-year extension with all of the conditions in the original approval remaining in effect.

7. ZONING EXTENSION: Pollack Business Park South

APPROVED a 3-year Zoning Extension for DVR09-0005 Pollack Business Park South for retail, light industrial, office and showroom uses on approximately 16 acres at the SEC of Elliot Road and Arizona Avenue. (Applicant: Robert Kubicek Architects and Associates.)

The Planned Area Development (PAD) zoning approval was granted for a period of three (3) years, which expired on March 23, 2009. The three-year extension will be calculated to begin from the previous approval expiration date resulting in an extension to March 2012.

The site received its PAD zoning in 2006 in order to allow a mix of retail, light industrial, and showroom uses. Previously, it was zoned Planned Industrial (I-1)/PAD as part of the larger Arizona Corporate Park that flanks both sides of Elliot Road on the east side of Arizona Avenue that is designated for Employment by the General Plan. The rezoning to PAD allowed a logical transition from retail uses that would be more viable along the street frontages to the pure warehouse/industrial uses in the heart of the corporate park, while still maintaining the employment focus. The rezoning also included some office/industrial uses that are in keeping with similar uses farther east also on the south side of Elliot Road within the corporate park. A Preliminary Development Plan was processed concurrently with the 2006 rezoning that provided for the site layout, architecture, landscaping and signage.

This request was noticed in accordance with the requirements of the Chandler Zoning Code. In lieu of a neighborhood meeting, a letter describing the request and a site plan were sent to all property owners within 600' of the subject site and Registered Neighborhood Organizations within ¼ mile. Staff has received no correspondence in opposition to the request.

Upon finding consistency with the General Plan, the Planning Commission and Staff recommend approval of the 3-year extension with all of the conditions in the original approval remaining in effect.

8. PROGRAM RENEWAL: Commercial Insurance

APPROVED the Program Renewal of commercial insurance coverage and services for FY 2009/10 to various firms for a combined total of \$840,098.00 effective July 1, 2009.

With the help of the City's insurance broker, Willis of Arizona, the City was able to negotiate favorable terms and conditions with insurance providers realizing a net premium reduction of 1.4% over the previous year with no degradation in coverage as follows:

Property: The property insurance policy provides broad coverage for buildings, contents, equipment, vehicles (valued in excess of \$50,000), as well as boiler and machinery coverage. As in previous years, there are various deductibles associated with coverage including \$50,000 per occurrence for most perils, \$100,000 for earth movement and \$50,000 for flood. High value vehicles have a \$25,000 deductible.

For the City of Chandler, total property values increased by 11% from \$381 million to more than \$425 million. The increase was due in part to the Water Treatment facility. Rates per \$100 of value remained essentially flat.

The City actively manages to property program through annual property and safety audits of all facilities. Major facilities within the City comply with the Highly Protected Risk standard established by property insurers.

For the fiscal year ending June 30, 2009, the City of Chandler submitted four losses for payment to the property insurer including two losses for theft of copper wire, one loss for vandalism to playground equipment and one loss for damage to the Planning and Development building. The net recovery from Allianz was \$303,915. Allianz, the incumbent, was not able to competitively price coverage.

Staff recommends obtaining property insurance coverage from Travelers with a premium of \$269,146, including terrorism coverage. Travelers will continue to provide the same broad coverage as the incumbent, Allianz. The coverage includes auto physical damage for certain vehicles. Other policy conditions are the same as the Allianz policy. The property rate increased from \$.0626 to \$.0634 per \$100 of insured value. Travelers included auto physical damage coverage and Allianz carved out the premium charging \$14,604. Terms and conditions on average remain the same. The City of Chandler was with Allianz for three years.

A review of the financial implication associated with adjusting the deductible level does not warrant a change in the retained risk for property coverage at this time.

Liability: The City has a \$2 million self-insured retention (SIR). For losses in excess of our retention, up to \$30 million, insurers provide coverage.

The City is extremely active in defending claims and lawsuits made against the City. There have been no claims payments made in excess of our retention.

The City's current liability program includes:

1. Insurance Co of the State of PA, \$10 million excess of \$2 million
2. St. Paul, \$20 million excess of \$12 million

The incumbent insurers were not able to competitively price coverage.

Staff recommends obtaining excess liability insurance coverage with no change in limits with the following insurers:

1. Everest National, \$10 million excess of \$2 million
2. Endurance American, \$20 million excess of \$12 million

The premium for the first layer of coverage decreased to \$273,360 from \$287,161 for a net reduction of 5.0%. The second layer premium decreased to \$150,000 from \$167,184 for a net reduction of 11.5%. Even though the limits remain the same, the City will realize a premium savings of \$30,885 or 6.8%.

A review of the financial implications associated with adjusting the Self Insured Retention level does not merit a change in the attachment point of excess insurance.

Excess Workers' Compensation: The City is self-insured for the first \$500,000 of loss for workers' compensation. Excess of our retention, the City has a policy to protect against catastrophic loss. The basis for premium is total annual payroll times a rate. Our insurer annually audits this policy.

The incumbent was not competitive, asking for a 59% rate increase, or more than \$48,000.

Staff recommends placing the Excess Workers' Compensation insurance coverage with Safety Mutual (A.M. Best Rating AIX), with a deposit premium of \$89,094, including terrorism coverage. The rate for this program increased slightly over the previous year. The incumbent, Midwest Employers, was not able to provide a competitive quotation, necessitating a change. Coverage is excess over our \$500,000 SIR with statutory limits for workers' compensation, and a \$2 million limit for employers' liability.

Airport Liability: The Airport Owners and Operators Liability policy provides \$50 million in coverage per occurrence. We were able to obtain a competitive quote from the incumbent insurer, ACE. With no degradation in coverage, premiums decreased from \$30,811 to \$18,675 or 39.4%.

Staff recommends maintaining \$50 million coverage limit under the Airport Owners and Operators Liability insurance for \$18,675 with ACE, USA. The incumbent insurer, ACE, USA, worked with the City by reducing the premium by \$12,136, or 39.4% with no degradation in terms or conditions. Premium funding is through the airport budget. Airport Staff is aware of the coverage and anticipated premium.

Staff recommends placing the Crime policy with Fidelity & Deposit of Maryland (Zurich) with an A.M. Best rating of AXV for \$5,979 for a slight reduction premium and no change in policy terms or conditions. Coverage includes state-required bonds for the Management Services Director and the Accounting Manager.

Staff recommends renewing the Underground Storage Tank Liability policy with Illinois Union Insurance Company (a subsidiary of ACE) for \$24,854 including terrorism coverage. The City continues to remove tanks, but the existing tanks continue to age. The City was able to reduce the overall premium by \$669 or 2.6%. Policy limits remain at \$1 million per tank, with a \$25,000 per incident deductible. Coverage complies with the financial responsibility mandates of the Environmental Protection Agency. The coverage includes Airport fueling facilities and various water production facilities.

Staff, in conjunction with our broker, Willis of Arizona, negotiated the 2009-10 insurance program. The Willis team assigned to the City specializes in Arizona public entities. Premiums are net of commissions with the exception of the Airport coverage. The total cost to insure the City decreased \$11,968 from the previous year.

In light of issues associated with the financial sector, Risk Management gave additional scrutiny to the relative strength of insurers selected to protect the City. Risk Management relied in part on A.M. Best ratings, the insurance industry standard.

A.M. Best assigns to insurance-related organizations rating opinions. The Best Rating represents an opinion based on comprehensive quantitative and qualitative evaluation of a company's balance sheet strength and operating performance. All prospective insurers selected have a Secure Best's rating of superior (A+) or excellent (A or A-).

A.M. Best assigns a financial size category to all insurance companies that reflect size based on their capital, surplus and conditional reserve funds in millions of U.S. dollars. All prospective carriers had a Best Financial Size Category (FSC) of XV (greater than \$2 billion), with the exception of Safety Mutual with a FSC of IX (\$250 to \$500 million).

9. AGREEMENT: AST Corporation

APPROVED an Agreement with AST Corporation for consultant services to conduct implementation pre-planning to upgrade the City's integrated financial and human resources system to the next version of Oracle eBusiness Suite software in an amount not to exceed \$290,000.00.

The City originally selected and implemented the Oracle eBusiness Suite to serve as the citywide integrated system for managing the financial and human resources processes in 1998 at a cost of \$2,233,100.00. This included the purchase and implementation of the following modules: HRMS, Fixed Assets, Projects, Inventory, Purchasing, Accounts Payable, Accounts Receivable, Cash Management, Order Management, General Ledger and Payroll. Much of the system was highly customized to the City's business processes in existence at the time.

Oracle has announced that it will no longer support the software version that the City is currently running after November 2011. Since the City depends on regular updates to the software for tax law changes and other system fixes and improvements, the City must remain current with a supported version of the software. Due to the highly customized nature of the City's implementation of the software and the major changes in the new release, the City will need to remove all of the custom software, install the new software and then recreate the custom processes on the new software version. The City plans to look at modifying business processes to conform to the processes built into the software wherever possible to reduce the amount of customization and make future software version upgrades much easier to implement. The City is also looking at implementing some of the modules that were not implemented during the original project but have become necessary as the City organization has grown and transactions have become more complex.

This consultant will work with the City to help identify and plan for changes that will be needed to the City's business processes and interfaces with other software to successfully implement the upgraded system and migrate the City's current system to the new version. This will include a cost estimate for the implementation.

Due to the time constraints of when support for the current system will no longer be available, the determination was made that this project could not be put off any longer. The upgrade must be completed by the time support runs out or the City may not be able to perform routine financial transactions such as vendor payments and payroll without disruptions or errors.

Staff also considered looking at solutions other than the current Oracle system, but it was determined that due to the current economic climate and the cost to retrain all users in another system, it was neither practical nor cost effective.

10. AGREEMENT: Pacheco Brothers Gardening, Inc.

APPROVED an Agreement with Pacheco Bothers Gardening, Inc., for City parks mowing for one year with options to renew for up to four additional one-year periods, in an amount not to exceed \$186,000.00.

11. AGREEMENT AMENDMENT: Artistic Land Management

APPROVED Agreement Amendment No. 3 with Artistic Land Management for City parks mowing services in an amount not to exceed \$46,000.00.

The original agreement allows for a total of four annual extensions. Due to the current bidding climate, Staff determined it would be in the City's best interest to re-bid this contract. This service was re-bid in February 2009; however, the bids were determined to be non-responsive and the service had to be re-bid. To maintain existing service levels, it is necessary to extend the contract with Artistic Land Management to cover the service gap of three months.

12. AGREEMENT EXTENSION: Southwest Umpire Association

APPROVED a one-year Agreement Extension with Southwest Umpire Association for professional softball umpire services in an amount not to exceed \$57,000.00. This is the second of three one-year optional extensions. There is no fee increase and pricing is comparable to other local municipalities.

13. AGREEMENT: Greater Phoenix Economic Council

APPROVED an Agreement with the Greater Phoenix Economic Council (GPEC) for FY 2009/10 in an amount not to exceed \$90,471.00.

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

City Economic Development Staff participate with GPEC on regional economic development activities, including formulating GPEC's Action Plan for FY 2009/10. Staff participates on the Economic Development Director's Team (EDDT), made up of economic development professionals from each member organization (19 communities, Arizona State University, Maricopa Community College District, Arizona Department of Commerce, Arizona Public Service and Salt River Project).

The EDDT 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, 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 (Councilmember Sellers and Jason Bagley with Intel).

The annual contract amount for GPEC is determined by 2008 Maricopa Association of Governments' (MAG) population estimate multiplied by a fixed amount per capita. Chandler's proportionate share, based on the MAG 2008 population estimate, is \$95,233. However, due to

the economic times and the challenges faced by their member cities, GPEC has reduced the public sector contribution by 5% for this fiscal year, for a contract amount of \$90,471.

GPEC and the City of Chandler have partnered on one locate project this fiscal year (Armor Works – Shock Ride) as well as thirteen more since 2002. This has generated the following:

- 7,550 new jobs in Chandler from GPEC-assisted locates
- \$3.56 billion in capital investment
- \$365 million in new payrolls
- Absorption of 3,332,829 sq. ft. in new and existing industrial, office and distribution space

The FY 2009/10 contract has identifiable and measurable performance targets for GPEC with monthly and quarterly report mechanisms built in.

14. AGREEMENT EXTENSION: Heinfeld, Meech and Co.

APPROVED a one-year Agreement Extension with Heinfeld, Meech and Co. for professional audit services in an amount not to exceed \$84,983.00. This is the first of four optional one-year extensions with fixed pricing.

The City is required by City Charter and State Statute to issue an annual, audited financial report. In addition, federal law requires the City to undergo an annual single audit of federal financial assistance. Consistent with the City's practice to competitively procure a contract for auditing services every five years, a request for proposal for auditing services was issued before the expiration of the previous contract.

The scope of services includes the City and affiliated organizations, i.e., the Chandler Cultural Foundation. At their pleasure, the respective boards of these entities may have audit work performed under this contract at their cost.

15. AGREEMENT AMENDMENT: Bank of America

APPROVED a one-year Agreement Amendment with Bank of America for procurement card services. This will be the final one-year extension of this agreement.

There are approximately 640 procurement cards used throughout the City and the annual volume spent through this program is approximately \$2.5 million. Currently, nine additional public entities utilize Chandler's agreement including the Cities of Mesa, Scottsdale, Surprise, Tempe, Yuma and Cochise County. The City of Chandler's rebate for 2008 was \$22,984.14, which represents an increase of \$5,621.55 from 2007.

16. AGREEMENT: Red Oak Consulting

APPROVED an Agreement with Red Oak Consulting for implementation of a Drinking Water Regulatory Database (EDWARD), sole source, in an amount not to exceed \$161,000.00.

The Water Quality Unit within the Municipal Utilities Department is responsible for ensuring that the City water supply meets the compliance standards set by the State and Federal governments. This is accomplished through a program of sampling, laboratory testing, reporting and recordkeeping. Currently, the unit is using a system of multiple excel spreadsheets. Employees

are required to frequently consult and interpret complex regulations that cannot be memorized. This present system is time consuming and prone to omission of critical compliance triggers and deadlines.

EDWARD reduces the risk of non-compliance and regulatory actions and reduces the time dedicated to compliance tracking activities. The foundation of EDWARD was developed for the City of Phoenix. Red Oak Consulting modifies that foundation to custom-fit the program for specific utilities.

17. AGREEMENT EXTENSION: Clear Creek Associates

APPROVED a one-year extension of Agreement #EN0710-101 with Clear Creek Associates for annual hydrogeologic services in an amount not to exceed \$250,000.00. This is the first of four optional one-year extensions.

18. AGREEMENT: Mariposa Landscape Arizona, Inc.

APPROVED an Agreement with Mariposa Landscape Arizona, Inc., for Landscape Maintenance – Area 4 Price Frontage Road and other City facilities in an amount not to exceed \$130,000.00 per year for a two-year period, for a total of \$260,000.00, including options to renew for up to three (3) additional one-year terms.

The landscape areas to be maintained under this agreement are Price Freeway Frontage Roads, Downtown City-owned areas, Transit Center, Airport Terminal area, City yards at Chicago Street and McQueen Road and the Police impound facility. This agreement includes weekly trash pickup, weed control, irrigation repair, mowing and pruning/trimming as required.

19. CONTRACT: Woods Construction Company

APPROVED Contract #LIO801-401 to Woods Construction Company for Basha and Hamilton Library renovations in an amount not to exceed \$200,840.00.

This project agreement provides for interior renovations of both Basha and Hamilton Libraries per the contract plans to provide service enhancement for customers. These shared-use facilities opened in essentially an unfinished state without dedicated spaces for children, teens and adults. The Library has impact fees to fund the renovation which will provide enhanced areas for young children by creating literacy-rich Early Learning Interactive Centers and spaces designed specifically with adult users in mind. The Chandler Unified School District will provide in-kind services for both facilities including acquisition and installation of projectors/screens for the computer labs and meeting rooms, purchase of paint and the provision of labor for painting. They will also be responsible for the demolition of the existing carpet and portions of the electrical work.

20. PURCHASE: Energy Savings Services

APPROVED the Purchase of energy savings services from APS Energy, utilizing the Maricopa County contract, in an amount not to exceed \$40,000.00.

During the past six months, City Staff has met with several energy services companies (ESCOs) in an effort to determine the benefits of utilizing an ESCO toward the goal of reducing the energy costs associated with City buildings and facilities. ESCOs provide comprehensive energy audits, implement capital improvements through the use of funds made available through energy cost

savings and in some cases, provide energy management services for selected facilities owned by an entity. In mid-2008, Maricopa County completed an extensive bid process for an ESCO to complete an investment grade energy audit and resulting improvement plan for over 9,000,000 sq. ft. of selected County facilities. APS Energy Services was selected as the ESCO to perform the audit and develop the improvement plan for the County.

The investment grade technical audit will include a list of proposed improvements or measures that will reduce energy consumption. The measures identified will include estimates of savings for each measure as well as cost estimates for proposed improvements. These estimates will include all costs associated with the installation of the measure including design, engineering, installation, maintenance, repairs and debt services. After the audit is completed, Staff will make recommendations regarding appropriate projects. Improvement measures can be funded with the cost savings realized through the implementation of the improvement. The City will also discuss other types of financing mechanisms to fund improvements identified by the ESCO audit. If the City decides not to implement any of the measures under this contract, the cost of the audit will be 7.2 cents for each square foot of audited space, which Staff estimates not to exceed \$40,000.00.

21. PURCHASE: Dell Marketing

APPROVED the Purchase of Lotus Notes application support and maintenance renewal from Dell Marketing, utilizing the State of Arizona contract, in an amount not to exceed \$80,271.00. The annual maintenance will include Lotus Notes Domino servers (processor maintenance renewal), Lotus Notes client (license maintenance renewal and upgrades) and Lotus Enterprise Integrator. These are annual recurring costs to cover upgrades, maintenance and technical support for these applications.

22. PURCHASE: Furnishings

APPROVED the Purchase of furnishings from Goodman's Interior Structures for the Fire Administration Building, utilizing the State of Arizona contract, in an amount not to exceed \$185,000.00.

The Fire Administration Building will be one of the City's first buildings designed to the standards required for certification within the United States Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED version 2.2) program. It is being built to achieve a "Silver" level certification. When selecting the furniture, LEED consideration was a high priority. The furniture selected will assist the project with additional LEED points.

23. PROPERTY PURCHASE: 1029 N. Alma School Road

APPROVED the Purchase of property located at 1029 N. Alma School Road from Action Alliance, LLC, required for the Alma School Road and Ray Road Intersection Improvement Project in the amount of \$725,000.00, plus closing costs of approximately \$3,300.00.

This administrative settlement was reached in lieu of condemnation through continued negotiations between Staff and the property owner. These negotiations took into consideration market conditions for retail properties in the area, the length of time since the original appraisal was completed on March 4, 2008, plus the cost of time needed to prosecute a condemnation action. Staff believes that this administrative settlement in lieu of condemnation is reasonable, prudent and in the public interest.

24. ITEM WITHDRAWN PURCHASE: Bus Shelter Furniture

WITHDRAWN the Purchase of bus shelter furniture, refurbishment and installation from Lacor Streetscape, Inc., sole source, for a total amount not to exceed \$223,157.00.

25. PURCHASE: Dataworks

APPROVED the Purchase of a digital imaging management system upgrade from Dataworks, utilizing the City of Scottsdale contract, in the amount of \$85,095.00. Funds used for this purchase will be from a grant through the National Institute of Justice (NIJ) to the Chandler Police Department Crime Lab.

26. On action.

27. USE PERMIT EXTENSION: Desert Spring Adult Care Home

APPROVED a three-year extension of Use Permit UP09-0005 Desert Spring Adult Care Home to continue to operate an adult care home within a single-family residence for up to five adult located at 1641 E. Yellowstone Place. (Applicant: Viorica Sana.)

The subject site is located in the Cooper Corners single-family residential subdivision near the SWC of Cooper and Ocotillo roads that was built-out primarily in 2004 and 2005. From 2005 to 2008, the applicant provided care for four (4) adults. Because the applicant's family lives on site, the increase to five (5) adults being cared for exceeded the Zoning Code definition of "family" and required a Use Permit.

The 4,200 sq. ft. home located on a corner lot has two floors with seven (7) bedrooms. The adult care residents occupy the main floor, which has four (4) bedrooms and three (3) full bathrooms; the floor plan's "powder room" has added a shower since construction. The homeowners, a couple and their son, who operate the facility, live in the basement. Besides the homeowners, there are no other employees. The applicant was denied a Use Permit in 2005 for an adult care home with up to eight (8) residents.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on April 15, 2009. There were no citizens 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 shall be granted for a period of three (3) years at which time re-application shall be required. The three-year time period shall begin from the date of City Council approval.
2. Compliance with City provisions regarding the operation of adult care home.
3. The maximum number of residents receiving care shall be five (5).

28. USE PERMIT: SanTan Brewing Company

COUNCILMEMBER WENINGER asked if there was a time limit on the use permit. SENIOR PLANNER JODIE NOVAK responded that would be permanent.

APPROVED Use Permit UP09-0006 SanTan Brewing Company, Series 12, for the sale of liquor for on-premise consumption only and Series 3 Domestic Microbrewery License for an extension of premises of an outdoor patio at an existing restaurant at 8 S. San Marcos Place in Historic Downtown Chandler. (Applicant: Anthony Canecchia, owner.)

SanTan Brewing Company received its initial Use Permit approval for liquor sales, under a Series 12 Restaurant License and a Series 3 Domestic Microbrewery License, in March 2007 with a condition that alcohol sales were prohibited on the patio. The liquor sales were permitted in the restaurant's interior only. The condition was required due to the patio's location within public right-of-way in which the City did not permit liquor sales at that time. This Use Permit required that an extension of premises through a new Liquor Use Permit application is needed to allow alcohol sales on the patio.

In July 2007, a new Use Permit was filed for an extension of premises to allow liquor sales on the patios. Prior to this Use Permit for an extension of premises, the City adopted a code amendment that allows for the consideration of liquor sales in Historic Downtown Chandler public areas under a Use Permit. Two patios were approved which included a permanent patio on the restaurant's north side along Commonwealth Avenue and a temporary/special events patio on the restaurant's east side by the main entrance. Both patios were approved with 42" high perimeter fence railings; however, the eastern patio on San Marcos Place was approved with a fence railing that is removed when not in use. In February 2008, a Use Permit was approved to allow permanent fence railing in lieu of temporary railing including an extension of the patio area thus connecting the east and north patios together.

The patio improvements comply with minimum pedestrian circulation clearances and other requirements from the code amendment. A minimum six-foot clearance is required to be maintained along the San Marcos Place patio between the fence enclosure and the inside face of any column, street light, street sign, traffic signal pole, curb line, utility equipment box, or other street fixture, to allow unobstructed pedestrian use of the remaining public sidewalk. The development exceeds the clearance requirements on both the east and north sides of the patios.

The request includes expanding an existing outdoor patio area to meet Arizona Department of Liquor Licensure requirements in regards to serving alcohol to patrons on the patio. Currently, servers can only serve alcohol through existing doorways adjacent to a cordoned-off patio. This includes a doorway entrance/exit on the east and a roll-up door adjacent to the eastern end of the north patio. Servers are not permitted to exit the northern doorway entrance/exit to serve alcohol to patrons on the northern patio because there is no cordoned-off area around the doorway in accordance with State standards. The restaurant requests to serve liquor to patrons on the patio from the northern doorway, therefore, the northern patio railing needs to be extended westward around the doorway area. The patio fence railing extension will match and be in alignment with existing fence railing.

Staff is of the opinion that the extension of the patio along the north side of the restaurant is consistent with the function of other patios located in the downtown area. The patios meet code requirements for location and providing for pedestrian passing space. The patio extension does not affect the patios function, colonnade or sidewalk areas.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on April 14, 2009. There were no neighbors in attendance.

The Police Department has been informed of the application and has responded with no issues or concerns. Staff has received no correspondence in opposition to this request.

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

1. Expansion, modification, or relocation beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit re-application and approval.
2. Any substantial change in the floor plan to include such items as, but not limited to, a bar serving area or the addition of entertainment-related uses shall require new Use Permit reapplication and approval.
3. The Use Permit is granted for an extension of premises, a patio extension, for a Series 12 and Series 3 license only, and any change of licenses shall require re-application and new Use Permit approval.
4. All pedestrian walkways shall be A.D.A. accessible and shall not be interrupted by any obstacles preventing circulation with a minimum six-foot clearance maintained along San Marcos Place and minimum five-foot clearance along Commonwealth Avenue.
5. The Use Permit is non-transferable to other restaurant locations.
6. The site and patio shall be maintained in a clean and orderly manner.
7. The development shall be in compliance with requirements for extension of premises in public right-of-way adopted by the City Council as Ordinance No. 3905, Extension Of Liquor Premises in the City Center Zoning District (CCD).

29. LIQUOR LICENSE PERMANENT EXTENSION OF PREMISES: SanTan Brewing Company

APPROVED a Permanent Extension of Premises for a Series 3 Domestic Microbrewery and Series 12 Restaurant Liquor License (Chandler #111265 L03 and L12) for SanTan Brewing Company LLC, dba SanTan Brewing Company, 8 S. San Marcos Place. Recommendation for approval of Permanent Extension of Premises for State Liquor Licenses No. 03073045 and 12076999, will be forwarded to the State Liquor Department. The Police Department has no objections to the permanent extension of premises. All fees have been paid and the business is in compliance with the City's sales and Use Tax Code.

30. LIQUOR LICENSE: Black Angus Steakhouse

APPROVED a Series 12 Restaurant Liquor License (Chandler #124779 L12) for Amy Schwartz-Cuatto, Agent, Taurian BA LLC, dba Black Angus Steakhouse, 2770 W. Chandler Boulevard. JA recommendation for approval of State Liquor License #12077978 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.

31. On action.
32. On action.
33. On action.
34. On action.

35. On action.

36. BOARD AND COMMISSION APPOINTMENTS

APPROVED the following Board and Commission appointments:

Architectural Excellence Award Committee:

Kristian Kelley  
Steve Kovach

Human Relations Commission:

Carl Boyd (re-appointment)

Mayor's Committee for the Aging:

Teri Ferguson

Neighborhood Advisory Committee:

George Urish

Parks and Recreation Board:

Linda Peterson-Price

ACTION:

26. USE PERMIT: Hudson Baylor Chandler

APPROVED Use Permit, as amended (UP08-0067) Hudson Baylor Chandler for the expansion of a recycling facility located within a General Industrial (I-2) zoning district and to allow ingress and egress off of Hamilton Street. (Applicant: Mike Curley, Earl, Curley & Lagarde.)

Background:

This request was noticed in accordance with the requirements of the Chandler Zoning Code with neighborhood meetings being held on May 4 and 14, 2009. Neither the three neighbors in attendance at the May 4<sup>th</sup> meeting or the six neighbors at the May 14<sup>th</sup> meeting expressed opposition to the request.

Staff has received a few phone calls with general questions to the request. Staff has also received one telephone call from a neighbor north of the subject site expressing concerns about vehicular noise coming from the industrial properties early in the morning; however, the resident could not determine that the noise was from the existing recycling facility. Additionally, Staff and City Council have received two emails from residents in opposition to the request.

PLANNER ERIK SWANSON explained the subject site is located at 1100 N. Hamilton Street, north and west of the NWC of Ray Road and Hamilton Street. Recycling activities have taken place on the subject property since 1995 and on the adjacent property to the south since 1989. The request is for an expansion directly north of the existing facility. The expansion area is approximately two acres in size and the proposed structure is approximately 5,600 square feet.

The request would allow trucks (collection vehicles) carrying the recyclables to enter off of Hamilton Street via the access drive, weigh-in, drop off the materials in the structure and then exit the site. A front-loader will then pick up the recyclables and load them into trailers that will take the recyclables to a full-service recycling facility.

Overall, staff is in support of the request. There have been a number of concerns from the residents. Two neighborhood meetings were held with approximately 10 neighbors in attendance. The property owner to the south has also expressed some concerns. Those

concerns were about increased traffic on Hamilton Street, the expansion of the facility, noise and the migration of the materials off of the site.

Mr. Swanson said the applicant has done a good job at addressing some of those concerns. Hamilton Street is an industrial collector. The expansion area would be contributing to 34 more vehicles. The industrial collector as it currently exists, can accommodate 5,000-10,000 trips per day.

COUNCILMEMBER WENINGER asked about the netting. MR. SWANSON said the area is 10 feet high with 10 feet of netting extending beyond that. The overall structure is a square but open on one quarter to allow the traffic to come in and out. There are not any structures out there currently that would represent this. COUNCILMEMBER WENINGER said his line of questioning had more to do with debris and containment issues. Mr. Swanson said the applicant has indicated there will be 5 employees on the site that will constantly help maintain it. Mr. Swanson noted the Planning Commission added a condition addressing any migrating recyclables. Councilmember Weninger asked if the other facilities use the same process or if they have a roof over it. Mr. Swanson responded that they all have roofs and are covered however they all open on at least one end. Councilmember Weninger asked why there wouldn't be a roof on this one. Mr. Swanson said this is an area where transferring occurs. The recyclables come in, are unloaded and then taken off site again that same day. It didn't seem necessary to place a roof on that structure.

COUNCILMEMBER HEUMANN asked about the amount of employees on the sites. He said he had driven through the sites twice and there was quite a bit of recycles there when he drove by last night. Mr. Swanson said he wasn't sure how the operation of the southern building currently exists, but for the expansion area they will have employees strictly designated for that. These recyclables do stay overnight as they are in agreement with the Abitibi to the south for some processing of materials. It is a little different nature in that recycling. Councilmember Heumann asked about the weaving on the netting. Mr. Swanson said it is approximately a 1x1" square net opening. The netting will stay on top of the structure.

MAYOR DUNN said he noticed from the aerial photo that there seems to be quite a bit of stuff outside of the buildings. He asked if any of this activity occurs outdoors. Mr. Swanson replied that the processes are somewhat different for the different structures. Currently the Hudson Baylor facility works closely with Abitibi on processing some of the goods. Superior Products also does recycling processes and generally speaking will have some stored outside. Mayor Dunn asked if staff feels the dust issue will be properly addressed. Mr. Swanson said there is a stipulation that requires the property to be maintained in a clean and orderly manner and that migrating particles are cleaned. There is a one-year timing condition on the permit. Mr. Swanson said that while staff can provide visits of the property, they would look for feedback from the community if any issues arise. Mayor Dunn asked if truck traffic would be monitored. Mr. Swanson said a number of things are possible – feedback for feedback and observations. Mayor Dunn asked for comments from the applicant regarding the openness of the facility. Mayor Dunn asked if there was water and sewer to this site. Mr. Swanson said that Fire representatives have responded that since the materials aren't of combustible material, sprinkling is not necessary; however, there will be extinguishers inside the facility. Hydrants are available on surrounding sites and accessibility will be reviewed during the permitting process when building submittals are made.

MIKE CURLEY, 3101 N. Central, representing the applicant. Mr. Curley said over the last few months, he has visited other sites similar to this use. Every one of the uses visited are basically

an all outdoor type of business since it's a pretty frenzied activity with the trucks, loaders and forklifts. The netting is a vast improvement of what exists now and goes to try to address the migration of materials. He described the netting similar to a shower curtain that is able to open and close over the building's opening. He stated his applicant would be willing to cover, tarp or net the existing facility. He stated that until the Planning Commission meeting occurred, his client was unaware of any product migration problems to the neighbors. He stated that after learning this, contact information was given to them of the project manager to assist in correcting future problems. The netting is  $\frac{3}{4}$ " and is a fairly tight weave. There is a water line to the facility and the current facility is sprinkled. There is a water line that runs along the access road that can be tapped in to and his applicant will agree to abide by any impositions made by the Fire Department.

He noted that Hudson Baylor has been a recycler since 1983 and does about 70% of the recycling business in Arizona. The majority of the recycled materials are newspapers, plastic and glass. Materials are delivered to them and are then loaded on a trailer and transported to a sorting facility. Directly north of the site is a steel facility. There is a vacant 5-acre parcel east of their site and about 800 feet separate the proposed facility to the residential area. The south consists of industrial operations. He noted the whole 35-38 acres is all zoned I-2. He stated the proposed 2-acre site is fairly insulated in terms of impact on residential.

Mr. Curley said there would be an additional 2 people on the site that will do nothing but litter control. He said until the Planning Commission they were unaware of any migration issues, but as they have now been put on notice, they will be vigilant in trying to maintain the property.

In response to traffic, he said if those 4 acres were developed as another standard type of industrial use, a 30,000 – 40,000 s.f. building on that and based on trip generation that use would generate 250-300 trips. They are operating at about 10% of that capacity, at 30-40 trips. He stated they are agreeable to limiting exiting truck traffic from proceeding north on Hamilton Street and will work with staff on additional signage.

COUNCILMEMBER WENINGER asked for clarification on the nature of the business. Mr. Curley said that there is not public drop off at the site. It would be city trucks and private haulers. The Abitibi site currently does recycling under City contract and a significant amount of their products are recycled upon Hudson Baylor's site. Abitibi is currently under bankruptcy there is some question to the future of that facility. Councilmember Weninger said he understood the Abitibi traffic entered on Ray. He questioned Mr. Curley that if the number of business contracts increase for his client, this could generate more traffic on Hamilton. Mr. Curley clarified that the Abitibi traffic enters off of Hamilton and exits on Ray. He said the ability to access off of Ray would be dependent upon the owner to the south of them to give them access, thereby needing the amendment to allow them access off of Hamilton. Councilmember Weninger asked, if a major contract was received, how many trip generations would occur. Mr. Curley said they are doubling the trip numbers now from 15 to 30. Even if they receive an additional contract, it would still be in the nature of 40 or 50. Mr. Curley said a trip is entering and exit. He said their trip numbers actually assume Abitibi trips as they are hoping to pick up Abitibi's work if they don't go forward with the City as there is an RFP in process.

COUNCILMEMBER HEUMANN said he thinks that by restricting the truck traffic to only go south to Ray would eliminate some of the problems as there are more residences and open spaces going north. In addition, the applicant is willing to screen. He appreciates the willingness of the applicant to work on those two items.

MR. CURLEY said one of the reasons they are seeking the expansion is because it does get difficult to determine where the different businesses are as they sort of function all as one property, but in looking at the Hudson Baylor site is that even with the site now, it is a very small site relative to what is seen in other jurisdictions and it is not a very efficient operation with the limited space.

MR. ADAM BOWERS, 396 E. Sheffield, residing north of the property. Mr. Bowers stated he had a petition containing 38 signatures from the Festiva Court residents who oppose this use permit. He cited concerns with the close proximity to the residential area. There are a large number of children that use Hamilton to access Espee Park. They are concerned the facility will be operating in the open air and there will not be a roof to contain the product/trash on the site, especially during windy days. There will be additional noise caused by the front-end loaders. Are concerned with the potential growth of this site and how that will increase the traffic. At the very least, they would like to request additional restrictions be placed on the use permit limiting the number of trips per day. They are very supportive of limiting the truck traffic to southbound on Hamilton. They believe there should be a roof over the structure in addition to the netting on the sides; more frequent pest control as when they spoke with the owner of the storage facility they indicated significant pest problems. Any remaining trash at the end of the day needs to be under a covered enclosure or trailer. Concerned with the hours of operation, would like normal daytime hours.

MS. TINA BURKHEAD, 648 E. Gail and is a resident of The Provinces subdivision for 10 years. She expressed her opposition to the expansion for the same reasons stated by Mr. Bowers. She has seen migration of trash into the west park area and the landscaping company they pay ends up spending time to pick up trash that comes from that area. She agreed with the suggestion of a roof and agreed with the additional staff members to help relieve the migration of trash materials into their area. She said Hamilton is already a speedway and will be a concern with the additional truck traffic, pest control, smell and noise.

RICK ?, 424 E. IRONWOOD, said he also was a HOA Board member along with Adam. The biggest concern is with trash and with the traffic. Those are two things they would like addressed. If a roof was placed over the structure, even a netting roof that would help. He said when looking at the field just west of the area, there always appears to be trash of paper and plastic containers.

MR. CURLEY said that locating these types of facilities is always a difficult decision. Everyone makes a commitment to recycling, but when it comes to making the hard decision to locate some of these things, it's not such an easy dialogue to take place. This is where you currently having a recycling activity. They are 800' to residential to the east and 700' to the north. He reiterated their desire to create a communication link with the neighborhood association to address any concerns and if there is an invitation given to them to attend their HOA meetings, they will do it. He said they would be amenable to stipulations that would sign the area to prohibit trucks exiting to the north; in terms of the facility that they are proposing, they will net or tarp the materials at the end of the day in addition to putting the tarp or netting on the existing site to reduce any problems. He reiterated that his client is aware this use permit is revocable to the extent that the problems are not addressed. He said there was a one-year time stipulation that would require them to go through the application process again.

MAYOR DUNN clarified the netting would be placed on top. Mr. Curley said in addition to the 10 foot netting on top of the opening and the shower curtain opening, there would be a tarp or netting on top of the materials when it's not being loaded. Mayor Dunn asked about the hours of

operation. Mr. Curley said typically trucks start arriving at 7 or 8 a.m. There are a couple of employees there prior to that to prepare the site. Mayor Dunn asked about pest control.

COUNCILMEMBER ORLANDO asked again about the closing hours. Mr. Curley stated that would roughly occur about 6 or 7 p.m.

COUNCILMEMBER HEUMANN thanked Mr. Curley for his presentation. He said the one-year stipulation is the teeth that the City and neighbors have. There are two sites there. There is the Abitibi site.

COUNCILMEMBER HEUMANN MOVED TO APPROVE USE PERMIT UP08-0067 HUDSON BAYLOR CHANDLER FOR THE EXPANSION OF RECYCLING FACILITY LOCATED IN WITHIN THE GENERAL INDUSTRIAL I-2 ZONING DISTRICT TO ALLOW INGRESS AND EGRESS OFF OF HAMILTON STREET WITH TWO ADDITIONAL STIPULATIONS. STIPULATION NO. 7 LIMITING TRUCK TRAFFIC TO A SOUTH BOUND TURN COMING OUT OF THE FACILITY. NO TRUCK TRAFFIC GOING TO THE NORTH; AND STIPULATION NO. 8 TO WORK WITH STAFF TO ENCLOSE THE CURRENT FACILITY. SECONDED BY COUNCILMEMBER ORLANDO.

MAYOR DUNN asked if the applicant was willing to abide by the additional conditions. Mr. Curley clarified that on the existing facility they would be tarping or netting. Mr. Curley said his client was unfamiliar with the pest problems but would look into it.

COUNCILMEMBER WENINGER asked about Ray Road and if there was a concern with large trucks going left there. Should there be a right out only. Additionally, clarified if they are taking items from another company or if they have trucks delivering material. Mr. Swanson said they do have trucks dropping off materials and they separate it with some of the material going to the businesses around the facility or offsite. Mr. Weninger asked if that was done within a structure. Mr. Swanson said that while that is supposed to be accomplished within a structure, you will see some materials being moved around outside of the building.

COUNCILMEMBER DONOVAN said she appreciates condition no. 6 regarding mitigation of the materials. She asked how the migrating materials would be identified to the specific recycling business. Mr. Swanson said that there would have to be some collaboration with the parties involved to ensure the sites are maintained. If staff reviews the site and problems exist, staff is able to address issues through city code provisions.

COUNCILMEMBER ORLANDO said this is a unique area with a recycler and an end user and he wished these groups would work with each other to make each of these businesses survive in this area.

COUNCILMEMBER HEUMANN clarified there was a traffic light at Hamilton and Ray. Mr. Swanson replied yes.

COUNCILMEMBER WENINGER said that while he hopes these businesses are successful he is concerned with the uncertainty of the amount of traffic that will be traveling along Hamilton and the uncertainty of the one-year permit that he cannot support this.

MAYOR DUNN asked what would be done to monitor the truck traffic. PUBLIC WORKS DIRECTOR ZEDER responded that staff could schedule an analysis in the springtime to do counts and could be presented as part of the use permit renewal. Mayor Dunn said he would

appreciate that. He said that outside of keeping mitigation of material, this is a pretty compatible use. He presumed there was other truck traffic going to the other users in the area. MR. SWANSON said the steel producer does have trucks. The other recycling facility does have access out on to Ray Road. There is a painting facility too. The allowance of vehicles based on this collector is very minimal. MAYOR DUNN said he would echo Councilmember Orlando's comments that the other landowners in the site could get together and have the traffic flowing in the best possible way.

COUNCILMEMBER WENINGER said he clarified with Mr. Zeder that a trip was counted as one way. He asked that there is clarification in the future that ingress and egress is counted as two trips. Mr. Zeder added that he would have some baseline counts completed now to have a comparison.

MOTION CARRIED BY MAJORITY (6-1) with Councilmember Weninger voting nay.

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

1. The site shall be maintained in a clean and orderly manner.
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 and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. The applicant shall work with Staff to properly locate 'No Parking' signage along the access drive and to ensure proper vehicular circulation on the site.
5. The applicant shall provide approximately 16 feet of additional pavement east of the existing weigh station to allow for safe vehicular circulation.
6. The applicant shall work with Staff to prevent the migration of materials from the site.
7. Truck traffic, in relation to the Hudson Baylor recycling facility, shall be limited to southbound turning movements on to Hamilton Street.
8. The applicant shall work with Staff to enclose the existing Hudson Baylor facility, when operations are not occurring, with mesh netting to mitigate the migration of recyclables.

31. USE PERMIT: Casadora Manor

APPROVED Use Permit UP09-0004 Casadora Manor, to operate an assisted living home for up to five residents within an existing single-family home located at 2371 E. Bellerive Place. (Applicant: Jack Gilmore, Owner.)

PLANNER ERIK SWANSON provided the background information. The site is located southeast of the SEC of Cooper and Riggs roads within the Cooper Commons single-family residential neighborhood. The home provides approximately 3,067 sq. ft. of livable area and sits on an approximate 10,128 sq. ft. lot. The request is proposing six bedrooms. The home currently has four bedrooms and, with approval, will convert the family room into an additional two rooms.

Assisted living homes are required to obtain a Use Permit when there are more than five residents living together in a single dwelling unit, excluding staff. The maximum potential number of residents allowed with a Use Permit is 10, excluding staff. Additionally, the number of

residents allowed is based upon requirements provided by the State Health Department. The State Health Department requires that a single-user bedroom shall be 80 sq. ft. and two residents may share a room if the room is 120 sq. ft. or more. On no occasion can a bedroom exceed more than two residents. The rooms for this application conform to these requirements

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on March 3, 2009. There were ten residents in attendance all opposed to the request. Staff has also received a letter from a resident in opposition. Concerns expressed by the neighbors included traffic and parking issues, hours of deliveries and the operation of the past homes. The neighborhood HOA held a meeting to discuss the proposed assisted living home and no opposition or support for the request was provided. Staff has received five phone calls and an email in opposition and one letter of recommendation.

The home operated in the past with five or fewer residents under the ownership and management of the applicant.

MR. JACK GILMORE, owner, 2371 E. Bellerive Place said he is seeking 7 residents. He owns a care home currently in Scottsdale that is a 10-bedroom facility. This would be a second home. He and his wife would be running the care home. His wife is a second-generation home caregiver. They want the residents to have separate rooms. The rooms are over 120 s.f. The home will have a theater room. Landscapers come twice a month to maintain the property. There is not a pool.

MAYOR DUNN asked if there was an HOA. Mr. Gilmore replied there was.

VICE MAYOR CACCAMO asked how many bathrooms are available to the clients. MR. GILMORE replied there are three full bathrooms. He and his wife will have one and the clients will share the remaining two. Mr. Gilmore displayed the floor plan. He said that bedrooms 4,5, and 6 would share a bathroom and bedrooms 2 and 3 would be using another bathroom.

COUNCILMEMBER ORLANDO asked about the reference to future bedrooms. MR. GILMORE said he was going to make two bedrooms from the family room. Councilmember Orlando asked who was running the Scottsdale facility. He responded his father and mother are running that. He and his wife will be residing at this location. Mr. Gilmore said his wife will be the caregiver at this facility but there will be a second caregiver on site and a weekly RN visiting. The caregivers will not be sleeping there. The Scottsdale home has been in operation since 2005.

MAYOR DUNN said there is a site plan included in the packet that shows the layout of the facility. Mayor Dunn asked if there was any one in the audience wishing to speak.

COUNCILMEMBER HEUMANN asked if the applicant was running a care home at this location previously. Mr. Gilmore said that his wife was. She purchased the home in 2002 and had the group home then. They married in 2004 and closed the home and they are now wishing to re-open. Councilmember Heumann said it was his understanding from the Planning Commission that the request was for 7 residents, with no live-in caretakers. He clarified that Mr. Gilmore said they would be living on the property. Mr. Gilmore stated they would be living on the property.

Councilmember Heumann asked how many residents resided there previously. Mr. Gilmore said 5. Councilmember Heumann said he had some concerns about starting out more than 5.

MS. DONNA HILL, 2390 E BELLRIVE PLACE that is across the street from the home. They would like to see less than 7 due to the traffic. There are rescue vehicles that come in and out during the evening hours. It is hard to stay asleep when a fire truck or ambulance is there with their engine running. From the time before, the traffic did take up spaces along the road and made it difficult to maneuver around. We wouldn't want it any way, but if allowed, would prefer it at 5. She said it was her understanding that Jack and his wife would not live there if there were 7 residents.

VICE MAYOR CACCAMO said he didn't feel that any of the houses that the State or they approve really provides an adequate facility for aging people specifically bathroom facilities and did not believe that 2 bathrooms for 7 people was adequate. He would like to see any of the houses that come before them, increase the number of bathrooms as they increase the number of bedrooms. He will be opposed until that happens.

MR. SWANSON said the bathroom ratio is regulated by the State. It's 3 residents per bathroom.

MAYOR DUNN said there are two paths. The use permit that they have the right to do and there is the State of Arizona that regulates how the care is provided. Mayor Dunn questioned if the Council could add to the State regulations. Mr. Swanson said he would need to defer to the City Attorney but it is his understanding that the City could apply some additional standards we could require. Currently, they review the bathrooms for the grab handles, electrical requirements.

COUNCILMEMBER HEUMANN said he has reviewed many of these during the time he spent serving on the Planning Commission. There are times the standards set by the State, are a joke. He agreed with the Vice Mayor regarding his concerns. A 120' area is 10x12 and when you have 3 people sitting in chairs, it pretty much takes up a good part of the room. He confirmed they could have 5 unrelated before a use permit.

Mr. Swanson said he would clarify that there will be 6 resident receiving care and the 7<sup>th</sup> unit would be the family living there. Mr. Swanson said he just received clarification from the applicant that they intend to live there.

JEFF KURTZ said the city patterned their code after reliance on the State standards as opposed to getting into the local health requirements. Staff looks at more of the externalities that are caused by these impacts. They would be more than glad to look at them if Council has a different perspective.

VICE MAYOR CACCAMO asked if we differentiate between a facility that actually comes in to build as an elder care facility. what types of stipulations are put into those facilities. Mr. Kurtz said they just regulate the land use of it. In terms of the amount of bathrooms, those are requirements of the State in terms of the licensure of it and the health care aspects. Vice Mayor said the facilities he has seen are one bathroom for each resident or two residents in facilities that have been built.

MAYOR DUNN said there are two separate issues. Land use and how it affects the compatibility of the neighborhood. Obviously there won't be a lot of traffic going in and out but there may be on a Sunday afternoon when people are visiting. There may be emergency vehicles at the home and that could occur anywhere, but maybe it will occur here whether there is 4 people inside or 7 depends on the status of the health of the individual. Mayor Dunn said this provides areas that he has shown concern for in the past and gives opportunities to people to live out their remaining lives in a home environment.

COUNCILMEMBER WENINGER said this one seems to have the best floor plan that he has seen. It sounds like the applicant wouldn't prohibit a resident using their restroom if needed.

COUNCILMEMBER ORLANDO clarified the numbers. Mr. Swanson said the applicant clarified to him early this evening that they would have 6 residents receiving care and then the applicant and his wife would stay on the facility and they would count as one unit for a total of 7. Councilmember Orlando said he counted 6 bedrooms total.

Mr. Swanson said the applicant wants 5 residents with the owners in the master room. With the use permit, if they ever leave, they would then like the option to have the additional resident in the master bedroom.

COUNCILMEMBER ORLANDO said at the current time the request is for 7 residents. Mr. Swanson said that would include 2 residents being allowed in the master bedroom with the applicant no longer living there. If the applicant lives there, then it would be 5 residents occupying the bedrooms on the right side of the layout.

MOVED BY COUNCILMEMBER ORLANDO TO APPROVE USE PERMIT, UP09-004 CASSANDRA MANOR TO OPERATE AN ASSISTED LIVING HOME FOR UP TO 5 RESIDENTS WITHIN AN EXISTING SINGLE-FAMILY HOME LOCATED AT 2371 E BELLERIVE PLACE. SECONDED BY COUNCILMEMBER HEUMANN.

MAYOR DUNN clarified that would include 5 under care plus the applicant. COUNCILMEMBER ORLANDO said if the applicant moves out and wants to put an extra elderly individual there, he must come back to the council.

COUNCILMEMBER WENINGER MADE AN ALTERNATE MOTION TO APPROVE UP09-004 CASSANDRA MANOR USE PERMIT TO OPERATE AN ASSISTED LIVING HOME SUBJECT TO THE CONDITIONS RECOMMENDED BY PLANNING COMMISSION AND STAFF AND ALL THE ATTACHMENTS FOR 7. MOTION WAS SECONDED BY COUNCILMEMBER SELLERS.

COUNCILMEMBER HEUMANN clarified what "7" means as the testimony has changed since Planning Commission. COUNCILMEMBER WENINGER said the applicant could have 7 residents living there and have caretakers coming in shifts that did not live there. Based on what the applicant says now, they'll have 5 residents with he and his wife living in the master bedroom. If they want 7 residents in there, they would then have a little over 2 people per bathroom and caretakers coming in.

MAYOR DUNN noted to keep in mind if caretakers are coming in, there will be more people than what they are saying.

VICE MAYOR CACCAMO asked when counting families, what happens if clients come in as a husband and wife. Mr. Swanson said while they have never had that situation, it is his understanding that would count as one unit. If Council approves this as 7 residents receiving care, then staff would consider all residents as a single resident.

MR. SWANSON said with the 5 resident motion, that would include 5 residents and the applicant and his wife living in the master bedroom. The second motion for the 7 residents that would give the applicants room to grow by moving out and then locating up to 2 more residents in the master room.

MAYOR DUNN told the applicant he originally told the Council that he and his wife plan on residing at the residence and he like that. Once there is not a residential caretaker residing in the home, you become more of a commercial business. You have as many patients in there as you can with the additional person or two caring for the residents. Has always come down to him on how many people are in the house because that will have the impact on the traffic and parking. He asked for clarification.

MR. GILMORE said while he respects that, he would like an option if he wanted to move out and have the ability to have guests over. He is giving himself an option of relocating while still managing the facility. He wants the flexibility.

MAYOR DUNN asked how significant of a process it was for the applicant to return. Mr. Kurtz said it's a process to a degree that it does take some time. There is community/neighborhood outreach to provide the time for review. The process is about 4 months for the neighborhood notification process, Planning Commission and City Council.

COUNCILMEMBER DONOVAN asked how that would be different as this is a one-year use permit. The applicant will have to come back regardless. She questioned if there more work for the applicant for the applicant to request more. Mr. Kurtz said it would be the same time frame. Ms. Donovan said this is a year permit and regardless of which one is approved there would be opportunity to see how it is working.

COUNCILMEMBER HEUMANN referred to another care home permit approved by Council on the agenda (Item 27) said that permit came through with a 3 year permit as it had a one year originally. It's a standard. Mr. Kurtz said the standard recommendation is one, three, five year and then no time limits to give the opportunity to understand the issues with always an ability to go through a revocation process if something dramatic changes. Councilmember Huemann confirmed that the number could increase to 7 at that next use permit renewal.

COUNCILMEMBER ORLANDO said he understands that the neighbors are welcoming you there, but with a caution light and this is the first time they heard you were living there. He said he felt this applicant was trying to work with the neighbors by putting 5 residents in with live-in caregivers with return in a year and see if compatibility exists with the possibility to increase. MR. GILMORE said his concerned about coming back to do more than 5 is that he has to have his house sprinkled. He doesn't want to have to have sprinklers put in after everyone moves in. he would like to have 7 now so he can have everything planned out now. Councilmember Orlando told the applicant he could put them in now. He stated that if they applicant was planning on putting in sprinklers now it tells him that he is leaning toward 7. Mr. Orlando said then they need to be fair to the residents and stipulate what is being done.

COUNCILMEMBER SELLERS commented that even if they approved 7, he still has to come back in a year to have the permit extended.

MAYOR DUNN said the motion to be voted on is to have 7 residents. MOTION FAILED FOR LACK OF MAJORITY (2-5) WITH MAYOR DUNN, VICE MAYOR CACCAMO, COUNCILMEMBERS HEUMANN, DONOVAN ORLANDO VOTING NAY.

MAYOR DUNN STATED THE NEXT MOTION IS FOR 5 RESIDENTS. MOTION CARRIED BY MAJORITY (4-3) WITH VICE MAYOR CACCAMO AND COUNCILMEMBERS WENINGER AND SELLERS VOTING NAY.

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

1. The assisted living home shall have no more than five (5) residents at any time.
2. Should the applicant sell the property, this Use Permit to operate an assisted living home shall be null and void.
3. Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.

RECESS: The meeting was recessed at 9:02 and reconvened at 9:12 p.m.

### 32. PROPOSED 2009/10 TENTATIVE BUDGET AMENDMENTS

Listed below are the items received from Councilmembers:

1. Recommendation by Councilmember Caccamo to amend the proposed FY 2009/10 budget to use one-time Council Contingency Reserve funds in the amount of \$81,565 to maintain funding for the Fire Department's Child Car Seat, Child Immunization and Urban Survival Education programs for FY 2009/10.

*Council Contingency Reserves:*

One Time Items:

\$ 12,372	Child Car Seat Program
\$ 37,117	Child Immunization Program
\$ 32,076	Urban Survival Education Program

2. Recommendation by Councilmember Heumann to amend the proposed FY 2009/10 budget to restore 1.0 FTE Park Ranger in Police Cost Center 2030 in the amount of \$53,032 to be funded on an ongoing basis through a reduction in the Sunset Library rent in Community Services Cost Center 4310.
3. Recommendation by Councilmember Heumann to amend the proposed FY 2009/10 budget to restore 1.0 FTE Code Inspector in Neighborhood Resources Cost Center 1061 in the amount of \$65,504 to be funded on an ongoing basis through a reduction in the Sunset Library rent in Community Services Cost Center 4310.
4. Recommendation by Councilmember Weninger to amend the proposed FY 2009/10 budget to eliminate the City's Exceptional Merit Award and Exceptional Performance Award programs and authorize the City Manger to reallocate the one-time funding for those programs to other one-time purposes he deems necessary.

Any budget amendments that are approved will be incorporated into the Auditor General Report and Tentative Budget. After the adoption of the Tentative Budget, Staff will publish the revised Auditor General's Report in the Arizona Republic newspapers on June 4 and 9, 2009. According to state law (A.R.S. §42-17105), the total of the Final Adopted Budget cannot exceed the total of the published estimates of the Adopted Tentative Budget. The Final Adopted Budget total can be less than the Tentative Budget, but it cannot be more.

MANAGEMENT SERVICES DIRECTOR DENNIS STRACHOTA thanked the Council for their thoughtful consideration regarding the budget. The input received from Council, citizens and employees have helped shape the budget. Mr. Strachota reiterated the budget needs to remain balanced and needs to be sustainable and that means resources need to be sufficient in order to meet all of the spending requirements. Secondly, we shouldn't be adding to or creating new budget imbalances in the future. The reductions in this budget will have an impact on both internal and external services. There was an effort to define what the impacts would be to the services delivered to the public early in the process. What were harder to define were operational impacts. The departments have reduced capacities as a result of this budget and are more likely to focus on their core missions. Finally, there may be more budget challenges before any budget relief is seen. The short-term outlook for the economy is unpredictable. The prolonged recovery of 3-5 years is a sure bet.

CITY MANAGER PENTZ referred to the budget amendment submitted by Vice Mayor Caccamo and said that Fire Chief Jeff Clark advised he could provide the three services listed for \$70,000. There is \$70,000 available in on-going contingency and rather than pay for it out of one-time money, as these were cuts from an on-going budget, Mr. Pentz recommended Council authorize on-going contingency to cover these expenses. If they are important enough to be placed back in the budget, they should be funded from an on-going basis.

MAYOR DUNN confirmed there was \$75,000 available of on-going contingency. The Mayor asked if there has been any grant money available. CHIEF CLARK said he would be working with the hospital on being more aggressive on joint grants. Mayor Dunn said if other additional funds could be found then the allowance made could be up to \$70,000.

VICE MAYOR CACCAMO thanked staff for reducing the amount. He stated his desire to keep the money in one-time contingency and keep the on-going money hidden in case for staffing for some other place.

MAYOR DUNN asked the City Manager the basis for his recommendation. MR. PENTZ said that for years these items have been on-going expenditures and these were items that Chief Clark proposed to be cut from his budget. Mr. Pentz said it is his feeling that if they are important enough to be put back in the budget it ought to be done on an on-going basis rather than using one-time money that clearly is an on-going type of expenditure. He has a feeling there will be a desire in the future to continue these programs.

VICE MAYOR CACCAMO said in these uncertain times, these variables can change and we have to consider that a year at a time. As we go into each year we have to reconsider our entire budget almost like it's a zero based budgeting. He would prefer to keep in one-time funds and gives a little leeway.

COUNCILMEMBER DONOVAN clarified that some grant funding is received for these programs and asked if this money was in addition to that. CHIEF CLARK said he believes the only grants they have received are in the car seat program. The Urban Survival Program, there were no grant opportunities they are aware of. They are pursuing the Car Seat Grant. Typically about \$40,000 a year supports the \$12,000 that's in the car seat program. They have not pursued grants for the Immunization Program and in the meetings with the hospital, it was indicated there may be grant opportunities if pursued jointly and that's what they will do. Ms. Donovan clarified that there will be some car seats done even if the grant is not awarded and if they get the grant as received in the past, that will just enhance to the level of last year. Ms. Donovan said she didn't feel we should spend the money just because we have it regardless if it's on-going or one-time funds, but

right now, this is the piece that has risen to the top. She stated she would be comfortable moving it to on-going funds and approving it at \$70,000.

COUNCILMEMBER WENINGER said while he understands the City Manager's recommendation, that they have moved some on-going programs to one – time such as the DIF and Commercial Reinvestment. He said he would have a tough time putting things in on-going when we don't know where the economy is going and when we are telling employees there aren't any COLA's for 3-5 years. It all adds up and takes away from the possibility of not being able to take care of our most valued assets – our employees, for the years to come. He challenged everyone to train volunteers to help.

COUNCILMEMBER DONOVAN asked what the funds are going to. CHIEF CLARK said all of these funds are used in the overtime line to pay the firefighters. Those that are certified to work in these programs are worked on an overtime basis to fill these programs. She asked how much of the other salaries or overtime is done with one time funds or ongoing. CITY MANAGER PENTZ said he couldn't think of any overtime that is paid out of one-time.

BUDGET MANAGER DAWN IRVINE said that would be the exception rather than the rule. She recalled paramedic training occurring during one particular year that there was a decision package that allowed a department to have additional overtime on a one-time basis.

MOVED BY VICE MAYOR CACCAMO TO AMEND THE PROPOSED FY2009-10 BUDGET TO USE ONE-TIME COUNCIL CONTINGENCY RESERVE FUNDS IN THE AMOUNT OF \$70,000 TO MAINTAIN FUNDING FOR THE FIRE DEPARTMENT'S CHILD CAR SEAT, CHILD IMMUNIZATION AND THE URBAN SURVIVAL EDUCATION PRORAMS. SECONDED BY COUNCILMEMBER ORLANDO.

MAYOR ASKED ABOUT THE URBAN SURVIVAL EDUCATION PROGRAM. Chief Clark said the program is targeted for K-3 in 22 of the elementary schools. There is a fire fighter assigned to each of those schools and they spend a day a week rotating through the classes teaching fire safety to home safety, basic CPR and first aid.

MOTION CARRIED BY MAJORITY (6-1) with Councilmember Donovan voting nay.

#### One FTE Park Ranger

COUNCILMEMBER HEUMANN said there is currently 8 FTE Park Rangers. In the last 4-5 years there has been a 14% addition in parks, about 25% additional acreage. While serving on Parks Board, discussion took place on adding parks but they have not added on Rangers. They are looking at a 35% decrease of Rangers. This group does preventive work. The savings from this is that we plan on buying the Library in February, which leaves an additional \$175,000 in ongoing money. Another position he is looking to fund is a Code Enforcement Officer. With the amount of foreclosures and problems in the neighborhoods safe reason for motion to reinstate a code Enforcement Inspector for Neighborhood Resources, also to be paid out of the Library funds.

COUNCILMEMBER SELLERS said he would vote no on both of these and while these are two very important positions, out of respect of how we approached the budget this year, we asked each department to look and figure out what made the most sense. If we are going to restore money, we need to go back to the departments and ask them to reprioritize and see where they want the money spent rather than the Council telling them how to spend it.

COUNCILMEMBER WENINGER said while the motion is admirable and he understands where Councilmember Heumann is coming from. This is basically bringing 2 people back on. Money that is spelled out a little bit, people think is going toward the Museum and the Museum Staff is going toward these positions and he guessed these positions would continue next year and then you would have a shortage in that Museum budget. He felt the context of the Museum needs to be addressed next year. He expressed his concern in plugging this money in as on going and not having money to continuing forward in the future.

COUNCILMEMBER DONOVAN asked for the justification for these two positions. POLICE CHIEF KIYLER said she appreciates the Council's concern for the Park Ranger program as it is an exceptional program that provides much to the community. However, she explained when looking at the budget reductions for this year, core mission is where the priorities were placed. The Park Ranger program is primarily a proactive program. If we have to respond to calls there, we do have police officer's to do that. This reduction is in the number of park visits and the number of foot hours in the park. The same number of parks would still be patrolled, but there would be 30-35% reduction of hours spent in the parks by the rangers.

COUNCILMEMBER ORLANDO asked if the police officers were kept at the current level. Chief Kiyler responded that there was a reduction in sworn positions, but what they looked at was services and what their primary core services were. For example, there were no position reductions in the patrol staffing or criminal investigations or dispatch. Councilmember Orlando said what he heard during the budget process is that each department tried to maintain the service level as best they could. There is an open position and one is retiring.

COUNCILMEMBER HEUMANN said he did speak to the Chief before he put this amendment in they both agreed there would be a level of service cut. There is a 35% reduction.

VICE MAYOR asked if the Library money was earmarked or was it dedicated to something. MR. PENTZ said that the CIP calls for the purchase of the Sunset Library next February. They have budgeted the full amount of lease payments for the Library for 12 months of the fiscal year. There will be a period in the last 5 months of the fiscal year where that lease money will not be spent. What has been proposed to the Council and the Museum Advisory Board is that the lease money that had been going to Sunset Library, go to the Operations and maintenance of the future museum. The museum won't be built for several years, so until that museum is built, if that lease money is kept in the budget, it will become one-time money in the fund balance. If this money is spent on these two positions and those positions continue on in the future, then you will effectively be reducing the money for the O&M.

COUNCILMEMBER HEUMANN clarified the anticipated Museum opening date is Fall of 2012 and that is at least 2 years away, maybe 3.

NEIGHBORHOOD SERVICES DIRECTOR JUDY REGISTER said there has been a reorganization of the areas of the current 7 code inspectors. They are able to maintain the level of service. What may be suffering is the proactive, inspector initiated complaints. The bandit sign removal is taking 34 hours a week to stay on top off. They are looking at other ways such as volunteers to do that. The position was vacant and eliminated. COUNCILMEMBER DONOVAN said that it does make sense to move an inspector from south of Pecos to north as it is presumed that most of the areas south of Pecos have HOA.

COUNCILMEMBER WENINGER said what concerns him is we are already getting into next year's budget and spending money that isn't here yet. He's putting everything into the context of

the economy and asking more of the employees. In respect with the museum, the museum needs to be decided in next year budgets. He didn't think it's fair to decide these things in the context beforehand. There is \$481,000 and the money is not even allocated in this budget to the museum and the only fair thing to do when you are telling employee's no COLA's for 4-5 years, this is money that could be used for any of those different purposes.

COUNCILMEMBER HEUMANN said that HOA's still call neighborhood Services to help. He said that putting this person in would help in being proactive. If you can't be proactive then you are actually spending more time going back out.

MOVED BY COUNCILMEMBER HEUMANN TO RESTORE ONE FTE PARK RANGER IN POLICE COST CENTER 2030 IN THE AMOUNT OF \$53,032 TO BE FUNDED ON AN ON-GOING BASIS THROUGH A REDUCTION OF THE SUNSET LIBRARY RENT IN COMMUNITY SERVICES COST CENTER 4310. SECONDED BY COUNCILMEMBER ORLANDO.

VICE MAYOR CACCAMO SUGGESTED AN AMENDMENT as the funding would not be available until February to use the COUNCIL ON-GOING CONTINGENCY.

MAYOR DUNN asked Councilmember Heumann if he would incorporate that into his motion. Councilmember Heumann said he would.

CITY MANAGER PENTZ said that could be done, however there is \$481,000 budgeted for the Sunset Library lease payment and hypothetically, if there is only \$200,000 spent on lease payments through February, what they would have done is reduce the line item for the Sunset Library lease payments by this dollar amount and increased the line item for the Park Ranger by the like amount. He clarified if that meant they would leave the Sunset Library money intact.

VICE MAYOR said that the money for the Sunset Library would not be available until February. Mr. Pentz corrected by saying the money would be available when the fiscal year starts. There is \$481,000 budgeted and they need a couple hundred thousand dollars.

VICE MAYOR WITHDREW HIS SUGGESTION FOR THE ALTERNATE FUNDING.

MAYOR DUNN said he thinks that a process has been completed with the Director's and it reminds him of the budget process in prior years where the legal department came forth with additional for staffing. He is a little concerned with that aspect of going out of the process and wondered what other departments would want. Mayor said one of his goals is to avoid involuntary lay-offs in the city. If we cannot, he doesn't know if he would feel comfortable with this decision.

COUNCILMEMBER ORLANDO said there have been officers and individuals in the past despite going through the process because this Council is a policy making body and we look at the whole city. If we don't use the Library funds and this doesn't fail, can we bring this back for a second motion using on going funds. CITY ATTORNEY WADE said there could be a motion for reconsideration of this motion. He believed that Park Rangers do present a uniformed presence. COUNCILMEMBER ORLANDO SUGGESTED AMENDING THE MOTION TO USE COUNCIL ON-GOING FUNDS AS HE WANTS TO USE THE ONE-TIME DOLLARS.

COUNCILMEMBER WENINGER CLARIFIED WHETHER IT WAS ON-GOING OR ONE-TIME. COUNCILMEMBER ORLANDO CLARIFIED HE MEANT ON-GOING.

COUNCILMEMBER WENINGER said these dollars add up and could save us from reducing positions or giving COLA's. He said while it's a loss, it's not fair to the other departments or the other employees.

VICE MAYOR CACCAMO referred to Councilmember Seller's earlier comments about relying on staff's decisions, but traditionally this budget amendment portion was made specifically so that Council could make other decision and policy decisions and may be add things back in. However, if a position is added back in and they have to lay someone off, that would be difficult. He would rather hold off on making a decision on this and if we are not in a layoff position, then maybe reconsider.

COUNCILMEMBER SELLERS reiterated that if Council felt we have asked departments to cut too deeply, we should restore money to them and go back to their process and decide how to spend it.

MOTION FAILED FOR LACK OF MAJORITY (3-4) with Mayor Dunn, Councilmembers Donovan, Weninger and Sellers voting nay.

#### CODE ENFORCEMENT INSPECTOR

MOVED BY COUNCILMEMBER HEUMANN TO RESTORE A CODE INSPECTOR USING \$65,000 TO BE FUNDED ON AN ON-GOING BASIS THROUGH REDUCTION OF SUNSET LIBRARY RENT FROM COMMUNITY SERVICES. SECONDED BY COUNCILMEMBER WENINGER. MOTION FAILED FOR LACK OF MAJORITY (2-5) with Mayor Dunn, Vice Mayor Caccamo and Councilmembers Donovan, Weninger and Sellers voting nay.

MAYOR DUNN said he said he viewed this as an issue of timing and may be after the budget is adopted there will be a clearer understanding of where we stand in terms of any involuntary lay-offs.

#### EXCEPTIONAL MERIT AWARD/EXCEPTIONAL PERFORMANCE AWARD

COUNCILMEMBER WENINGER said while he believes they are good programs, he believed this was reduced this year to one-time and reduced by about \$1 million. He said he would like to see it come back in a few years and keep it in ongoing with a detailed criteria what it takes to achieve it. For now he believed it should be eliminated.

COUNCILMEMBER ORLANDO clarified the cost. Mr. Strachota said about \$225,000. MR. PENTZ said this program pre-dates him, but it's a program where Director's can give cash awards to employees for exceptional performance. Some times those employees are acknowledged before Council at the meetings. He said they did provide the report that showed what the amounts have been over the past couple of years. Directors like it as an effective tool. Councilmember Orlando asked what amount the average award is. Mr. Pentz said about \$1,500. He said the decisions are made at the department level with the City Manager's review. We have not traditionally used the funded amount.

CHIEF KIYLER said she has reviewed some of her EPA's/EMA's over the past few years. She said this is for recognition of efforts that are really outside of the daily responsibilities. She gave examples that included recognitions for the employees that worked on the police substations, some of the investigative work on particular cases, and members of their planning staff for budget work. Over the past 3 years her department has used about \$38,000, the majority has gone to

non-exempt employees and the other to exempt employees. MAYOR DUNN asked if she felt these awards have helped promote greater effort on the part of employees for greater exceptional service. Chief Kiyler said it is not only the cash award, but also the acknowledgement and recognition of a job well done.

COUNCILMEMBER DONOVAN said especially in the reduction of workforce, this is a good way to boost morale and this is not the time to take it out.

CHIEF KIYLER said her former agency did not do this and she appreciates the opportunity to do this.

COUNCILMEMBER ORLANDO clarified that these aren't bonuses for "being alive and doing your job". They are truly incentives for going beyond their effort in servicing the community.

FIRE CHIEF CLARK said over the last 18 months or so, they have awarded 17. Most are \$1,000 awards and in all cases these are nominations that come from the employee's supervisor. He said many take on side projects – community service projects, Honor Guard, Pipe and Drum Corp., all which are volunteering their time for public service and putting their own money into their uniforms. Programs such as this are rewarded after an employee has excelled and demonstrated a commitment above and beyond.

MAYOR DUNN asked how many years this has been in existence. ASST CITY MANAGER PAT MCDERMOTT said that various forms of this have been in place for over 20 years believing that the City Manager that could have started it was Don Brown. He added that staff has been very conservative and using it wisely, but not excessively, but administered conservatively.

VICE MAYOR asked if there were objective criteria. MR. PENTZ said the administrative regulation was attached. He believed it was subjective in the sense that it's performance above and beyond the requirements of the job in a way that produces significant benefit to the City. He said that most don't approach a project thinking that they are going to end up with an EMA/EPA, he thinks it's what is unique or unusual or done in an exceptional way.

PUBLIC WORKS DIRECTOR gave examples of employees that have come up with new ideas with equipment and saved a significant amount of money for the City.

COUNCILMEMBER WENINGER said from the reduction, it looks like it's been over-budgeted by about 500%, it's been funded at \$1.2 million and ¼ million has been distributed. He asked how long this has been in on-going. Mr. McDermott said he did not know. Councilmember Weninger said it's not that people don't deserve this, it's just a unique budget year.

COUNCILMEMBER ORLANDO said we just had a discussion on how important it is for staff to make decision on their budget. While he was considering this, what he heard right now from staff, is that this is something they support. At his employer, Honeywell, they have not cut these types of programs either, as they are good morale builders. He believed the program was being handled appropriately.

VICE MAYOR CACCAMO said while he had initial objections, he is feeling better about this. He feels it is used properly and is a good program.

COUNCILMEMBER HEUMANN said he heard the cost saving ideas, exemplary service, but his caution would be that while morale is important, that we are going through tough economic times

and all sorts of people are stepping up. He thinks it is best used for for exemplary things or cost savings and it is important to keep this in there. His suggestion would be to tighten this program up.

MOVED BY COUNCILMEMBER WENINGER TO AMEND THE FY2009-10 TO ELIMINATE THE CITY'S EXCEPTIONAL MERIT/EXCEPTIONAL PERFORMANCE AWARD PROGRAMS AND AUTHORIZE THE CITY MANAGER TO REALLOCATE THE ONE-TIME FUNDING FOR THOSE PROGRAMS TO ONE-TIME PURPOSES HE DEEMS NECESSARY. SECONDED BY MAYOR DUNN. MOTION FAILED FOR LACK OF A MAJORITY (1-6) with Mayor Dunn, Vice Mayor Caccamo, and Councilmembers Heumann, Donovan, Orlando and Sellers voting nay.

COUNCILMEMBER ORLANDO asked if the \$46 million designated reserves was part of the budget, MR. STRACHOTA replied yes, as those are reserves that are not expected to be spent and so consequently those monies are not appropriated. They remain in fund balance. Councilmember Orlando clarified that the interest earned on this money is placed in the General Fund as on-going. Mr. Orlando asked if that was a line item in the budget. Mr. Strachota said the interest on investments is a separate revenue account that is shown in the budget.

COUNCILMEMBER DONOVAN said it continues to be important to her that if we are funding salaries or overtime that it's from our on-going funds and not one-time, so hopefully if the Fire Programs continue to be as important to all of us as this year, we look at putting those in on-going.

**Items 33 and 34 were taken out of order to allow the adoption of fees prior to the tentative budget adoption.**

34. CITY FEE SCHEDULE AMENDMENT

Res. #4299

ADOPTED Resolution No. 4299 amending the City Fee Schedule relating to the Fire Department, Municipal Utilities, Planning and Development, Police Department and Public Works fees.

Background: User fees and charges are those that help to recover the cost of providing a specific benefit to a specific user. Over the last several months, Staff conducted an extensive review of the City's existing fees and charges and reviewed recommended changes with the Management Services subcommittee and full Council. The changes reflected in this amended Fee Schedule, as well as those that will require future action, are based on Council input.

While this resolution represents the majority of the City's recommended fees/charges, some require a code change and will be addressed separately. Those fees that will come forward at the June 11<sup>th</sup> Council meeting by various ordinances include:

- Fire: Training facility fees
- Management Services: Vendor registration fee
- Neighborhood Resources: Non-compliance re-inspection fee
- Planning & Development (P&D): Miscellaneous fees and a change in basis for plan review fees
- Police: Pawn slip fee
- Public Works: Rest estate fees

Not included in this fee schedule update are recreation, library, Center for the Arts, Airport and certain utility fees.

The Parks and Recreation Board approved the updated recreation fees at a special meeting on May 12, 2009. The Library and Center for the Arts fees are scheduled for Board approval on May 21 and 28 respectively. The Boards will subsequently forward the new fee schedules to the City Council.

Additionally, Public Works is working to address the costs of operating the Airport and will bring a separate Airport fee recommendation to Council. Utility rates and the proposed late fee on utility bills will be presented to Council on June 11, 2009.

The Summary of City-Wide Fees and Charges Update lists the fees/charges included in the amended City Fee Schedule and those which will require future action through ordinances. These recommendations include the following:

- CAPA: Amend license application base fee for all Chapter 46 licenses.
- Fire: Recover inspection-related costs for Fire permits and training facility usage.
- Management Services: Add a vendor registration fee and late fee on utility bills.
- Neighborhood Resources: Add a non-compliance re-inspection fee.
- P&D: Update planning fees to reflect inflation since last increased in 1993 and other P&D fees to recover some costs, but at a level near the 30<sup>th</sup> percentile of other valley cities.
- Police: Add vehicle impound fee based on Arizona State Statute and a pawn slip fee.
- Public Works: Recover cost by amending inspection services, real estate fees and permits.
- Soiled Waste: Update fees for second containers, bulk waste and non-residential use.

MAYOR DUNN said that the fees have two options. He acknowledged Councilmember Orlando's suggested Option 1 dealing with the Fire Fees, and Mayor said he could be supportive of it.

MAYOR DUNN asked for a procedural clarification. MS. DAWN LANG clarified that Option 1 was all of the fees that are allowed by city ordinance that are part of the Citywide Fee Schedule as it would include the permits. Option 2 would be all-inclusive but has the permit fees at 50%. MS. LANG said Option 1 would exclude the assembly permit, the cutting and welding permit, and the 2 high combustible storage permits. She stated there would be fees that will come forth on the June 11 Council agenda. She reviewed the fees.

MAYOR DUNN asked what fees the citizen boards have reviewed. Ms. Lang said the Park fees are not part of this motion. COMMUNITY SERVICES DIRECTOR MR. EYNATTEN said that there are three boards authorized to approve fees – the Library Board, the Parks and Recreation board and the Cultural Foundation.

MOVED BY COUNCILMEMBER ORLANDO TO ACCEPT OPTION 1 AS EXHIBIT A TO RESOLUTION 4299 AND MOVE TO ADOPT RESOLUTION NO. 4299 AMENDING THE CITY FEE SCHEDULE. SECONDED BY COUNCILMEMBER HEUMANN.

MAYOR DUNN noted that while these fees are being dealt with to help us during a difficult budget cycle; but also because we have not reviewed and increased our fees in many years. He complimented staff in reviewing the fees. He said we want to be reasonable but also want our

services to be paid accurately. He said that early on, Councilmember Heumann was asking if this was going to affect our ability to do economic development. He asked the impact on the small developer, the small offices in their decision making process. He asked Ms. Mackay her opinion.

ECONOMIC DEVELOPMENT DIRECTOR CHRIS MACKAY said it's a good question and one she often wrestles with as competition does get aggressive between cities. She said that while the percentage increase looks significant, from a dollar value they are nominal. They compared a small, mid-size and large project with the fees and they were pretty nominal with the proposed planning fees. When you add in the additional system impact fees, you have to weigh them carefully. If the project is not in an arterial street fee area, we are highly competitive and that's not a challenge. If looking at the arterial street impact fee area, we have lost a few projects and those are the areas that can increase the competitiveness. Mayor Dunn asked if there could be a report to Council if there was a future disadvantage with this. As we approach build-out these fees will have to be adjusted anyway.

COUNCILMEMBER DONOVAN asked Chief Clark about his preference to each option. Chief Clark said neither one affects them differently on the job they have to provide; either option is acceptable.

MOTION CARRIED BY MAJORITY (6-1) with Councilmember Weninger voting nay.

33. 2009/10 TENTATIVE BUDGET

Res. #4285

ADOPTED RESOLUTION NO. 4285 AS AMENDED adopting the Tentative Budget and budget forms as prescribed by Arizona Revised Statutes §42-17101 and §42-17102.

Background: As required, these budget forms will be published as well as a notice that the City Council will meet for the purpose of public hearing and for final adoption of the 2009/10 Budget at 7:00 p.m., June 11, 2009, and will further meet for the purpose of making tax levies at 7:00 p.m., June 25, 2009. Any budget amendments that are approved Thursday, May 28<sup>th</sup>, will be incorporated into the Auditor General Report prior to publication for the Budget hearings.

In summary, the 2009/10 recommended budget totals \$797,894,348 and includes an operating budget of \$269,338,843, capital expenses (non-grant) of \$256,257,058, funding for Debt Service of \$56,322,229, cost center interfund payments for capital replacement of \$4,271,733, grant expenses of \$53,816,105, plus a contingency and reserve in the amount of \$157,888,380. Included in the projected operating revenues of \$339,545,123 is a property tax levy of \$39,287,682 based on a rate of \$1.1814 per \$100 assessed property value.

The tentative budget resolution with attached budget forms as required by Arizona Revised Statutes, will be available for public review and inspection at the Library, City Clerk's office and the Management Services Administration office in the Chandler Office Center on June 1, 2009.

CITY MANAGER PENTZ thanked the budget staff that rose to meet the challenges this year as well as the operating departments. Prior downturns have not compared to what we are going on now. The budget was well over a billion dollars is now under \$800,000,000. He extended the compliment to the Mayor and Council for the extra work sessions held this winter and the restraints in their deliberations.

MAYOR DUNN extended his appreciation to all of the department heads and to the budget staff realizing that in the past there have been opportunities to do things. CITY MANAGER added to the Mayor's comments that there still are future shortfalls and staff is already looking for budget cuts for next year and positions that we will be eliminating and not filling. Budgeting is a year round business out of necessity. Mayor Dunn said there are still some significant decisions and issues to resolve in the next few weeks, one being the next agenda item dealing with fees. This budget is based on anticipation on how those will be decided. He commended the Council for bringing forth their ideas and thoughts and differences of opinion.

MOVED BY VICE MAYOR CACCAMO TO APPROVE RESOLUTION 4285, AS AMENDED ADOPTING THE 2009-10 TENTATIVE BUDGET, SECONDED BY COUNCILMEMBER ORLANDO. MOTION CARRIED UNANIMOUSLY (7-0)

37. PERSONNEL RULE AMENDMENT: Rule 6

Res. #4305

ADOPTED AMENDED Resolution No. 4305 amending Personnel Rule 6, section 6.4, return to City employment; addition of new Subsections C and D.

C -- Any employee that separates from City service under a City-sponsored separation incentive program, not including a layoff program, shall be ineligible to work for the City on a full-time, part-time, temporary or contractual basis for a period of three (3) years from the employee's date of separation or retirement from City service.

D -- No employee shall hire either directly or indirectly any employee who left the City pursuant to Subsection C for a period of three (3) years following the employee's date of separation or retirement from City service.

COUNCILMEMBER WENINGER said he and Councilmember Heumann brought this forward. He believed it is an expectation by our citizens and only pertains to the employees taking the voluntary retirement package or the voluntary separation package and does not affect people who retire on their own outside of this package. He said a very generous package is given to the employee and it is an expectation that the employee is not coming back 5 months from now. He is also going to recommend the timing be reduced from 5 to 3 years from the date of retirement.

MAYOR DUNN asked for clarification on the added language regarding the amount of work in a 3-month period. COUNCILMEMBER HEUMANN said the new language was added to prevent a piggyback of combining the weeks. COUNCILMEMBER DONOVAN said she was glad to hear the time was reduced to 3 years. If there is an opportunity when the economy is better and there is a qualified person to help fill a temporary use with the benefit of the person with that knowledge, at the same time she understands the perception of having someone return after accepting the severance package.

COUNCILMEMBER ORLANDO said this would give guidance on what to do. MAYOR DUNN added that this is a little unusual in the sense the Council is doing some personnel rules, but this is a special time. CITY MANAGER PENTZ said he did not have any problems with the amendments. It's hard to imagine only bringing someone back for only a two week period.

MOVED BY COUNCILMEMBER WENINGER TO ADOPT RESOLUTION 4305 AS AMENDED BY CHANGING THE 5-YEAR PERIOD TO 3 YEARS. MOTION CARRIED UNANIMOUSLY (7-0)

38. TEMPORARY APPOINTMENT PROCEDURES:

COUNCILMEMBER ORLANDO said he asked to place this on the agenda to get a better understanding of this.

HUMAN RESOURCES DIRECTOR DEB STAPLETON said they want to avoid layoffs by being able to place people that are in positions subject to layoff in various parts of the organization and to efficiently and effectively manage organizational change. She recommended to the City Manager to enact his authority under Personnel Rule1, Section 19 that provides institution of temporary procedures. These temporary procedures would provide for the City Manager to appoint people into positions as opposed to going through a lengthy competitive process. That's not to say that wouldn't happen in some cases. That was important to support the goals stated and to allow employees that are subject to layoff, about 29 of them, an opportunity to move them somewhere in the organization. She made some recommendations to the City Manager on situations that might be appropriate to direct appoint and that would be to realize position savings; if there is an obvious qualified candidate; if it is a critical position; if there is a restructuring of the work group; or a merger of job duties. The second part of the temporary procedures – there is a temporary suspension on reclassifications, and to lift the suspension of the reclassifications during this transition but only for those positions that are impacted by the transition.

Ms. Stapleton said to keep in mind these procedures were developed before the retirement applications were reviewed. She discussed them with the City Manager, and they were reviewed with S.E.I.U. and with the Department Directors. She said 66 applications were approved out of the 81 that applied for the retirement incentive plan. The 66 were approved based on the ability to get position eliminations affiliated with those approvals. Of those 66, 38 are actual retiree positions that will not be filled. The remaining 28 will have to be filled but can be done through attrition that would result in some position elimination along the way. With this thought in mind, they could be able to move any employee subject to layoff into positions. She noted that in every case, they must be qualified. In most cases, they are transfers that don't fall under the Temporary Procedures and in fact, it looks like out of the 28 positions, there may be 7, maybe 8 direct appointments. She reported that about 50% of the retirements would occur at the end of the year. She said there are current internal recruitments occurring now which could allow an employee on the layoff list to apply. It's a moving target.

COUNCILMEMBER ORLANDO asks what employees this would affect. Ms. Stapleton said the original proposal for the employees that he covers which would be all exempt employees, confidential employees. In speaking with S.E.I.U., overall they have been pretty supportive, but she stated her understanding of some concerns they do have. Very late today, they came forward with some revisions to the language that they haven't had an opportunity to discuss yet. Initially, it was for the employees that the City Manager represents that are not otherwise represented by a union.

COUNCILMEMBER ORLANDO said his original concern wasn't the implementation, but how it was announced. He asked how long this authority has been in place. Ms. Stapleton said the rule pre-dates her. She said it may have been added in 1999, but she would need to confirm. She said the rules were re-written during that time by a committee and they would have needed Council approval.

Councilmember Orlando stated that in his 1:1 with the City Manager, it was briefed that this rule existed, but he didn't know it would be implemented and thought this body would have a chance to look at it or at least discuss it. He would like to discuss how the notification occurs and how it's briefed. He said his first notification was through an e-mail from a citizen saying this was implemented and it wasn't until last Thursday when he received a full copy of it, did he receive a briefing.

Councilmember Orlando asked if the Employee Council and some of the other organizations review this. Ms. Stapleton said it was the expectation that they wanted to review the language and talk to their membership and come back with some rewrites and that is what has been received this afternoon. Councilmember Orlando asked what would be done with the re-write request received. Ms. Stapleton responded that there would be a need to meet with S.E.I.U. and discuss more specifically. She said in reading the suggestions, it refers to seniority in choosing temporary detail. She said this rule does not authorize a revision of the temporary detail rule. The temporary detail rule is in Rule 3. She stated that she would be happy to sit down with James and Faith and gain an understanding on how we can implement this. If there is a need to implement direct appointments, it's not going to impact many people.

COUNCILMEMBER Orlando stated his wishes to have future dialogue on how to implement this as this is a suspension of the rules. This entails deciding whether a public body reviews it or receives stakeholder approval. Ms. Stapleton said she be happy to make some recommendations. Councilmember Orlando stated that a review could be done with the stakeholders and come back with some language that might be a good precedent for the future so there would be expectations written out.

COUNCILMEMBER WENINGER asked when this item was put on the agenda. Councilmember Orlando stated Friday. Councilmember said the more in advance items are placed on the agenda, the more opportunity it allows for review. Ms. Stapleton said meeting occurred with S.E.I.U. as early as April, perhaps March when discussing this. It was not anticipated this would come as an agenda item as the authority is in the rule, but she would be happy to work on developing a document. City Clerk Paddock clarified that the item was placed on the revised agenda on Wednesday.

COUNCILMEMBER HEUMANN asked if this would return to the agenda. COUNCILMEMBER ORLANDO said that is what he was advocating. His two issues are the notification process, which he would suggest a public meeting. Secondly, how to go forward working with the stakeholders in gathering input.

MAYOR DUNN said he strongly disagrees at this stage of doing that. He expressed his discomfort in voting from the dais on what is a very administrative process. CITY ATTORNEY WADE said the Charter provides the Council approves Personnel Rules and the Council did approve the Personnel Rule that allows for the City Manager to have the discretion to go into this process in situations like this. COUNCILMEMBER ORLANDO clarified that would be unless this Council is asking for a review of the rule to change it back. Ms. Wade said that is correct.

MR. PENTZ cautioned the Council, as S.E.I.U. was asked for language that would apply to positions in the organization that they represent. The language here applies to exempt and confidential employees. Currently, he explained, we are in the middle of a very disruptive process in this organization of eliminating 116 positions and trying to keep from laying people off. If the Council proposes changes in the future, he urged to look beyond where we are at now. The

goal is to keep from laying people off. There are 28 positions that need to be filled, so therefore other positions in the organization need to be eliminated.

COUNCILMEMBER ORLANDO said it is two things – implantation vs. authorization to proceed. In his mind, it's the authorization to proceed is what he is focusing on tonight. There are other ways of implementing this and that is where you give the stakeholders the opportunity. There may not be enough time as stated.

MAYOR DUNN said there is an expectation on the City Manager to achieve the ultimate goals of preventing lay-offs. If we believe that this procedure was not implemented in a proper fashion, the City Manager will be advised.

COUNCILMEMBER ORLANDO said he felt there was a better way to implement this process without receiving an e-mail from a citizen and if that means that we have a public hearing, he feels more comfortable with that.

MAYOR DUNN asked what the vote would be. Councilmember Orlando said the vote would be granting him the authority to proceed vs. unilaterally proceeding. In response to a question, CITY ATTORNEY WADE said this rule has been in effect for some time, although she suspects has rarely, if ever, been invoked. It does give the City Manager authority. Councilmember Orlando stated he felt this easily could have been briefed at Council and Council could have provided authority or amendments, but there was not an opportunity to do that. He felt if there was going to be a suspension of the rules, Council should have input on that.

CITY MANAGER PENTZ said he didn't feel there was intention to be unilateral. In April it was discussed in 1:1 on what this rule was with Councilmembers and it was the plan to implement this rule. Last week, Council was provided copies and it was discussed again with Councilmembers. It's a rule that has been in place and will be used to get through this very difficult period of having to adjust the organization. This rule was drafted, ideally, for this type of situation. In the future, if the Council wants a public hearing, if this happens again, that would be appropriate. There has been discussion with the union affected by this. When the Voluntary Separation Plan and Retirement Plan came forwarded, it was his understanding that the direction received from Council, was to avoid lay-offs and this is what he is trying to do with the use of this rule.

COUNCILMEMBER ORLANDO said that it was discussed on April 17<sup>th</sup>, but it's one thing to reference the rule and another to implement the rule. He stated he did not hear that discussion. He would expect some follow-up briefing. Mr. Pentz replied that after the Council was briefed, there was an e-mail sent out to the organization about the status of the separation plan and retirement plan and referenced this rule. Councilmember Orlando said this is the type of breakdown of communication that he is concerned about and that is why he would like to take a look at this again.

COUNCILMEMBER HEUMANN said while he didn't particularly remember this rule, but at the late hour, it's more of a process and communication issue. While he is not objecting to this, in the future, it's about improving the process and communication process.

MAYOR DUNN said he thinks that everyone is in agreement that this is probably necessary at this time, but maybe we weren't included in the discussion at our individual levels and that will be something to continually address.

No action was taken.

PUBLIC HEARING:

PH1. DOWNTOWN CHANDLER ENHANCED MUNICIPAL SERVICES DISTRICT

Memo background:

Assessments in the District will be based on three factors including assessed value (one-third of the assessment), building square footage (one-third of the assessment) and land square footage (one-third of the assessment). All properties will be assessed at the same rate with the exception of buildings along the Historic Square which will be assessed double the building square footage rate.

Assessments for privately owned property in the District total \$142,474. In addition, the assessment for City-owned property totals \$132,004. Funds to provide for the City's contribution to the District have been requested in Downtown Redevelopment's operating budget for 2009/10.

MAYOR DUNN opened the Public Hearing at 11:29 p.m.

MS. TERI KILLGORE said this district was setup in 2005-06 to better market and beautifies the area above what city services were already being provided. The area covers 61.4 acres and includes 765,000 s.f. of commercial space. In the last three years, the District has created many signature events, grown existing events and heavily marketed the area. In the coming year there will be a greater focus on physical improvements such as sign packages. For calendar year 2003-05 the area generated an average of \$.88 in sales tax per square foot of commercial space. In 2008, even during the significant downturn in economy, the number is \$1.18 per square foot resulting in about \$225,000 extra in sales tax for the City each year. One hundred percent of the proceeds go to the District to be managed. This is approaching the fourth year of a ten-year term. The DCCP board is the executor.

On April 23, 2009, City Council approved Resolution No. 4276 which authorized modification of the Assessment Diagram, making a statement and estimate of expenses for the Downtown Chandler Enhanced Municipal Services District, completing the assessment and setting the date for the public hearing on the assessments for the May 28, 2009, City Council meeting. On June 11<sup>th</sup> the contract with the DCCP for administration of the funds will be presented to Council.

Subsequent to the April 23, 2009, meeting, Staff published notice of the date of the public hearing for five consecutive days in The Daily News Sun, Mesa Tribune and Chandler Tribune as required by Arizona Revised Statute. Enhance Municipal Services District Staff also sent a notice of the public hearing to all property owners in the District. The letter advised the property owners that they could file an objection with the City Clerk should they desire to do so. One objection has been filed by the Pfrang family.

COUNCILMEMBER SELLERS asked how the determination was made in whom to include in the district. Ms. Killgore replied that a consultant was hired. From her understanding they reviewed the area that was likely to be revitalized first and included just the commercial properties. Residential properties are exempted from inclusion in the District. ASST. CITY MANAGER MCDERMOTT said that it was a balance to not have it so big that you couldn't target and focus on an area. We did include in some public meetings, property owners north of Chandler Blvd

based on the feedback that most property owners did not want to participate. At that time we felt that Chandler Blvd was a good north boundary and Frye was a good south boundary, both being a collector and an arterial. Then Delaware to Palm/Dakota. At some level it was arbitrary.

MAYOR DUNN asked if there was an option to opt out. CITY ATTORNEY there is not at this time as there would be a requirement to have a public hearing and change the boundary of the district. Mayor Dunn said what notification process is done to businesses that would advise them they are included in the District. MS. TERI KILGORE said that it her understanding that the property owner has been the same over time and the notification efforts have focused on the property owners. She said they could look at more outreach directly to the new tenants.

MAYOR DUNN said he did remember the discussion regarding where the boundary would lie and what it would affect and that is always a tough decision to make. Ms. Killgore said that the DCCP is making more of a concerted effort to not focus only on the historical square. For instance the signage package, they are looking at carrying that all the way down to Frye. Mayor Dunn said he felt the funds received by this assessment should be spread out among the boundaries as much as possible.

MAYOR DUNN asked if there was any one in the audience wishing to speak. As there was no public comment, MAYOR DUNN CLOSED THE PUBLIC HEARING AT 11:38 P.M.

35. FY 2009/10 ANNUAL ASSESSMENT: Downtown Chandler Enhanced Municipal Services District Res. #4297

ADOPTED Resolution No. 4297 approving the FY 2009/10 Annual Assessment for the City of Chandler Downtown Chandler Enhanced Municipal Services District.

CITY ATTORNEY WADE said the 6<sup>th</sup> "whereas" would need to be amended to include note the one objection received.

MOVED BY COUNCILMEMBER HEUMANN, SECONDED BY VICE MAYOR CACCAMO TO ADOPT RESOLUTION NO 4297 AS AMENDED. MOTION CARRIED UNANIMOUSLY (7-0).

#### SPECIAL ORDERS OF THE DAY

A. Mayor's Announcements:

The Chandler pools are open June 4<sup>th</sup> and is a great place to spend time this summer. Summer programs will be held all summer at Veteran's Oasis Park. Pre-registration is required to participate.

B. Councilmembers' Announcements:

VICE MAYOR CACCAMO announced that a local resident, Jim Wall, became the youngest bishop ever appointed in the United States and the first Catholic Bishop to be appointed from the State of Arizona. There will be a mass and reception on June 10 at St. Mary's Catholic Church.

COUNCILMEMBER ORLANDO said that June 6 is the 65<sup>th</sup> anniversary of D-Day and Congressman Harry Mitchell will be holding a Veteran's Education Expo at Mesa Community College. It's a new bill passed by Congress that allows all veterans, particularly Guard members, who traditionally don't get the full credits, even though they are serving over seas. In fact many National Guard members are serving their 4<sup>th</sup> tour overseas.

COUNCILMEMBER WENINGER expressed sympathy for State Treasurer Dean Martin over the tragic passing of his wife and son.

C. City Manager's Announcement:

CITY MANAGER PENTZ announced that Fire Chief Jeff Clark would be attending a 3-week Leadership Program at Harvard University.

Adjournment: The meeting was adjourned at approximately 11:45 p.m.

ATTEST: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

Approved: June 11, 2009

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the City Council of Chandler, Arizona, held on the 28<sup>th</sup> day of May 2009. I further certify that the meeting was duly called and held and that a quorum was present.

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

\_\_\_\_\_  
City Clerk