

Meeting Minutes

City Council Work Session

May 13, 2021 | 4:30 p.m.
Council Chambers Conference Room
88 E. Chicago St., Chandler, AZ



Call to Order

The meeting was called to order by Mayor Kevin Hartke at 4:32 p.m.

Roll Call

Council Attendance

Mayor Kevin Hartke
Vice Mayor Mark Stewart
Councilmember OD Harris
Councilmember Terry Roe
Councilmember René Lopez
Councilmember Christine Ellis
Councilmember Matt Orlando

Appointee Attendance

Josh Wright, Acting City Manager
Debra Stapleton, Assistant City Manager
Kelly Schwab, City Attorney
Dana DeLong, City Clerk

Staff in Attendance

Matt Burdick, Communications and Public Affairs Director
Derek Horn, Development Services Director
Kevin Mayo, Planning Administrator
Leah Powell, Neighborhood Resources Director
Dawn Lang, Management Services Director
Micah Miranda, Economic Development Director
Stephen Erno, Neighborhood Preservation Manager
Kim Moyers, Cultural Development Director

Discussion

1. Presentation and discussion regarding Post Pandemic Policies regarding Temporary Signage, Temporary/Permanent Extensions of Premise, and Downtown programs including Dine in the Park and the On The Street Program.

MAYOR HARTKE called for a staff presentation.

JOSHUA WRIGHT, Acting City Manager, introduced the discussion item and said Chandler was a leader in taking a strong approach to easing the burden on the business community. Now that the pandemic is coming to an end, they need to revisit some of the program deadlines and how Council would like to handle some of these items going forward.

KIM MOYERS, Cultural Development Director, presented the following presentation.

- Post-Pandemic Programs
- Agenda
 - Temporary Signage
 - Liquor License - Extension of Premise
 - Temporary & Permanent
 - Patios –
 - Temporary
 - Permanent
 - On the Street
 - Dine in the Park
- Extension of Temporary Signage
 - Background: Resolution No. 5361 suspended all time limits on temporary signs and waived the permit application requirement.
 - Intent: To allow for additional signage to assist with curbside pickups.
 - Timeline: Approved March 26, 2020, and is authorized until Council takes further action.
 - Recommendation:
 - Formal Council Action rescinding Resolution No. 5361 at future City Council Meeting and effective October 1, 2021.
 - Beginning in October, an education period will take place prior to enforcement and in conjunction with state law regarding campaign signage.

MAYOR HARTKE asked for Council's input.

VICE MAYOR STEWART asked if there were any complaints about the signs.

MAYOR HARTKE said he had some phone conversations asking about them.

COUNCILMEMBER ROE asked if this was citywide.

MS. MOYERS said yes.

COUNCILMEMBER ELLIS asked if there were any complaints.

LEAH POWELL, Neighborhood Resources Director, said if there is a sign that was a hazard they would get calls, but they have not received a lot of complaints on this.

COUNCILMEMBER LOPEZ asked why the education period would not start in September.

MS. POWELL said they are looking at when the campaign signs go out. Ms. Powell said they have to be content neutral so when the campaign signs go out there is not a lot of enforcement on signs in general. Ms. Powell said if they start the education period now, they would not really start enforcing this until November because of the election.

MAYOR HARTKE said the campaign signs would have to do with the bond election.

MS. POWELL said yes, the school district may have signs as well.

COUNCILMEMBER ORLANDO said he was okay with this.

VICE MAYOR STEWART said these businesses rely on signs and this is a useful tool and wanted to keep it the way it was.

COUNCILMEMBER ELLIS agreed with the recommendation.

COUNCILMEMBER HARRIS said he wanted the businesses to win but wanted to be mindful of complaints. Councilmember Harris said he was for the time period.

COUNCILMEMBER ROE said code enforcement is lenient and did not see this as a problem.

COUNCILMEMBER LOPEZ said if they want to adjust the sign code, they could bring it forward to allow this and help businesses.

MAYOR HARTKE said Council was in agreement with the recommendation. Mayor Hartke said if there was reason to amend the sign code, he was open to reviewing that.

MS. MOYERS continued the presentation.

- Liquor License for Serving Area Extensions
 - Background: During COVID-19, the Governor's Executive Orders relaxed Department of Liquor Licenses & Control (DLLC) guidelines for Temporary Extensions for alcohol serving areas by approving non-contiguous extension of restaurants on a temporary basis. DLLC regulates liquor and City provides recommendation for approval. No history of City denials.
 - Timeline: City Resolution No. 5414 allowed the City Manager/Designee to approve applications and waive related fees (\$100 for permanent and \$25/day for temporary) until May 31, 2021.

- Participation: 19 Liquor Temporary Extensions of Premise permits issued at various dining establishments citywide.
- Liquor License for Serving Area Extensions
 - Intent: Ease financial burden, expedite applications to help stimulate business, and reduce administrative constraints.
 - Recommendation: Continue to allow City Manager/Designee approval for Temporary Extensions, adding Special Events, and change fee for temporary extensions(including special events) to \$25/day, not to exceed \$100, to be included in a Resolution at the May 27th Council Meeting. Upcoming Special Event liquor licenses will be listed as information items on Council agendas.
 - Benefits:
 - Turn around time for City approval reduced from 45-60 to 5-10 business days
 - Prevents need for Special Council meetings
 - Stimulates additional business through extended serving area
 - Provides for streamlined process at lower cost

MAYOR HARTKE said he liked this because there were three to four business owners who at the last minute did not have a permit, but Council was able to accommodate with a Special Meeting. Mayor Hartke said this was a good idea as they have passed these for the last 15 years and Council would still be notified where Council could ask questions if needed.

COUNCILMEMBER ORLANDO asked how many of these are received in a year.

DAWN LANG, Management Services Director, said on every agenda there is about one or two and depends on holidays where they see more.

COUNCILMEMBER ORLANDO asked what the idea was to have Council approve it.

MS. LANG said it varies, but in over 50% of the Valley communities these do not go to Council. Ms. Lang said Chandler has always required these to go to Council and to accommodate the agenda timeline it is very long lead time to get all the applications done in order to be on the agenda. This has been problematic for businesses.

MAYOR HARTKE said it seems to come in batches where some submit for multiple events during the year.

COUNCILMEMBER ORLANDO said normally he likes to keep Council control but in this case he did not have a problem with it.

COUNCILMEMBER LOPEZ said he was in support of streamlining the process as long as Council is made aware.

VICE MAYOR STEWART said he was in support if it makes it easier.

COUNCILMEMBER ELLIS was in support.

MAYOR HARTKE said Council agreed unanimously.

MS. MOYERS continued the presentation.

- Patio Types
 - Temporary (Private Property)
 - Permanent (Private Property)
 - On The Street (Downtown - Public Property)
- Private Property: Temporary Extension of Premise
 - Background: Helped businesses in response to COVID-19 capacity restrictions, although typically used for temporary extension of premises on private property for special events
 - Timeline: City Resolution No. 5414 waived the City Code limitation of 48 total calendar days in any calendar year extending TSPE permits until May 31, 2021.
 - Participation: 13 TSPE "COVID Extension of Premises" permits issued at various dining establishments citywide.
 - Options:
 - Include 48 calendar days expended and require COVID extension of premises be removed by May 31, 2021.
 - Start 48 calendar day count as of June 1, 2021, for remaining calendar year for all TSPE permits.

COUNCILMEMBER HARRIS said he had a few encounters with business owners downtown and that it takes away parking from businesses that are not restaurants. Councilmember Harris said during the pandemic it was important to rally behind the restaurants since this was the only way they could continue to operate and he said it became aggravating for some of the smaller businesses. Councilmember Harris said they should give the restaurants more time because taking down these patios could take weeks or have a financial burden. Councilmember Harris said they should start educating people and not cause an undue hardship for them.

MS. MOYERS said they would discuss Downtown separately, and this was regarding private property that wanted to have an extension of premise and the only way they could do that was calling it a special event.

COUNCILMEMBER LOPEZ said this is short notice and thought they needed more of a grace period and to extend by another month.

MAYOR HARTKE said this would be on May 31 add another 48 days.

COUNCILMEMBER LOPEZ said if they want to use those days then they need to take it down in the next week.

COUNCILMEMBER HARRIS said they may want to use that for Thanksgiving and Christmas, but they would have already used their time.

COUNCILMEMBER ROE asked if there was a prohibition on renewing this or if it was a one-time thing.

MS. POWELL said the liquor license process is separate from this. Any business, any year could get a special event permit up to 48 days. If they are serving alcohol and are extending their premises, they have to get a separate liquor license for that. If they were to keep the patio up it would count towards that 48 days, but they would need to go back for a new liquor license. Ms. Powell said it would probably not do much good to keep these up if they are not able to serve alcohol. Ms. Powell said most of the time these are up they are only for a few days around different holidays; it is not usually consecutive days.

COUNCILMEMBER ORLANDO said it is a total of 48 days.

MS. POWELL said yes.

MAYOR HARTKE asked for an example.

MS. POWELL said Founding Fathers has a patio, but their liquor license did not extend so they had a special event permit. Ms. Powell mentioned a few other restaurants that put up tents.

MAYOR HARKTE said those are temporary structures that are out there. Mayor Hartke asked where the 48 days is from.

MS. POWELL said the City's ordinance. Ms. Powell said each location is unique and there may be some locations that want to make the patios permanently if they meet architectural guidelines.

STEVEN ERNO, Neighborhood Preservation Manager, said based on Council's direction, staff will contact them and explain what their options are. Mr. Erno said the permits expire on May 31 so they will then be educated on what their next options are, and it may be different for each business.

COUNCILMEMBER ORLANDO said some companies are already taking them down.

COUNCILMEMBER LOPEZ confirmed businesses already know about May 31.

MR. ERNO said yes.

COUNCILMEMBER HARRIS said with everything going on, he believed the education period should be an additional 30 days and by July 1 have it start counting toward their 48 days. This would offer grace to allow them to make the best financial decision.

MAYOR HARTKE clarified Councilmember Harris is in agreement with everything but just have it start a month later.

COUNCILMEMBER HARRIS said yes.

MS. LANG said the liquor license would expire May 31 so if they keep it up, they need to reapply.

COUNCILMEMBER ROE asked if they would talk about an option to make these permanent.

MS. MOYERS said yes.

COUNCILMEMBER ROE said extending it 30 days is not remarkable.

MAYOR HARTKE said he was comfortable either way.

COUNCILMEMBER ORLANDO asked if they could extend the liquor license also.

COUNCILMEMBER LOPEZ said no they do not have the authority.

COUNCILMEMBER HARRIS said this would just count towards their 48 days.

COUNCILMEMBER LOPEZ said he was comfortable with July as long as there is education around next steps and the liquor license has expired.

MAYOR HARTKE asked if Council was comfortable with the 30 days.

COUNCIL agreed.

VICE MAYOR STEWART said the extension of premises is all about the liquor license and asked if that extension had to fit within the code.

MS. MOYERS said in order to serve alcohol outside there has to be an extension of premise for liquor.

VICE MAYOR STEWART asked if this was about the structure.

MS. MOYERS said in this case it is about both and they would be discussing what could be done to make it permanent.

VICE MAYOR STEWART said the 48 days was waived and it is now staff's recommendation to reimplement the 48 days to have this on private property.

MS. MOYERS said yes, this would reset at 48 days from now and then end of the year and they would reapply for the liquor license.

VICE MAYOR STEWART asked why a business has to apply to have a tent.

KELLY SCHWAB, City Attorney, said this is what our code states and that is consistent with most codes in Arizona if a temporary structure is being put up because it is usually for a reason. Ms. Schwab said most cities require that and it is about safety.

MAYOR HARTKE asked if Council agreed to give another 30 days per Councilmember Harris's suggestion.

COUNCILMEMBER ELLIS said she did not know what the benefit would be if they could not serve alcohol.

MAYOR HARTKE said this would take away the hard deadline of taking the structure down by May 31 and people could still drink nonalcoholic drinks.

MS. MOYERS continued the presentation.

- Permanent Patios: Private Property
 - Considerations:
 - Permanent expansions and improvements should remain architecturally consistent with existing building/development.
 - Patio barriers should utilize fencing materials and designs found upon the existing building/development.
 - Pedestrian ADA circulation should be preserved.
 - Vehicular circulation, drop-off pick-up locations should be coordinated.
 - Adequate ongoing parking should be evaluated.
 - Design Review approval required.
 - Recommendation: Allowed under current Planning procedures. Will work with interested property/business owners.

MAYOR HARTKE asked what the process would be for the liquor license extension to be permanent.

MS. MOYERS said they would have to reapply with the new expanded patio.

COUNCILMEMBER LOPEZ said this was allowed before and they are not changing anything.

MS. MOYERS said that was correct and if a business wants to make it permanent staff wanted to ensure Council knows there is a way to do so.

MS. MOYERS continued the presentation.

- On the Street Program: Public Property
 - Background: Created to help businesses in response to COVID-19 capacity restrictions
 - Timeline: Launched in October 2020. Current expiration is May 31.
 - Implementation: Patios allowed under existing City right-of-way use permit. Worked in tandem with City Resolution No. 5414 to expedite process.
 - Participation: 8 businesses
 - Program Response: Positive from both general public and businesses
 - DCCP Survey / Letters of support & Opposition

MAYOR HARTKE asked where the additional comments came from.

DANA DeLONG, City Clerk, said they were public comments that were submitted for the agenda item and were submitted through the City's website on the public comments form.

MS. MOYERS continued.

- On the Street (cont.)
 - Considerations:
 - Program was originally intended to be temporary
 - DCCP Survey – 78.85% to continue program
 - Seasonal Program:
 - Parking Spaces in front of retail
 - Consistency / design & building codes
 - Heat/weather
 - Maintenance
 - 30 minute parking / loading zones
- On the Street Options
 - Option 1: No change to current May 31 expiration
 - Removal of patios and discontinuation of program
 - Option 2: Extend for 1 year
 - Allow businesses to keep existing patios up until May 1, 2022
 - Option 3: End May 31 to prepare for new seasonal cycle
 - End of use on May 31 / Removal by July 15
 - Staff to revamp seasonal program
 - Seasonal program – October 15 – April 30 annually

MAYOR HARTKE said he does see people using the patios at night and recommended this be pushed to the end of May and not April.

COUNCILMEMBER LOPEZ asked about the liquor extension.

MS. MOYERS said every year they would have to reapply for the liquor license every year. The downtown businesses would have to decide if it would be beneficial.

COUNCILMEMBER LOPEZ said they need to consider what time is needed to do maintenance and could see it being revisited often.

MS. MOYERS said they could adjust the dates to what Council sees appropriate. Ms. Moyers said some of the restaurants have asked to put in mist systems. The only way that could happen would be if they attach to the colonnade but that adds more wear and tear and maintenance for the City. Ms. Moyers talked about not wanting to add shade structures as it would be costly.

COUNCILMEMBER ORLANDO asked about ADA parking.

MS. MOYERS said staff worked with traffic and downtown had more ADA than were needed and spaces were relocated.

COUNCILMEMBER ORLANDO talked about the right of way and thought it was an equity issue. Councilmember Orlando said there is an owner that is paying a premium for a built-in patio and now the lessee is paying to have the privilege and now that goes away. Councilmember Orlando said these are temporary structures and are taking City property without any compensation. Councilmember Orlando said someone is paying extra money to have that, but no one is paying to use the taxpayers space.

MS. MOYERS said every restaurant has the ability to do the same thing.

COUNCILMEMBER ORLANDO said to make it permanent but not in the Downtown.

MS. MOYERS said in the Downtown they can have an encroachment permit for patios under the colonnade.

COUNCILMEMBER ORLANDO said that is allowed as a permanent structure.

MS. MOYERS said these patios would be allowed under the same encroachment permit but on a smaller timeframe instead of permanent.

COUNCILMEMBER LOPEZ asked if the building owners are charging more for the patios.

MS. MOYERS said they should not be.

COUNCILMEMBER LOPEZ said they could have a patio for free.

COUNCILMEMBER ORLANDO did not think that was the case for all of them.

COUNCILMEMBER ELLIS did not think it was free.

MS. MOYERS said there is an encroachment permit fee each year. This extended patio would be covered under that.

COUNCILMEMBER ORLANDO said Craft 64 said they are paying a premium to the landlord for the front patio and the back patio. Councilmember Orlando said the extension is in the right of way.

MS. MOYER asked if a lease is being paid for the space that the City gives in the encroachment permit.

COUNCILMEMBER ORLANDO said that is what he was told.

COUNCILMEMBER ELLIS said they should not be.

NEILS KREIPKE, Downtown Chandler Landlord, said with this patio scenario the community came together to support the businesses through COVID-19. Mr. Kreipke said he was concerned that a generous group of individuals came together to do this temporary thing and now there are talks about making it permanent. Mr. Kreipke said there were 300 seats that were added by these temporary structures which is easily over \$3 million in revenue that is being taken out of somebody else's pocket. When Craft 64 spends \$150,000 to build their patio out, their rent factor is included in the interior space and also the patio space. Now free patio space is being given so it is a disadvantage for those who spent a lot of money. Mr. Kreipke said The Perch spent over \$1.6 million to make the necessary upgrades for permanent patios and no one had to do this with the temporary patios. Mr. Kreipke said landlords and tenants are paying for it and it is creating unfair competition.

MAYOR HARTKE asked if lessees are paying more for that additional space.

Mr. KREIPKE said yes because it is additional space is part of the rent factor.

COUNCILMEMBER ORLANDO asked if that was equitable. Councilmember Orlando said he liked the patios and thought they were a good idea, but it is encroaching on City property. Councilmember Orlando said he wanted to be equitable.

MS. MOYERS said they are here for the betterment of the Downtown and this was done in response to COVID-19. There was great response from citizens and the businesses. Ms. Moyers said Craft 64 did contact the City and they could have had a patio in the front if they wanted to. Ms. Moyers said if there are in parking spaces in front, they all had the opportunity to do so. Ms. Moyers said there are some businesses that do not have parking spaces in front and so it is not all equitable and they do recognize that.

VICE MAYOR STEWART asked if there was a way to privatize that property.

MS. MOYERS said they did talk about charging a little bit extra on the encroachment permit for using that space during that time.

MAYOR HARTKE said he would not want to give up property on the street.

VICE MAYOR STEWART said he is trying to take government out of a problem as they are trying to manage contracts in private industry. Vice Mayor Stewart said this situation was dramatic and they found a way to help Downtown businesses to be able to serve more people and it has been a hit. Vice Mayor Stewart said he agreed with option two and have the patios look similar. Vice Mayor Stewart said if they could continue to help, they should do that.

MAYOR HARTKE asked if this is more than temporary, does it factor into bathrooms and the formula for other things.

MS. MOYERS said they have spoken with Development Services and it would be discussed if these would be permanent. Ms. Moyers said some of the areas that have had large patios probably would not be able to stay so large. Ms. Moyers said they would need to look at those calculations.

COUNCILMEMBER HARRIS said he was concerned that they are overreaching. Councilmember Harris said they do not have enough information to move forward based on a lot of conversation happening around maintenance and bathrooms and now landlords. Councilmember Harris said they need more information and get more input from everybody. If they make a decision right now, they are going to be stuck wondering why they made a decision so quickly.

MAYOR HARTKE asked what more information was needed.

COUNCILMEMBER HARRIS said he wanted to hear more from those who own the property and more information from the patrons that are senior or handicapped and the business owners so they can see everyone's pros and cons.

MAYOR HARTKE said he is looking for opinions from these groups.

COUNCILMEMBER HARRIS said yes, and asked the facility staff to see what the City's burden would be for maintenance.

MS. MOYERS said the DCCP did do a survey that represented all of the property owners and business owners.

COUNCILMEMBER HARRIS said he wanted to look at the numbers from an ongoing expense. Councilmember Harris asked if they put it up temporarily each year, what staff time and resources would that take. Councilmember Harris said after the pandemic would this be something that the City should do. Councilmember Harris said he did not have enough information to make an educated decision.

COUNCILMEMBER ORLANDO said they charge utility companies right of way fees. Councilmember Orlando asked if they are going to make it long term should they look at a fee structure to make it equitable. Councilmember Orlando said if they wanted to extend the program, they are still going to have to make this decision. Councilmember Orlando said there are businesses using City right-of-way to make a profit which was fine during COVID-19 but would that be equitable for those who want to invest and put up permanent structures. Councilmember Orlando said he was not against the businesses making money because that benefits everyone. Councilmember Orlando said when the structures are taken down there is a lot of cleanup to be done and did not want to see them become permanent structures if they are not complying with the code.

COUNCILMEMBER ROE talked about parking in the Downtown and how he has always advocated for more parking. Councilmember Roe said those parking spaces are precious and a lot of seniors drive downtown and look for one of those spaces so they can walk in and have dinner. Councilmember Roe said if they are looking at getting rid of that then they need to do it in a permanent way. Councilmember Roe said these structures sitting in parking spaces was a good temporary solution.

MAYOR HARTKE clarified Councilmember Roe was in support of option one.

COUNCILMEMBER ROE said yes. If they want to create a nice outdoor area that was done permanently then he would support that.

MAYOR HARTKE asked which option Councilmember Harris wanted.

COUNCILMEMBER HARRIS agreed with Councilmember Roe for option one.

COUNCILMEMBER ELLIS said if they are experimenting with this to go work with staff and then bring it back to Council. Councilmember Ellis said they do not know what structures are going to be as they make them more uniform. Councilmember Ellis said if someone is renting that includes the front and the back and they should be able to do what they want with the space since they

have already paid and should not be charged over unless the landlord is putting it up. Councilmember Ellis said she would like to see option two happen right now and then option three be in the making.

MAYOR HARTKE said option two would extend the program for a year and then option three would have them take it down and have staff come back to Council with a proposal.

COUNCILMEMBER ORLANDO said he was in support of option one. Councilmember Orlando said he liked the patios but did not want to encroach upon the parking and said they need to create a more uniform plan.

MAYOR HARTKE asked those in support of option one would be agreeable to have staff work on a proposal for option three.

COUNCILMEMBER ROE said yes.

COUNCILMEMBER LOPEZ said he agreed with option three to have staff review options.

VICE MAYOR STEWART said he would like to see option two into 2022. Vice Mayor Stewart said if they are going to do it then they should do it right and make it a destination. Vice Mayor Stewart said when this was implemented it was innovative and allowed people to continue their business and allow free market to thrive.

COUNCILMEMBER ORLANDO said he supported option one because it has to be taken down anyway.

MS. MOYERS said if Council says that the program ends the businesses would be given a grace period through July 15. Ms. Moyers said option three has the businesses take them down now and gives time to come up with a plan for fall.

MAYOR HARTKE said he agreed to option three.

COUNCILMEMBER ORLANDO agreed to option three.

COUNCILMEMBER HARRIS agreed to option three.

MAYOR HARTKE said majority Council agreed to option three.

COUNCILMEMBER ROE talked about the work done on Chicago Street and hoped there would be more conversation about that in staff.

MS. MOYERS continued the presentation.

- Dine in the Park
 - Background: Created to help businesses in response to COVID-19 capacity restrictions
 - Timeline: Launched in May 2020. There is no current expiration date.
 - Implementation: The Community Services Director can designate public property as a Public Recreation Area, allowing for the consumption of beer and wine.
 - Program Response: Positive from both general public and businesses. No issues have emerged from program.
 - Options:
 - Allow program to continue under current rules
 - Evaluate program expansion to include more of Dr. A J Chandler Park
 - End program

MAYOR HARTKE asked if there was a liquor license issue with that.

MS. MOYERS said no.

COUNCILMEMBER LOPEZ asked if they have always had the ability to allow people to drink in the park.

MS. MOYERS said yes, as long the Community Services Director has designated the area as a public recreation area with was done.

COUNCILMEMBER LOPEZ said he liked the evaluation of going to the east side and to see if this could be expanded to a larger area.

MS. MOYERS said when it is on the west side, it is near the businesses and it is easier for the police to see what is going on. Ms. Moyers said on the east side it is dark during the night and has more of a potential for some issues.

MAYOR HARTKE said Council agreed to continue the program.

Adjourn

The meeting was adjourned at 5:51 p.m.

ATTEST: 
Acting City Clerk


Mayor

Approval Date of Minutes: May 27, 2021

Certification

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Work Session of the City Council of Chandler, Arizona, held on the 13th day of May 2021. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this 27 day of May, 2021.



Jarica Barba
Acting City Clerk