



Minutes Regular City Council Meeting November 9, 2017

Minutes of the Regular Council Meeting of Thursday, November 9, 2017, held at 6:00 p.m. in the Harry E. Mitchell Government Center, Tempe City Hall, City Council Chambers, 31 E. Fifth Street, Tempe, Arizona.

COUNCILMEMBERS PRESENT:

Mayor Mark W. Mitchell

Councilmember Kolby Granville

Councilmember Lauren Kuby

Councilmember Joel Navarro

Vice Mayor Robin Arredondo-Savage

Councilmember Keating

Councilmember David Schapira

STAFF PRESENT:

Andrew Ching, City Manager

Ken Jones, Deputy City Manager – Chief Financial Officer

Steven Methvin, Deputy City Manager - Chief Operating Officer

Chad Weaver, Community Development Director

Various Department Heads or their representatives

Judi Baumann, City Attorney

Brigitta M. Kuiper, City Clerk

Greg Ruiz, Fire Medical Rescue (FMR) Chief

Don Bessler, Public Works Director

Mayor Mitchell called the meeting to order at 6:00 p.m.

1. Councilmember Keating gave the invocation.

2. Mayor Mitchell led the audience in the **Pledge of Allegiance**.

3. MINUTES

A. Approval of City Council Meeting Minutes

Motion by Vice Mayor Arredondo-Savage to approve agenda items 3A1 – 3A2; second by Councilmember Keating. Motion passed unanimously on a voice vote 7 - 0.

1. City Council Work Study Session - September 7, 2017 and September 18, 2017

2. City Council Executive Session - October 26, 2017

B. Acceptance of Board, Commission and Committee Meeting Minutes

Motion by Vice Mayor Arredondo-Savage to accept agenda items 3B1 – 3B8; second by Councilmember Schapira. Motion passed unanimously on a voice vote 7 - 0.

1. Board of Adjustment - September 27, 2017

2. Development Review Commission - October 10, 2017

3. Development Review Commission Study Session - October 10, 2017

4. Judicial Advisory Board - September 9, 2016

5. Library Advisory Board - October 4, 2017

6. Mayor's Youth Advisory Commission - October 7, 2017

7. Tempe Sustainability Commission - September 19, 2017 and September 30, 2017

8. Technical Code Advisory Board of Appeals - October 19, 2017

4. REPORTS AND ANNOUNCEMENTS

A. Mayor's Reports and Announcements

1. *Law Enforcement Records Personnel Appreciation Day Proclamation.*

Mayor Mitchell invited Tempe Police Records staff and Assistant Police Chief Dave Humble to the podium and read a proclamation declaring November 9, 2017, as Law Enforcement Records Personnel Appreciation Day in Tempe, Arizona.

B. City Manager's Reports and Announcements

1. Fire Station #7 Update

Greg Ruiz, Fire Medical Rescue (FMR) Department Chief, provided an update on the FMR Station No. 7 project, including community outreach, site location in Estrada Park, building size, sustainability options, and parking. Chief Ruiz reviewed the project design, building materials, and layout. The generators and electrical panels will be located near the wall adjacent to the shopping center, to mitigate noise impacts on the community.

In response to an inquiry about possibly removing the wall located to the rear of the station to allow direct public access to the facility, Chief Ruiz explained that the wall is intended to provide safe and secure fire truck access, and will include a gate.

Chief Ruiz concluded the presentation by stating that construction is expected to begin in spring 2018, with completion expected by summer 2019. Project information and materials are available on the City's website.

Councilmembers thanked Chief Ruiz, the project team, and Braden Kay, Sustainability Program Manager, for their work on the project and sustainability designs, community outreach, and collaboration with City departments.

2. Andrew Ching, City Manager, recognized Human Services Director Naomi Farrell, Deputy Human Services Director Paul Bentley, and Housing and Revitalization Manager LeVon Lamy, for their work addressing housing issues in Tempe.

5. CONSENT AGENDA

All items listed on the Consent Agenda will be considered as a group and will be enacted with one motion by the City Council unless an item is removed for separate consideration. Members of the public may remove public hearing items for separate consideration. Public hearing items are designated by an asterisk (*). Councilmembers may remove any item for separate consideration.

Motion by Councilmember Schapira to approve the consent agenda with the exception of items 5C1, 5C2, and 5C5, which were removed for separate consideration; second by Vice Mayor Arredondo-Savage. Motion passed unanimously on a roll call vote 7-0.

A. Miscellaneous Items

*5A1. Held a public hearing and recommended the approval of an acquisition of control of a series 10 beer and wine store liquor license for Mrs. Gooch's Natural Food Market Inc., dba Whole Foods Market, 5120 South Rural Road.

Fiscal Impact: N/A

- *5A2. Held a public hearing and recommended the approval of an acquisition of control of a series 07 beer and wine bar liquor license for Mrs. Gooch's Natural Food Market Inc., dba Whole Foods Market, 5120 South Rural Road.

Fiscal Impact: N/A

- 5A3. Authorized the Mayor to execute a Wired Telecommunications License and Right-of-Way Use Agreement between the City of Tempe and AT&T Corp. **(Contract No. 2017-244)**

Fiscal Impact: AT&T Corp. (AT&T) will pay an annual amount that is based on a linear foot fee, which is adjusted by the Consumer Price Index annually. Currently, the fee is \$2.20 per linear foot for use of the right-of-way for interstate telecommunication services. AT&T will also pay a pro-rated fee for the 60-day holdover term. These fees will total \$79,307.43.

B. Award of Bids/Contracts

- 5B1. Awarded a one-year contract with four, one-year renewal options to FDC Rescue Products, LLC and L.N. Curtis and Sons dba Curtis Blue Line for the furnishing of Self Contained Breathing Apparatus equipment for the Police Department. **(Contract No. 2017-245 A-B)**

Fiscal Impact: The total cost of these contracts shall not exceed \$182,000 over the initial contract period. Sufficient funds have been appropriated in the Police Protection CIP Fund cost center 5508869 (Police SCBA) and in the Police Grants and Restricted Revenue Fund cost center 4588 (2017 UASI RRT) for the anticipated expenditures in the current fiscal year.

- 5B2. Approved a one-year contract renewal with Phoenix Pumps, Inc., for the maintenance, purchase, and repair of small to medium-sized water and chemical dosing pumps.

Fiscal Impact: Total cost of the one-year renewal will not exceed \$175,000. Sufficient funds have been appropriated in the Water/Wastewater Fund - cost centers 3013 (Johnny G. Martinez Plant), 3014 (South Tempe Water Plant), 3016 (Water Field Facilities), 3034 (Kyrene Water Reclamation Plant), and 3035 (Wastewater Field Facilities) for the anticipated expenditures.

- 5B3. Approved a two-year sole source contract renewal for software maintenance and support services with First Data Government Solutions, LP for an enterprise wide interactive voice response/ interactive web response system that allows for automated payment processing services.

Fiscal Impact: Total cost of this two-year contract renewal will not exceed \$400,000. Sufficient funds have been appropriated in the General Fund – cost center 1831 (Accounting), and the Water/Wastewater Fund – cost center 1841 (Finance: Customer Services), for the anticipated expenditures.

- 5B4. Awarded a two-year contract, with four optional two-year renewals with Kubra Data Transfer, LTD, for lockbox services for the expedited collection of payments due the City for alarm permits, fire ambulance service and utilities. **(Contract No. 2017-246)**

Fiscal Impact: Total cost of this contract will not exceed \$217,251.31 during the two-year award period. Sufficient funds are available in General Fund cost center - 1831 (Accounting) and Water and Wastewater Fund cost center - 1841 (Customer Services) for the anticipated expenditures.

- 5B5.** Approved a two-year contract renewal with SL-serco, Inc. to provide consulting services in the implementation of an automated water meter reading system for the Internal Services Department.
- Fiscal Impact:** Total cost of this contract will not exceed \$300,000 during the two-year renewal period. Sufficient funds are available in the Water/Wastewater Capital Improvement Project Fund cost center 3205869 (Automated Water Metering) for the anticipated expenditures.
- 5B6.** Approved a six-month contract renewal with Bound Tree Medical, LLC for emergency medical supplies used by the Fire Medical Rescue Department.
- Fiscal Impact:** Total cost of this contract will not exceed \$150,000 during the six-month renewal period. Sufficient funds have been appropriated in the Emergency Medical Transportation Fund cost center 2991 (Emergency Transportation Service Operations) for the anticipated expenditures in the current fiscal year. The total expenditures do not take into account reimbursement for some of the medical supplies used by the City's ambulance service provider.
- 5B7.** Approved a one-year contract renewal with Wesco Distribution, Inc. to purchase cobra head lighting fixtures used for street lighting.
- Fiscal Impact:** Total cost of this one-year contract will not exceed \$215,000. Sufficient funds have been appropriated in the Highway User Fund (cost center 6908399 – Street Light and Signals) for the anticipated expenditures.
- 5B8.** Approved a one-year contract renewal with Otto Environmental Systems for the purchase of 96-gallon refuse containers.
- Fiscal Impact:** Total cost of this contract shall not exceed \$450,000 during the one-year contract renewal period. Sufficient funds have been appropriated in the Solid Waste Fund – cost centers 3713 (Residential) – for the anticipated expenditures.
- 5B9.** Approved the three-year agreement between the City of Tempe and Downtown Tempe Foundation for arts event management in downtown Tempe. **(Contract No. 2017-247)**
- Fiscal Impact:** The City of Tempe agrees to waive certain service costs, and event fees to support the Fantasy of Lights Opening Night Parade, Fantasy of Lights Boat Parade, placemaking-initiatives to activate the downtown, the 6th Street Market, and the Fall and Spring Festivals of the Arts. The City will absorb approximately \$20,000 in event fees and an estimated \$18,000 in service costs on an annual basis.
- 5B10.** Approved the utilization of a five-month National Association of State Procurement Officials cooperative contract with CDW Government LLC for the purchase of desktop and server operating system software, Microsoft Enterprise software support, software licensing, and related services to be overseen by the Internal Services Department.
- Fiscal Impact:** Total cost of this contract shall not exceed \$800,000 during the five-month contract period. Sufficient funds have been appropriated in General Fund cost center 1991 (IT Administration) and other City-wide cost centers as needed for the anticipated expenditures.

C. Resolutions

5C1. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Adopt a resolution approving the Urban Forestry Master Plan (September 2017). (Resolution No. R2017.136)

5C2. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Adopt a resolution ordering a Special Election on March 13, 2018, for the qualified electors of the City of Tempe, for determining whether to amend the Tempe City Charter, by adding a new Article XI, Papago Preserve. (Resolution No. R2017.137) (Related to Agenda Item 5C3)

5C3. Adopted **RESOLUTION NO. R2017.138** designating City-owned real property as Papago Preserve, conditioned upon the effective date of the proposed Charter amendment for Papago Preserve. (Related to Agenda Item 5C2)

Fiscal Impact: N/A

5C4. Adopted **RESOLUTION NO. R2017.139** ordering a Special Election on March 13, 2018 and adopting ballot language for a proposition to permanently adjust the City of Tempe's expenditure limit base by \$30 million. (Note, an affirmative vote of at least two-thirds (2/3) of all Councilmembers is required; therefore, a City Council vote of 5 of 7 is required for approval.)

Fiscal Impact: The total shared cost for a Special Election is estimated at approximately \$45,000 above the cost of the City's 2018 Primary or Regular Election, which will be held at the same time. The additional cost is for an elections publicity pamphlet, which includes information about each measure on the Special Election ballot. Sufficient funds have been allocated in the General Fund, cost center 1320 (Political Elections).

5C5. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Adopt a resolution ordering a Special Election on March 13, 2018, and adopting ballot language for a proposed amendment to the Tempe City Charter, Article VII, Subsection 7.01(h), Contribution Source Disclosure. (Resolution No. R2017.140) (Related to Agenda Item 6B3)

5C6. Adopted **RESOLUTION NO. R2017.141** authorizing the Mayor to execute a contract between Maricopa County and the City of Tempe for Supplemental Nutrition Assistance Program Education (SNAP-Ed) services for the Kid Zone Enrichment Program that focuses on Title I schools and low-income senior centers, and approve the receipt and expenditure of the grant funds. (**Contract No. 2017-248**)

Fiscal Impact: The amount of the contract is \$361,901 from October 1, 2017, through September 30, 2018. Sufficient budget appropriation for expenditure of this grant is authorized in the Governmental Grants and Donations Fund (Fund 46, Cost Center 46414) as part of the fiscal year 2017-18 adopted budget.

CONSENT AGENDA ITEMS REMOVED FOR SEPARATE CONSIDERATION:

5C1. **Resolution approving the Urban Forestry Master Plan (September 2017).**

Councilmember Granville commended the Tempe Sustainability Commission for their work on the proposed resolution. He noted that approximately 17,000 trees need to be planted to reach the Citywide goal of a 25% tree and shade canopy by 2040. He reviewed the estimated costs of \$250 for each tree installation and \$68 per year for each tree's maintenance and discussed the need to plant trees on residential and commercial properties to meet this goal

Councilmember Kuby recognized Bonnie Richardson, Principal Planner, for her work on the Urban Forestry Master Plan; obtaining grants and funding; and, developing an innovative financing plan with Urban Offsets, which allows \$50 to \$100 per tree per year of the tree's life, as long as the City guarantees an 85% tree survival rate. A new City Urban Forester position is needed and would be responsible for tree health and maintenance. Councilmember Kuby conveyed support for the Plan, and noted how increasing the tree canopy will positively impact the local climate and environment.

Vice Mayor Arredondo-Savage discussed the importance of creating shade to reduce temperature, and expanding the tree canopy to residential, commercial, and school properties.

Motion by Councilmember Kuby to approve agenda item 5C1; second by Councilmember Granville. Motion passed unanimously on a roll call vote 7-0.

- 5C1.** Adopted **RESOLUTION NO. R2017.136** approving the Urban Forestry Master Plan (September 2017).

Fiscal Impact: N/A

- 5C2. Resolution ordering a Special Election on March 13, 2018, for a proposed Tempe City Charter amendment regarding Papago Preserve.**

Councilmember Navarro thanked the residents and City Council for their support preserving the desert areas as well as Papago Park. He requested an addition to Section 11.03(b) to include the language "by the affirmative vote of at least six (6) members" prior to "the City Council shall establish by ordinance consistent with Section 11.03 such permanent use of Papago Park Preserve that promotes one or more of the following objectives."

Motion by Councilmember Navarro to approve agenda item 5C2, with the amendment as read into the record; second by Councilmember Granville. Motion passed unanimously on a roll call vote 7-0.

- 5C2.** Adopted **RESOLUTION NO. R2017.137, as amended**, ordering a Special Election on March 13, 2018, for the qualified electors of the City of Tempe, for determining whether to amend the Tempe City Charter, by adding a new Article XI, Papago Preserve. (Related to Agenda Item 5C3)

Fiscal Impact: The total shared cost for a Special Election is estimated at approximately \$45,000 above the cost of the City's 2018 Primary or Regular Election, which will be held at the same time. The additional cost is for an elections publicity pamphlet, which includes information about each measure on the Special Election ballot. Sufficient funds have been allocated in the General Fund, cost center 1320 (Political Elections).

- 5C5. Resolution ordering a Special Election on March 13, 2018, and adopting ballot language for a proposed Tempe City Charter amendment regarding Contribution Source Disclosure.**

Councilmember Kuby recognized City staff for their work on this item and furthering campaign finance reform in Tempe.

Motion by Councilmember Kuby to approve agenda item 5C5; second by Councilmember Keating. Motion passed unanimously on a roll call vote 7-0.

- 5C5.** Adopted **RESOLUTION NO. R2017.140** ordering a Special Election on March 13, 2018, and adopting ballot language for a proposed amendment to the Tempe City Charter, Article VII, Subsection 7.01(h), Contribution Source Disclosure. (Related to Agenda Item 6B3)

Fiscal Impact: The total shared cost for a Special Election is estimated at approximately \$45,000 above the cost of the City's 2018 Primary or Regular Election, which will be held at the same time. The additional cost is for an elections publicity pamphlet, which includes information about each measure on the Special Election ballot. Sufficient funds have been allocated in the General Fund, cost center 1320 (Political Elections).

6. NON-CONSENT AGENDA

All items listed on the Non-Consent Agenda will be considered separately. Agenda items scheduled for Introduction and First Public Hearing will be heard, but will not be voted upon at this meeting. Agenda items scheduled for Second Public Hearing and Final Adoption will be voted upon tonight.

A. Miscellaneous Items/Bids/Contracts/Resolutions

- 6A1. Contract to AAA Ajax Pumping Services, Inc. and Arizona Grease Services to provide services related to the Tempe Grease Cooperative.**

There was no discussion on agenda item 6A1.

Motion by Councilmember Keating to approve agenda item 6A1; second by Vice Mayor Arredondo-Savage. Motion passed unanimously on a roll call vote 7-0

- 6A1.** Awarded a three-year contract with the option to renew for terms of up to a maximum of two additional years to AAA Ajax Pumping Services, Inc. and Arizona Grease Services to provide services related to the Tempe Grease Cooperative, the City's grease trap and interceptor maintenance program used by local restaurants. **(Contract No. 2017-249 A-B)**

Fiscal Impact: The Tempe Grease Cooperative program is designed to be revenue neutral with costs related to the provided services paid from fees collected from subscribers. Total estimated value of these contracts is \$1,020,000 for the first three years.

- *6A2. Public hearing on the first biennial audit for development fees for water and wastewater facilities.**

Mayor Mitchell opened the public hearing. There was no discussion or public comment on agenda item 6A2. The public hearing was closed.

- *6A2. Held a public hearing on the first biennial audit for development fees for water and wastewater facilities.

Fiscal Impact: N/A

- 6A3. **Contract to Trans-Tel Central, Inc. for the fiber optic cable installation and Information Technology System improvements on Rural Road from Alexander Boulevard to McKellips Road.**

There was no discussion on agenda item 6A3.

Motion by Councilmember Schapira to approve agenda item 6A3; second by Councilmember Keating. Motion passed unanimously on a roll call vote 7-0

- 6A3. Awarded a construction contract to Trans-Tel Central, Inc. for the fiber optic cable installation and Information Technology System improvements on Rural Road from Alexander Boulevard to McKellips Road. *(This item was continued from the October 26, 2017, Regular Council Meeting)* **(Contract No. 2017-242)**

Fiscal Impact: The construction contract amount is \$2,498,601 and the project contingency amount is \$249,860.10. Funds to cover this contract and related costs are appropriated for fiscal year 2017-18 in the Capital Improvement Project No. 6907261, Fiber Optic Installation: Rural Road.

- 6A4. **Transfer of cash from the City's General Fund to the Section 8 Housing Fund.**

There was no discussion on agenda item 6A4.

Motion by Councilmember Navarro to approve agenda item 6A4; second by Vice Mayor Arredondo-Savage. Motion passed unanimously on a roll call vote 7-0

- 6A4. Approved a transfer of cash from the City's General Fund to the Section 8 Housing Fund.

Fiscal Impact: The total amount of the cash transfer from the General Fund (10) to the Section 8 Housing Fund (43) is \$1,381,401.38.

- 6A5. **New City Council Aide I/II position and transfer of up to \$40,000 from the General Fund Contingency budget to the City Manager's budget in the current fiscal year.**

Vice Mayor Arredondo-Savage stated that she does not support this item in the middle of a budget year without going through the established budget process, especially given the many supplemental requests that could not be funded this past year.

Councilmember Kuby stated that she supports this item and noted the issue of staff time with such an active City Council. At times, there are substantial delays in the working group process due to the extra demands placed on staff and an additional Council Aide position would relieve some of the burden.

Mayor Mitchell stated that he does not support this item; there should be a way to manage the workload within current City resources. He noted that there are other City departments that need additional help as well.

Councilmember Navarro stated he supports this item and noted that this position was cut during the budget crisis and that other cities in the region have one aide per Councilmember. The magnitude of the work this City Council is doing to improve the City and to provide better quality programs and services to constituents requires additional staff. Councilmember Navarro acknowledged that some City departments are in need of help as well.

Councilmember Schapira stated that he supports this item and acknowledged that it is difficult to get things done with one person responsible for the calendar and policy work of three Councilmembers. He has been in other elected bodies where there was a two-to-one ratio and a one-to-one ratio. With the current staffing level, it is not sustainable to have a City Council that is as active in substantial policy discussions as this group, with only two City Council Aides.

Councilmember Granville acknowledged that additional help is needed and noted that he receives an average of 25 emails per day that the City Council Aide is involved with in some fashion, and that Aide is shared with two other Councilmembers.

Motion by Councilmember Navarro to approve agenda item 6A5; second by Councilmember Granville. Motion passed on a roll call vote 4-3, with Mayor Mitchell, Vice Mayor Arredondo – Savage and Councilmember Keating voting no.

- 6A5.** Created a City Council Aide I/II position and authorized the transfer of up to \$40,000 from the General Fund Contingency budget to the City Manager's budget in the current fiscal year.

Fiscal Impact: The estimated fiscal year (FY) 2017-18 cost for the added City Council Aide position is \$32,000 assuming the employee would be hired on January 1, 2018 and be paid at the bottom of the salary range for a City Council Aide I. The estimated full-year cost for FY 2018-19 is \$64,100. Hiring above the bottom of the pay range would result in additional cost. The current-year cost would be funded with a transfer from the General Fund Contingency budget and the FY 2018-19 cost would need to be approved as a recurring supplemental budget increase.

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- 6A6. Notice of Intent to enter into a retail development tax incentive agreement with Omni Tempe, LLC, for a hotel and conference center at University Drive and Mill Avenue.**

Mayor Mitchell noted that this item requires an affirmative vote of at least two-thirds of the City Council. Before the City can approve or enter into a development agreement, the City Council must make specific findings required by state statute and obtain an independent third-party verification, which contains a financial analysis of the impact of the development agreement. City Council must also find that absent the incentives, Omni Tempe, LLC, would not have chosen Tempe.

Chad Weaver, Community Development Director, advised that the economic study has been done and verified that pursuant to state law, the benefit to the City exceeds the cost of the incentives being offered to Omni Tempe, LLC, over the term of the agreement, and without the tax incentives being proposed, the Omni project would not take place.

In response to an inquiry, Judi Bauman, City Attorney, advised that the City is in final negotiations, and it is unknown at this time when the proposed development agreement would come back to City Council for approval.

Motion by Vice Mayor Arredondo-Savage to approve agenda item 6A6 to adopt a Notice of Intent to enter into a retail development tax incentive agreement with Omni Tempe, LLC, for a hotel and conference center to be located at University Drive and Mill Avenue in Tempe; and that the findings show that the incentive presented will raise more revenue than the benefit of the tax incentive to Omni Tempe, LLC; and that Omni Tempe, LLC, would not locate at this site without this incentive; second by Councilmember Granville. Motion passed unanimously on a roll call vote 7-0.

- 6A6.** Adopted a Notice of Intent to enter into a retail development tax incentive agreement with Omni Tempe, LLC, for a hotel and conference center to be located at University Drive and Mill Avenue in Tempe.

Fiscal Impact: Adoption of the Notice of Intent has no fiscal impact.

B. Ordinances and Items for Introduction and First Hearing

- *6B1. Ordinance amending the Tempe City Code to include Emergency Medical Technicians and Paramedics in the Fire Fighters Employee Group.**

Mayor Mitchell introduced the ordinance and opened the public hearing. There was no discussion or public comment on agenda item 6B1. Mayor Mitchell closed the public hearing.

- *6B1.** Introduced and held the first public hearing to adopt an ordinance amending Chapter 2, Article VI, Division 1, Section 2-401 (a) (1) of the Tempe City Code to include Emergency Medical Technicians and Paramedics in the Fire Fighters Employee Group. The second and final public hearing was scheduled for November 30, 2017. (Ordinance No. O2017.49)

Fiscal Impact: There is no fiscal impact.

- *6B2. Ordinance authorizing the dedication of certain City-owned land located near the intersection of Southern Avenue and Rural Road for use as a public right-of-way.**

Mayor Mitchell introduced the ordinance and opened the public hearing. There was no discussion or public comment on agenda item 6B2. Mayor Mitchell closed the public hearing.

- *6B2.** Introduced and held the first public hearing to adopt an ordinance authorizing the dedication of certain City-owned land located near the intersection of Southern Avenue and Rural Road for use as a public right-of-way, and authorizing the City Engineer or her designee to execute a declaration memorializing such dedication and related documents. The second and final public hearing was scheduled for November 30, 2017. (Ordinance No. O2017.50)

Fiscal Impact: N/A

***6B3. Ordinance amending the Tempe City Code, relating to required disclosure obligations for local Tempe elections, conditioned upon the effective date of the proposed Charter amendment for contribution source disclosure.**

Mayor Mitchell opened the public hearing.

Morgan Dick, Arizona Advocacy Network representative, stated this proposal is an effective step to shed light on unaccountable money in City elections as the proposal requires independent expenditure groups and their donors to be accountable for their civic action. This added transparency enables the electorate to make informed decisions.

Senator Juan Mendez, Tempe resident, stated as a clean elections proponent, he is appalled with the amount of unaccountable money infused into elections and asked for support for this item to pre-emptively protect the efficacy of our democracy. The voters have a right to know who is trying to influence their votes.

In response to an inquiry regarding the State's action on this issue, Senator Mendez stated that these types of laws are proposed at every session but that it will be up to the local level to force the conversation.

Councilmember Schapira stated that he feels Senator Mendez is on the right side of this issue but that he is only one of 90 members of the legislature, which has recently gone in the opposite direction with their adoption of Senate Bill (SB) 1516. For this reason, he feels that Tempe needs to lead the way and adopt this Ordinance.

Councilmember Kuby stated that the inspiration for the Keep Dark Money Out of Local Tempe Elections Ordinance is Terry Goddard, who will be leading a statewide ballot initiative that will go before the voters in November 2018. By passage of this ordinance, Tempe will be putting this discussion on the table early to help propel the statewide initiative forward.

There was no further discussion or public comment on agenda item 6B3. Mayor Mitchell closed the public hearing.

- *6B3.** Introduced and held the first public hearing to adopt an ordinance amending the Tempe City Code, Chapter 13, City Elections, Article II, relating to required disclosure obligations for local Tempe elections, conditioned upon the effective date of the proposed Charter amendment for contribution source disclosure. The second and final public hearing was scheduled for November 30, 2017. (Ordinance No. O2017.51) (Related to Agenda Item 5C5)

Fiscal Impact: There is no direct cost to the City from the proposed amendments.

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- *6B4. Ordinance authorizing the Mayor to execute an agreement granting a non-exclusive perpetual drainage easement as part of an access, drainage and retention easement agreement, for City-owned property, south of Warner Road and east of the Interstate 10.**

Mayor Mitchell opened the public hearing. There was no discussion or public comment on agenda item 6B4. Mayor Mitchell closed the public hearing.

- *6B4.** Introduced and held the first public hearing to adopt an ordinance authorizing the Mayor or designee to execute an agreement granting a non-exclusive perpetual drainage easement as part of an access, drainage and retention easement agreement, for property located on certain City-owned land, south of Warner Road and east of the Interstate 10. The second and final public hearing was scheduled for November 30, 2017. (Ordinance No. O2017.52)

Fiscal Impact: N/A

C. Ordinances and Items for Second Hearing and Final Adoption

***6C1. Ordinance for an Amended Planned Area Development Overlay and Development Plan Review consisting of a new 18 story, 225 feet high hotel for WESTIN TEMPE, located at 11 East 7th Street.**

Mayor Mitchell opened the public hearing. There was no public comment on agenda item 6C1. Mayor Mitchell closed the public hearing.

Councilmember Kuby stated that she is in support of this project, and there has been a significant amount of staff and Development Review Commission (DRC) time spent on this property over the past several years. However, there were community concerns expressed at the last City Council meeting voiced by Tempe legislators, including Senator Juan Mendez, to give assurances to the City that this project will indeed move forward. She requested that Council consider an amendment to the Planned Area Development Agreement (PAD) conditions of approval, to address concerns on the automatic reversion, subject to reversion procedures in City and State Code.

Councilmember Kuby moved to amend the Planned Area Development conditions of approval for the Westin Tempe, called the Shovel Ready Developer Amendment, as follows:

- 1. A building permit application shall be made within one year of the date of City Council approval or the zoning of the property shall revert to the City Center Zoning District, Transportation Overlay District. Such reversion is subject to the reversion procedures set forth in Section 6-305 (f) of the Tempe Zoning and Development Code.**
- 2. If the existing property owner, Tempe 7th Street, LLC, sells or transfers the site to a future owner other than CAI Investments, LLC, or if CAI Investments, LLC, sells or transfers the site or any portion of the site at any point within the one-year period set forth under condition 1 above, zoning of the property shall revert to the City Center Zoning District, Transportation Overlay District unless the City Council determines, after notice in a public hearing, that a substantial Constitutional barrier to such reversion exists, in which case the City Council may decline to revert the property to City Center Zoning District, Transportation Overlay District.**

Vice Mayor Arredondo-Savage stated that she does not support this amendment and questioned why the amendment was proposed for this development. This is a solid-quality project that will be positive for downtown with a well-known global company; it would be unfair and unjust for the City to change the rules in the middle of any process. There should be a larger policy discussion on the topic of the two-year reversion, which is already in the code, versus a one-year reversion.

Councilmember Kuby highlighted the community concerns expressed at the last Council meeting, and stated that the language in Condition 1 was proposed to ensure that the reversion procedures follow City Code, which the applicant agreed to at the last Regular Council Meeting.

Darin Sender, Sender and Associates, stated that at the previous Council Meeting the one-year condition sounded reasonable; however, after reviewing the timing and schedule more closely with the contractor, they felt the one year condition could not be met.

Councilmember Navarro stated that he does not support this last-minute change to the City's structural guidance of developing a project. A developer obtains financing under certain parameters, and to make changes at the last minute would impact the financing. This site is appropriate for a hotel and would be a huge benefit for the community.

Councilmember Schapira stated that he supports this amendment because this corner lot has historically had issues with development projects falling through due to the property changing hands after the value of the land increased with the entitlements. He wants to see this project come to completion but the City Council looks at each project and each set of

entitlements individually, as every property is unique and every project is unique; there are many instances where City Council asks for stipulations that are not requested on other projects.

Mayor Mitchell noted the timeline and process for a building of this magnitude noting that this is a Westin hotel resort, owned by Marriott International, and there has been no indication from the applicant that they plan to sell this land. Adding such conditions at this stage of the process may not be conducive to the financing and may jeopardize the project. The City works with the community to make sure projects such as this are on time, on budget, and in the best interests of our residents and taxpayers.

Councilmember Granville discussed the validity of the intent to build and the overarching policy in place. He learned in talking with developers that predictability is very important as it will allow for intelligent decisions to be made early on in the process. Councilmember Granville voiced frustration that over the last five years, the Council had not voted once to revoke a PAD, and questioned why this project now?

In response to inquiries, Ms. Sender assured City Council that there is no intention of flipping this property as there are deadlines in place and significant expenditures have been made to get this project going. Ms. Sender explained that the timing and construction schedules were reviewed, and January 2018 would be the earliest a mass excavation permit could be obtained which will allow them to demolish the existing buildings on the site.

Mayor Mitchell called for a vote on the amendment.

The motion by Councilmember Kuby to amend the Planned Area Development conditions of approval as read into the record, and seconded by Councilmember Schapira, failed on a roll call vote 2-5, with Mayor Mitchell, Vice Mayor Arredondo-Savage and Councilmembers Granville, Keating and Navarro voting no.

Motion by Councilmember Navarro to approve agenda item 6C1 as presented; second by Vice Mayor Arredondo-Savage. Motion passed unanimously on a roll call vote 7-0.

- *6C1. Held the second and final public hearing and adopted **ORDINANCE NO. O2017.47** for an Amended Planned Area Development Overlay and Development Plan Review consisting of a new 18 story, 225 feet high hotel for WESTIN TEMPE, located at 11 East 7th Street. The applicant is Sender and Associates.

Fiscal Impact: While this ordinance change does not directly impact revenue, the planned development will result in collection of the standard development fees, according to the approved fee structure at the time of permit issuance.

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- *6C2. **Ordinance authorizing the Mayor to execute a Lease Agreement with the KBSII Fountainhead.**

Mayor Mitchell opened the public hearing. There was no public comment on agenda item 6C2. Mayor Mitchell closed the public hearing.

Councilmember Granville stated that he supports this item as it is a great project that costs the City nothing for the incentive and provides jobs. However, he struggles with this vote because the gentrification study showed that having more high-wage jobs than available housing is a major cause of gentrification and there is already a shortage of 10,000 housing units. This project will add 1,000 more jobs that each earn \$75,000 a year, and at some point, young families will not be able to afford to live in Tempe.

Councilmembers discussed the need for jobs before housing and that the revenue stream that this project provides, and others like it, is what keeps a good quality of life in Tempe.

Mayor Mitchell stated that Tempe has a diverse housing stock and is working to create more affordable housing; the City is fortunate to have a company like KBSII Fountainhead come to our community.

Councilmember Granville requested that the City Attorney's Office provide information regarding setting aside funds from similar projects for a housing trust fund or some other way to support housing in Tempe.

Motion by Councilmember Keating to approve agenda item 6C2; second by Vice Mayor Arredondo-Savage. Motion passed unanimously on a roll call vote 7-0.

***6C2.** Held the second and final public hearing and adopted ordinance No. O2017.48 authorizing the Mayor to execute a Lease Agreement with the KBSII Fountainhead. **(Contract No. 2017-250)**

Fiscal Impact: Through the development agreement and lease the tax impact to Tempe from the Government Property Lease Excise Tax (GPLET) will be zero as the difference in the property tax that will be received and the GPLET rate will be the rent that KBSII Foundation, LLC pays Tempe. Furthermore, the fiscal impact from the operations of their 1,000 person operations will result in six-point two million dollars (\$6,200,000) per the economic impact statement conducted by Rounds Consulting Group.

7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

Councilmember Schapira

- Saturday, November 18, 2017- Arts in the Parks, hosted by Estate La Colina at Estrada Park.

Councilmember Granville

- Congratulated the Arizona State University women's triathlon team for being two-time USA Triathlon Women's Collegiate Triathlon National Champions.

Vice Mayor Arredondo-Savage

- Announced that applications are being accepted to serve on the Citizen's Review Panel for the Police Department.
- Thanked all Tempe Employee Veterans for their service and hoped they enjoyed the breakfast held in their honor.
- Friday, November 10. - Veterans Day Parade
- Sunday, November 12 - ASU Lady Sun Devils Community Salutes Event to honor Veterans in the community.

Councilmember Navarro

- Saturday, November 18, 2017- Arts in the Parks, hosted by Estate La Colina at Estrada Park.
- Wished his son a happy 16th birthday.

Councilmember Kuby

- Saturday, November 18 - Zero Waste Day at the Fire Training Facility
- Saturday, November 18 - Svob Park Tree Planting.

Councilmember Keating

- Announced that he will be speaking to ASU students about homelessness issues in the City of Tempe during the week of November 11, 2017.
- Wished all Tempe High Schools good luck in the State Marching Band Finals held Saturday, November 18.

Mayor Mitchell

- Friday, November 10. - Veterans Day Parade
- Thanked all Veterans for their service to our country.
- Saturday, November 11– ASU Sun Devils football game against University of California Los Angeles.

8. PUBLIC APPEARANCES

A. Scheduled

John Bebbling, Tempe resident, stated that he owns the shopping center at Guadalupe and Rural Roads and expressed concern that one of his tenants, Blue Dragon Vapor, is having difficulty with permitting through the City. Mr. Bebbling stated that this tenant has been in place for two and a half years and paid the associated permit fees in 2015. Mr. Bebbling asked what the City Council can do to resolve this issue.

Councilmembers discussed the permitting process and requested that Mr. Bebbling speak with the Planning Department and the City Attorney's Office to investigate his tenant's permitting issue.

B. Unscheduled

Mario Martinez, Tempe resident, expressed concern that Councilmember Granville is making erroneous statements about him traveling past Councilmember Granville's home and as a paid public official, Councilmember Granville has no right to restrict the movements of a tax-paying and law-abiding citizen. Mr. Martinez requested Councilmember Granville provide him with the dates and times of the alleged pass-by events.

Darlene Justice, Tempe resident, thanked the Council, City Staff, Tempe Neighborhood Advisory Commission and the Parks Commission for their work to place the Papago Park Preserve Charter Amendment on the ballot for the voters to consider. If the voters pass the amendment, it will be a legacy for this City Council.

The meeting adjourned at 7:45 p.m.

I, Brigitta M. Kuiper, the duly-appointed City Clerk of the City of Tempe, Maricopa County, Arizona, do hereby certify the above to be the minutes of the Regular City Council meeting of November 9, 2017, by the Tempe City Council, Tempe, Arizona.

ATTEST:

Mark W. Mitchell, Mayor

Brigitta M. Kuiper, City Clerk