

Meeting Minutes

City Council Regular Meeting

January 13, 2022 | 6:00 p.m.
Chandler City Council Chambers
88 E. Chicago St., Chandler, AZ



Call to Order

The meeting was called to order by Mayor Kevin Hartke at 6:00 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

Joshua Wright, Acting City Manager
Debra Stapleton, Assistant City Manager
Dawn Lang, Deputy City Manager/ CFO
Andy Bass, Deputy City Manager
Kelly Schwab, City Attorney
Dana DeLong, City Clerk

*Councilmember Ellis attended telephonically.

Invocation

The invocation was given by Elder Bruce Lundquist, Faith Church of the Valley.

Pledge of Allegiance

The Pledge of Allegiance was led by Scout Troop 325.

Consent Agenda and Discussion

City Clerk

1. December 2021 City Council Minutes
Move City Council approve the Council Meeting minutes of the Work Session of December 6, 2021; Regular Meeting of December 6, 2021; Study Session of December 6, 2021; Work

Session of December 9, 2021; Regular Meeting of December 9, 2021; and the Special Joint Meeting with Arizona State Legislators of December 14, 2021.

Communications and Public Affairs

2. Final Adoption of Ordinance No. 4983 Board and Commission Code Amendments
Move City Council adopt Ordinance No. 4983, amending and/or renumbering the City Code Chapters for the Chandler Airport Commission, Chandler Citizens' Panel for Review of Police Complaints and Use of Force, Commission on Human Relations, Housing and Human Services Commission, Library Board, Mayor's Committee for People with Disabilities, Mayor's Youth Commission, Neighborhood Advisory Committee, Parks and Recreation Board, Public Housing Authority Commission, and Transportation Commission; and repealing the Mayor's Committee for the Aging.

Development Services

3. Final Adoption of Ordinance No. 5002, PLH21-0078 Pollack Business Park North 1 & 2, located at 3205 through 3245 N. Arizona Avenue, generally located north of the northeast corner of Arizona Avenue and Elliot Road
Move City Council adopt Ordinance No. 5002 approving PLH21-0078 Pollack Business Park North 1 & 2, amending the Planned Area Development zoning by removing a limitation on sign colors as recommended by Planning and Zoning Commission.
4. Final Adoption of Ordinance No. 4999, PLH21-0065 Airstream of Chandler, located at 1375 S. Arizona Avenue, generally located on the southeast corner of Arizona Avenue and the Loop 202 Santan Freeway
Move City Council adopt Ordinance No. 4999, approving PLH21-0065 Airstream of Chandler, Rezoning from Planned Area Development (PAD) zoning for Community Commercial (C-2) uses to Planned Area Development (PAD) for Community Commercial Uses with motor vehicle sales, outdoor screened storage, indoor motor vehicle repair including body work, and limited short term overnight stays for recreational vehicles, subject to the conditions as recommended by Planning and Zoning Commission.

Management Services

5. New License Series 10, Beer and Wine Store Liquor License Application for Mingle Wine, LLC, DBA Mingle Wine
Move for recommendation to the State Department of Liquor Licenses and Control for approval of the State Liquor Job No. 167676, a Series 10, Beer and Wine Store Liquor License, for Mahfam Moeeni-Alarcon, Agent, Mingle Wine, LLC, DBA Mingle Wine, located at 48 S. San Marcos Place, Suite B, and approval of the City of Chandler, Series 10, Beer and Wine Store Liquor License No. 302422.
6. Series 12, Restaurant Liquor License Application for Savory HK, LLC, DBA Hash Kitchen

Move for recommendation to the State Department of Liquor Licenses and Control for approval of the State Liquor Job No. 159123, a Series 12, Restaurant Liquor License, for Andrea Dahlman Lewkowitz, Agent, Savory HK, LLC, DBA Hash Kitchen, located at 2855 W. Ray Road, Suite 4, and approval of the City of Chandler, Series 12, Restaurant Liquor License No. 302459.

7. License Series 12, Restaurant Liquor License Application for Celoni Hospitality, LLC, DBA Recreo

Move for recommendation to the State Department of Liquor Licenses and Control for approval of the State Liquor Job No. 168878, a Series 12, Restaurant Liquor License, for Camila Alarcon, Agent, Celoni Hospitality, LLC, DBA Recreo, located at 28 S. San Marcos Place, and approval of the City of Chandler, Series 12, Restaurant Liquor License No. 301788.

8. New License Series 12, Restaurant Liquor License Application for ALA Pizza, LLC, DBA Vero Chicago Pizza

Move for recommendation to the State Department of Liquor Licenses and Control for approval of the State Liquor Job No. 170360, a Series 12, Restaurant Liquor License, for Isaac Mannou Younan, Agent, ALA Pizza, LLC, DBA Vero Chicago Pizza, located at 5070 S. Gilbert Road, Suite 4, and approval of the City of Chandler, Series 12, Restaurant Liquor License No. 301661.

Public Works and Utilities

9. Final Adoption of Ordinance No. 4990 Authorizing the Sale of Assessor's Parcel Numbers 303-42-003Q and 303-42-008P, Located at 21126 S. Cooper Road, Chandler, Arizona

Move City Council approve final adoption of Ordinance No. 4990, authorizing the sale of Assessor's Parcel Numbers 303-42-003Q and 303-42-008P, located at 21126 S. Cooper Road, Chandler, Arizona, to Dinesh Palariya and Amisha Dham, husband and wife, and Tarun Chopra and Charu Chopra, husband and wife, for \$598,000.

10. Final Adoption of Ordinance No. 4996 Authorizing the Sale of City Property Located in the Williams Field Business Park Subdivision

Move City Council approve final adoption of Ordinance No. 4996 authorizing the sale of City property located in the Williams Field Business Park Subdivision on Roosevelt Avenue between Frye Road and Chandler Boulevard to Osborne Real Estate, LLC, an Arizona Limited Liability Company, for the amount of one hundred and ten thousand dollars (\$110,000).

11. Final Adoption of Ordinance No. 4998 Granting a No-Cost Irrigation Easement to Roosevelt Water Conservation District, for Irrigation Facilities

Move City Council approve final adoption of Ordinance No. 4998, granting an irrigation easement to Roosevelt Water Conservation District, at no cost, for irrigation facilities that

were relocated as part of an agreement for City participation in offsite construction costs for the Whispering Heights Subdivision located at Chandler Heights Road and Lindsay Road.

Consent Agenda Motion and Vote

Councilmember Orlando moved to approve the Consent Agenda of the January 13, 2022, Regular City Council Meeting; Seconded by Councilmember Lopez.

Motion carried unanimously (7-0).

Action Agenda No. 12 and Discussion

12. Election of Vice Mayor for a One-Year Term

Move that the City Council elect a Vice Mayor of the Council with a term beginning January 14, 2022, and ending January 12, 2023.

Action Agenda Motion and Vote

Mayor Hartke moved to approve Councilmember Roe as Vice Mayor of the Council with a term beginning January 14, 2022 and ending January 12, 2023; Seconded by Councilmember Harris.

Motion carried unanimously (7-0).

Briefing and Discussion

13. Briefing on COVID-19, as requested by Councilmember Harris.

TOM DWIGGINS, Fire Chief, presented the following presentation.

- COVID-19 Infection Rate
 - United States
 - Percentage of Population 19.1%
 - Arizona
 - Percentage of Population 20.8%
 - Maricopa County
 - Percentage of Population 21.0%
 - City of Chandler
 - Percentage of Population 21.0%
- Vaccination Rate (% of population with at least one dose)
 - United States
 - Percentage of Eligible Population 79.3%
 - Arizona
 - Percentage of Eligible Population 71.1%
 - Maricopa County

- Percentage of Eligible Population 61.0%
 - City of Chandler
 - Percentage of Eligible Population 67.4%
- Chandler Zip Code Data
 - 85224
 - Population 43,834
 - % POS of Total Pop 22%
 - % Vac of Total Pop 62.2%
 - 85225
 - Population 70,356
 - % POS of Total Pop 23%
 - % Vac of Total Pop 54.7%
 - 85226
 - Population 39,156
 - % POS of Total Pop 19%
 - % Vac of Total Pop 65.6%
 - 85248
 - Population 35,040
 - % POS of Total Pop 18%
 - % Vac of Total Pop 54.8%
 - 85249
 - Population 39,618
 - % POS of Total Pop 21%
 - % Vac of Total Pop 69.2%
 - 85286
 - Population 44,885
 - % POS of Total Pop 22%
 - % Vac of Total Pop 63.2%
- CDC Recommendations
 - Vaccines
 - Three vaccines available (Moderna, Johnson and Johnson, Pfizer)
 - Masks
 - CDC is recommending the use of masks when indoors in public when you are in area of substantial high transmission
 - Social Distance
 - Put six feet of distance between yourself and people who don't live in your household
 - Hygiene
 - Wash your hands often with soap and water for at least 20 seconds

COUNCILMEMBER HARRIS said it is important to inform the residents what is happening and there is still a lot of misinformation. Councilmember Harris said with the new variant and the different strains, Councilmember Harris asked how people can stay up to date on how to keep themselves safe.

CHIEF DWIGGINS said the new strain is the Omicron and it accounts for 95.7% of all cases in Arizona and is expected to continue to rise. This strain has only been in the United States since December 1 and there is new information coming out almost daily. This spreads must faster and the expectation is that it will drop quickly. People can still get sick from this variant especially those who have underlying condition, but it is not as harmful as the other strains. A lot of people have antibodies but there are still breakthrough cases. This variant should be taken seriously but it is not causing hospitalizations like the previous ones. Chief Dwiggins said when the virus starts to decouple the case load goes up, but the hospitalizations and deaths do not. When we see decoupling it starts to signal the end of a pandemic and into an endemic. Chief Dwiggins said he cannot say for certain that is going to happen, but it is anticipated in 2022 there will be more information on how to live with it moving forward. All this information is available on the CDC and Arizona Public Health Department's websites.

COUNCILMEMBER HARRIS asked if there were still plenty of vaccines available for people and Chandler Gilbert Community College was still providing tests.

CHIEF DWIGGINS said the vaccines have been given to pharmacies and there are still other places available but there is a little bit of a wait. Chief Dwiggins said people can still get their first series, but people are now starting to look for the boosters and they offer a higher level of protection. The ability to protect you from a breakthrough cases decreases the further time passes from the vaccination date and this is why they are recommending booster shots. There are testing sites still available. Chief Dwiggins said Pfizer is the only vaccine that children five and up can get and Moderna and Johnson and Johnson are 18 and older. For Pfizer and Moderna you have to wait five months before receiving the booster and Johnson and Johnson is two months.

COUNCILMEMBER ORLANDO asked how the Fire Department is holding up.

CHIEF DWIGGINS said from a health standpoint they are holding up, but this is a disruption in the workforce because they follow CDC guidelines. The CDC has said the isolation period for someone who is positive or is symptomatic and waiting for a test is five days and then five days wearing a mask. The five days is tough on their schedule, and they are seeing two to three positives cases per day. There are staffing challenges and so staff is working a lot of hours right now to cover. Chief Dwiggins said there is a fire academy graduating with 20 new fire fighters so they would be out on the trucks soon. There is optimism that there is light at the end of the tunnel.

COUNCILMEMBER ORLANDO said it is interesting how the virus impacts people differently and encouraged people to stay safe.

VICE MAYOR STEWART thanked public safety for providing data to the community to allow residents to make the best decisions they could for their family. Vice Mayor Stewart said the Fire Department was prepared for the pandemic, with PPE, and sharing knowledge and people followed their lead. Overall, this created a calmness in the community, and this has created a ripple effect and they know what to do now and would continue to work through it.

MAYOR HARTKE thanked staff for their work.

14. Discussion and possible action for use of fireworks in the city limits, as requested by Councilmember Orlando.

MAYOR HARTKE introduced the discussion item and called for a staff presentation.

JOSHUA WRIGHT, City Manager, said staff would discuss the history of fireworks, where they are at today, and how legal fireworks are regulated today. Mr. Wright said this is a challenging issue for every city and a lot of that stems from the fact that this is a State regulated issue and cities are prohibited from doing a lot around this issue.

KELLY SCHWAB, City Attorney, presented the following presentation.

- Permissible Consumer Fireworks
 - Legislative History of State Preemption of Local Regulation of Permissible Consumer Fireworks – ARS 36-1601 et seq.
 - 2010 Arizona State Legislature adopted HB 2246 preempting local regulation of permissible consumer fireworks
 - 2014 Arizona State Legislature adopted SB 1158 further expanding the use of permissible consumer fireworks and authorizing the sale and use during certain periods of time and making violations a civil infraction
 - 2015 Arizona State Legislature adopted HB 2008 replacing preemption statute which further limited local regulation including signage requirements
 - 2019 Arizona State Legislature adopted SB 1348 allowing the seizure or removal of fireworks offered for sale by the local fire marshal, the imposition of a fine covering the cost of enforcement, and a 3-year prohibition on selling permissible consumer fireworks if confiscation occurs more than 2 times in a 5-year period.
- Permissible Consumer Fireworks
 - State preemption of the Regulation of Consumer Permissible Fireworks ARS 36-1606
 - Lawful sales dates: April 25 through May 6, May 20 through July 6 and December 10 through January 3 or each year.

- Lawful use dates: May 4 through May 6, June 24 through July 6 and December 24 through January 3 of each year.
- These times reflect the dates when certain fireworks are most commonly used – Cinco de Mayo, Fourth of July, and Christmas/New Year’s
- Aside from certain fireworks allowed only during the prescribed dates, there is also a small category of permissible consumer firework “novelties” allowed year-round (e.g. snappers (pop-its), party poppers, glow worms, snakes, toy smoke devices, and sparklers).
- Chandler Regulation of Fireworks
 - Chandler City Code through the adoption of the International Fire Code (IFC) prohibits the sale and use of fireworks with some exceptions
 - Chandler City Code Section 28-22 allows for the sale and use of permissible consumer fireworks in compliance with the National Fire Prevention Association regulations and restricts sale of permissible consumer fireworks to the times allowed by ARS 36-1606 and subject to permit and inspection
 - Permissible consumer fireworks can not be sold to persons under the age of 16

COUNCILMEMBER ORLANDO asked why such long dates were given for the use of fireworks.

MS. SCHWAB said the time they could be sold is longer than the time they could be used. The intent was giving consumers an opportunity to buy them to then be able to use them during the allowed time.

COUNCILMEMBER ORLANDO asked why the time around the Fourth of July is so long as the holiday is one day.

MS. SCHWAB said it is likely they were negotiated dates as the industry wanted a longer timeframe and cities and towns were concerned for various reasons.

VICE MAYOR STEWART asked if anyone has challenged the signage aspect as a first amendment violation.

MS. SCHWAB said in a Supreme Court Case they determined that we cannot regulate content, but we can regulate size, location, and time restrictions. There are parts of the state statute that allow regulation of content but none of those under the state statute has been challenged at this time.

MAYOR HARTKE said fireworks is something being discussed in the League of Cities and Towns to then discuss further with the legislature.

CHIEF DWIGGINS continued the presentation.

- What are Permissible Consumer Fireworks? Chart

- Fireworks Sales Permit Process
 - Application
 - Tent Inspection
 - Display Inspection
 - Storage Inspection

MAYOR HARTKE asked that everything is sold at Costco and Walmart abides by what is legal here and if they investigate individuals selling illegal fireworks.

CHIEF DWIGGINS said anything sold at the stores or the tents are inspected to ensure they are selling the right product. Any type of reports on illegal sales an inspector is sent out.

COUNCILMEMBER ORLANDO said Walmart used to put the dates out of when they could be used and asked if that still happens.

CHIEF DWIGGINS said they do see signs and they are created per the code.

SEAN DUGGAN, Police Chief, continued the presentation.

- Police Calls for Service
 - 2021 Police New Year's Eve calls for service 6 p.m. – 3 a.m.
 - 126 fireworks related calls for service
 - 381 non-fireworks related calls for service
 - 507 total calls
 - Police response to 126 fireworks-related calls for service (12/31/2021)
 - 77 calls: caller provided no specific location
 - 33 calls: officer did not locate fireworks (delayed response)
 - 16 calls: officer gave warning
 - No fireworks-related arrests made

MAYOR HARTKE said there was a news article about Phoenix showing a display of fireworks from a witness that the officer can issue a citation without being there and asked for more information.

CHIEF DUGGAN said Phoenix is probably doing less than what Chandler is doing due to their volume and staffing shortages. The illegal fireworks are still a misdemeanor. It is better if the officer saw it but there could be other evidence such as canisters at the scene or witness statements and is no different than investigating any other crime. Chief Duggan said on nights like New Year's Eve there are higher priority calls that take the officer's time so if time is available they could investigate it.

COUNCILMEMBER ORLANDO said this is New Year's Eve but there are other days earlier that there are calls as well.

CHIEF DUGGAN said there are fireworks throughout the week, and this has been an ongoing issue for many years. The illegal fireworks are readily available from other states or Mexico.

COUNCILMEMBER ORLANDO said he liked the idea of having certain times to use them and more communication about illegal fireworks. Councilmember Orlando said another city has a common area for people to shoot their fireworks off and there has to be ways to mitigate this. Councilmember Orlando said they probably will not solve the issue, but they should work to mitigate the issue.

COUNCILMEMBER LOPEZ asked when the complaints coming in if the person knows they are illegal fireworks.

CHIEF DUGGAN said any aerial firework is illegal so when someone says there are fireworks going off above their house it is a good indicator they are illegal.

COUNCILMEMBER LOPEZ asked if all surrounding states are more permissive on fireworks.

CHIEF DUGGAN said New Mexico is but was not sure about California or Nevada but they could be coming from anywhere.

COUNCILMEMBER LOPEZ asked if transportation or possession of these types of fireworks is illegal.

CHIEF DUGGAN said he would think they would be considered contraband but did not want to speak to that directly.

MS. SCHWAB said they are illegal and could be seized as contraband.

VICE MAYOR STEWART thanked staff for their work and keeping Chandler one of the cities with the lowest crime rate.

MR. WRIGHT said the top recommendation is pursuing a legislative solution as when this legislation was passed it set a tone that illegal fireworks are more acceptable, and they have lost the local authority that they used to have. Mr. Wright said the League has been active on this topic, but it is complex, and the legislators may not be as receptive. Mr. Wright said they could certainly ramp up campaigns about what is legal and not illegal. Mr. Wright said the same nights we see this activity is the same night that everything else is happening. It would be a priority basis but as resources allow, dedicate more officers to fireworks these nights.

MAYOR HARTKE said currently people are setting off fireworks in the middle of streets and there are code amendments coming to that.

MR. WRIGHT said that was correct, and the fire code would be updated this year. It would not solve the problem but could be another tool.

- Recommendations
 - Pursue Legislative Solutions
 - Leage of Arizona Cities and Towns included fireworks in 2021 policy statement
 - Enhance Proactive Communication
 - Safe usage of legal fireworks and prohibition of illegal fireworks
 - Police Enforcement
 - As resources allow, dedicate a fireworks response team during major occasions to proactive patrol and response to fireworks related calls for service.

RUTH JONES, 4734 E. Birchwood Pl., Chandler, said she knows there are some who love to set off fireworks but the groups that are hurt by this are many. The Veterans suffer PTSD from the noise and children cannot sleep. Pets are an essential part of our home and the effect to them is long lasting. The smell of sulfur and smoke in the air is a real hazard for those with asthma or COPD. We live in a state where drought conditions are the norm. Ms. Jones said she went out with several citizens who wanted her to see what it was like in her neighborhood and as she watched one display her car was pelted with debris. Luckily it was wet that night but the danger of a hot projectile starting a fire is real. Using illegal fireworks in a neighborhood means all residents are in danger of these random fires.

MS. JONES said some types of fireworks are legal and some are not and the law is clear. Simply put, if it shoots in the air, it is not legal. The dates for the sale and use are set in Arizona statute and they have all the information they need as a city to stop the use of illegal fireworks. Ms. Jones thanked Councilmember Orlando for bringing this issue forward. Ms. Jones said she was disappointed in Mayor Hartke's response on social media that he wanted to wait to discuss this issue with other cities to see what they were doing. Ms. Jones said Mayor Hartke wrote that Tempe has a task force and that it is a State issue and listed the representatives names. Chandler is a city that has always been seen as leading not following and waiting on other cities to make policy. There needs to be a comprehensive plan to tackle this issue and that could start with a campaign to educate citizens and distinguish between legal and illegal. The police and fire departments work hard for the City and they need to have the resources to fight this issue and not take the focus off of more serious crimes. The City could also set off a display which would allow people to see a display instead of setting them off themselves. The State set the law and it is up to the City to enforce them. Ms. Jones asked Council to be a leader on this issue and listen to the residents.

MAYOR HARTKE said they would continue to work on the plan regarding this.

Informational

15. Study Session & Regular Meeting Minutes of November 17, 2021, Planning and Zoning Commission
16. Special Event Liquor Licenses and Temporary and Permanent Extensions of Liquor License Premises Administratively Approved

Unscheduled Public Appearances

HYRAM HATCH, 700 N. Dobson Rd. 16, Chandler, thanked Council for their service to the City and had met with Mayor Hartke and staff. Mr. Hatch congratulated the City on hiring the new airport manager and felt confident he could lead the airport forward. Mr. Hatch said Ryan Reeves has a vast amount of experience and loves aviation. Mr. Hatch said he hopes Mr. Reeves is allowed to use his expertise to solve some of the ongoing problems at the airport and lead it to a new level. In 2003, Mr. Hatch saw the need to build new hangars to attract the type of aircraft they wanted to base here but could not. Mr. Hatch said he worked on projects for the airport in the past that sold out quickly and encouraged the City to do another RFP. Mr. Hatch said it had been seven years with no RFP until this past August even though there is a waiting list with over 150 aircraft. If they want the airport to be self-sustaining it needs to be able to grow and compete against the other airports in the area. Mr. Hatch said every aircraft that bases in Chandler pays to put their plane there as well as fuel tax and maintenance. For the past seven years they have been out of the competition and asked Council to let the airport grow.

COUNCILMEMBER ORLANDO asked the City Manager to provide Council information regarding the next phases of the airport.

Current Events

Mayor's Announcements

MAYOR HARTKE encouraged people to attend the Multicultural Festival and there would be cultural performances, kids' activities, food, and vendors at Dr. AJ Chandler park this Saturday from 11 a.m. and 6 p.m.

MAYOR HARTKE said there would be a celebration sponsored by the Chandler Men of Action and Congregational Church of the Valley for Dr. Martin Luther King Jr. Day on January 16 at 6 p.m. at Congregational Church of the Valley.

Council's Announcements

COUNCILMEMBER HARRIS said tomorrow in the Council Chambers is the 2022 Martin Luther King Jr. Keeping the Dream Alive Award ceremony. Councilmember Harris said they would be honoring some phenomenal people in the community. Councilmember Harris said Pastor Victor Hardy would be recognized with the Lifetime Achievement Award for everything he has done for the City.

COUNCILMEMBER LOPEZ announced the Chandler International Film Festival from January 18-23 at Look Drive-in in downtown Chandler. The festival would feature over 120 films and the schedule would be available online. Every night there is a VIP and afterhours event as well as an awards ceremony.

VICE MAYOR STEWART thanked Council for bestowing him the honor of serving as Vice Mayor over the past year. Vice Mayor Stewart said he felt blessed to be a part of Council and Chandler.

COUNCILMEMBER ROE thanked Council for appointing him as Vice Mayor and thanked Vice Mayor Stewart for his service to the City.

COUNCILMEMBER ROE said he and his wife are celebrating their 41st anniversary.

COUNCILMEMBER ROE encouraged people to shop Chandler and thanked staff for their work.

COUNCILMEMBER ORLANDO thanked the residents for being engaged in the community to help Council do their job better.

City Manager's Announcements

MR. WRIGHT congratulated Councilmember Roe on his appointment to Vice Mayor. Mr. Wright congratulated Andy Bass on his promotion to Deputy City Manager.

Adjourn

The meeting was adjourned at 7:12 p.m.

ATTEST: _____
City Clerk

Mayor

Approval Date of Minutes: January 27, 2022

Certification

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of Regular Meeting of the City Council of Chandler, Arizona, held on the 13th day of January 2022. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this _____ day of January, 2022.

City Clerk