

Tempe City Council November 6, 2008

Harry E. Mitchell Government Center
Tempe City Hall - City Council Chambers
31 East Fifth Street
7:30 p.m.

Members of the City Council may attend either in person or by telephone conference call.

1. **INVOCATION - Councilmember Mitchell**
2. **PLEDGE OF ALLEGIANCE**
3. **MINUTES - Councilmember Shekerjian**
 - A. Approval of Council Meeting Minutes
 1. Council's Executive Session – October 16, 2008
 2. Council's Issue Review Session – October 16, 2008 [20081106clrck02.pdf](#)
 3. Council's Formal Meeting – October 16, 2008 [20081106clrck01.pdf](#)
 - B. Acceptance of Board & Commission Meeting Minutes
 4. Apache Boulevard Project Area Committee – September 8, 2008 [20081106apac01.pdf](#)
 5. Committee for Youth, Families & Community – September 15, 2008 [20081106cyfc01.pdf](#)
 6. Community Special Events Task Force – October 10 & 21, 2008 [20081106setf01.pdf](#)
[20081106setf02.pdf](#)
 7. Development Review Commission – September 9 & 23, 2008 [20081106drc01.pdf](#)
[20081106drc02.pdf](#)
 8. Hearing Officer – September 16 & October 7, 2008 [20081106ho01.pdf](#) [20081106ho02.pdf](#)
 9. Historic Preservation Commission – September 11, 2008 [20081106hpc01.pdf](#)
 10. Library Advisory Board – September 8, 2008 [20081106lab01.pdf](#)
 11. Mayor's Youth Advisory Commission – September 16 & October 7, 2008
[20081106myac01.pdf](#) [20081106myac02.pdf](#)
 12. Municipal Arts Commission – September 10, 2008 [20081106mac01.pdf](#)
 13. Neighborhood Advisory Commission – Neighborhood Affordable Housing Subcommittee
Joint Meeting with Council Housing Committee – October 9, 2008 [20081106nac01.pdf](#)
 - 13a. Tardeada Advisory Board – September 8, 2008 [20081106tab03.pdf](#)
 14. Tempe Police Public Safety Personnel Retirement Board – Executive Session
September 11, 2008
 15. Tempe Police Public Safety Personnel Retirement Board – September 11, 2008
4. **REPORTS AND ANNOUNCEMENTS**
 - A. Mayor's Announcements

- a. Recognition of ASU Women's Softball Team
- b. Hunger and Homelessness Awareness Week
- c. Transportation Recognition Awards
- d. Tempe Center for the Arts Awards

B. Manager's Announcements

5. **AGENDA**

All items listed on the 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.

Agenda items scheduled for Introduction/First Public Hearing will be heard, but will not be voted upon at this meeting. Items scheduled for Second Public Hearing/Final Adoption will be voted upon tonight.

q-j indicates quasi-judicial items. The City Council sits as a quasi-judicial body when hearing variances. In this situation, the City Council must conduct itself as a court, not as a legislative body. Pre-meeting contact with the City Council on quasi-judicial matters is prohibited. Any materials or conversations concerning the item shall only be presented to the City Council at the scheduled public hearing.

Legal Advice: If necessary, the City Council may make a vote to adjourn to executive session for the purpose of obtaining legal advice from the Council's attorney on any matter listed on the agenda pursuant to A.R.S. § 38-431.03(A)(3).

A. Miscellaneous Items

16. Request approval of the appointment of Thomas J. Robinson as City Court Judge and approval to enter into an employment agreement under the terms described therein.

DOCUMENT NAME: [20081106mclca01.pdf](#) COURT ADMINISTRATION (0501-02)

APPROVED

17. Request the renewal of Intergovernmental Agreement for Security Services in the Police Courts Building.

COMMENTS: Total expenditures for this agreement shall not exceed \$205,000.

DOCUMENT NAME: [20081106mcrn01.pdf](#) COURT ADMINISTRATION (0501-02)

APPROVED

18. Request authorization to engage the law firm Renaud, Cook, Drury, Mesaros for legal representation in Barker v. City of Tempe.

DOCUMENT NAME: [20081106casv01.pdf](#) LEGAL AND LEGISLATIVE SERVICES (0500)

APPROVED

19. Request approval of a Second agreement between North America Sports, Inc., the Tempe Convention and Visitors Bureau, and the City of Tempe for the City to host the Ironman Arizona Triathlon, extending the Agreement for an additional five (5) years, beginning with the

November 2009 race.

COMMENTS: The fiscal impact to the City is approximately \$135,000 annually in combined cash and City services for the first two years of the agreement.

DOCUMENT NAME: [20081106prtd01.pdf](#) SPORTS ADMINISTRATION/POLICIES (0105-01-07)

APPROVED

20. Request approval of the first amendment to extend the term of the Development and Disposition Agreement (C2007-37) between the City of Tempe and GDG Partners LLC, to one year after the execution of the lease authorized in the modification agreement.

DOCUMENT NAME: [20081106cdnr02.pdf](#) RIO SALADO MASTER PLAN (0112-07-03)

APPROVED

- *21. This is a public hearing for a **request for reconsideration** of the City Council decision of September 11, 2008, to approve the appeal by the Date Palm Neighborhood Association of the July 8, 2008, Development Review Commission decision to uphold the Hearing Officer's approval of the request by H B TOBACCO located at 53 East Broadway Road for one (1) use permit, and **if reconsideration is approved, then re-hearing** of the request for the use permit.

COMMENTS: Reconsideration of the City Council decision of September 11, 2008, to approve the appeal by the Date Palm Neighborhood Association (UPA08005) of the July 8, 2008, Development Review Commission decision to uphold the May 20, 2008 Hearing Officer's approval of the request by WALGREENS PLAZA - H B TOBACCO (PL060676) (Anis Ben Harzallah, business owner/applicant; Mark Stoneman/Stoneman Properties, property owner; Steve Stewart, Date Palm Manor) located at 53 East Broadway Road in the CSS, Commercial Shopping and Services District for:

ZUP08068 Use permit to allow a hookah lounge/tobacco retailer.

DOCUMENT NAME: [20081106dslc01.pdf](#) PLANNED DEVELOPMENT (0406)

REQUEST FOR RECONSIDERATION DENIED.

22. Request for a Final Subdivision Plat for the RURAL AND TYLER TRANSIT SITE located at 838 South Rural Road.

COMMENTS: (PL080306) (City of Tempe, Jyme Sue McLaren, property owner, Arizona Engineering Company, John Scott, applicant), located at 808 South Rural Road in the GID, General Industrial District and R-3, Multi-Family Residential Limited District. The request includes the following:

SBD08029 - A final subdivision plat, combining seven (7) parcels to create one (1) lot and one (1) tract on a net of 2.58 acres.

DOCUMENT NAME: [20081106dsjc01.pdf](#) PLANNED DEVELOPMENT (0406)

APPROVED

23. Request for a Final Subdivision Plat for TAHILIANI RESIDENCE located at 1101 East Warner Road Estate 151.

COMMENTS: (PL080121) (Harry T. Tahiliani, owner; Matt Price; Southwest Commercial Services, applicant) for a Final Subdivision Plat on +/- 2.11 net acres located at 1101 East Warner Road Estate 151 in the R1-15, Single Family Residential District and AG, Agricultural District, including the following:

SBD08012 – Final Subdivision Plat to combine two properties into one lot.

DOCUMENT NAME: [20081106dssd01.pdf](#) **PLANNED DEVELOPMENT (0406)**

APPROVED

- *24. This is a public hearing to recommend the approval of a Series 12 restaurant liquor license for Ziegler's NYPD LLC dba NYPD Pizza, 9845 South Priest Drive.

COMMENTS: Richard Stark, Agent

DOCUMENT NAME: [20081106LIQ01.pdf](#) **LIQ LIC (0210-02)**

APPROVED

B. Award of Bids/Contracts

25. Request to award one-year contracts with four, one-year renewal options to Caltrol, Inc., and Hennesy Equipment Sales Company for the purchase, repair, and maintenance of actuators used by the Water Utilities Department for water production and wastewater treatment services.

COMMENTS: (RFP #08-170) Total cost for these contracts shall not exceed \$75,000 during the initial contract period.

DOCUMENT NAME: [20081106fst03.pdf](#) **PURCHASES (1004-01)**

APPROVED

26. Request award of a professional services design contract with Damon S. Williams Associates, LLC, for an upstream diversion of the Southern Regional Outflow (SRO) interceptor at the intersection of Priest Drive and 17th Street.

COMMENTS: Total cost for this contract is \$98,667.

DOCUMENT NAME: [20081106PWDR01.pdf](#) **WATERMAIN UPGRADES (0810-04)**
PROJECT NO. 3204031

APPROVED

27. Request approval of Job Order No. 2 with ForeSite Design and Construction, Inc., for the construction of a restroom building at Tempe Beach Park, project contingency and authorization to spend funds from Rio Salado Capital Improvement Fund No. 6501731.

COMMENTS: Total amount for Job Order No. 2 is \$535,175 and the project contingency is \$50,000.

DOCUMENT NAME: [20081106PWDR02.pdf](#) **TEMPE BEACH PARK (0706-38)**

PROJECT NO. 6501755

APPROVED

28. Request award of a construction contract for renovation of local streets to Southwest Slurry Seal, Inc., and approval of an initial project contingency.

COMMENTS: Total contract amount is \$2,054,367.47 and initial contingency is \$205,000.

DOCUMENT NAME: [20081106PWDR03.pdf](#) **STREET UPGRADING-MAINT-CONSTRUCTION (0809-05) PROJECT NO. 5400743**

APPROVED

29. Request award of a construction contract with Kroll Contractors, Inc. and approval of a project contingency for a City of Tempe employee parking lot facility at Price Road and Apache Boulevard.

COMMENTS: Total amount for the contract is \$1,158,644.96 and the project contingency is \$120,000.

DOCUMENT NAME: [20081106PWDR08.pdf](#) **PARKING (0503-19) PROJECT NO. 6003021**

APPROVED

30. Request approval of addendum to a contract with CPC Construction, Inc., for minor concrete improvements, on-call maintenance and emergency repairs or grading, for extension of the term for an additional twelve months.

COMMENTS: Total cost for this addendum is \$1,226,009.68, which will increase the original contract amount of \$1,151,660 to \$2,377,669.68.

DOCUMENT NAME: [20081106PWDR04.pdf](#) **STREET UPGRADING-MAINT-CONSTRUCTION (0809-05) PROJECT NO. 5401413**

APPROVED

31. Request approval of a one-year renewal of a contract with Dave Bang Associates, Inc., for the purchase and installation of park furniture.

COMMENTS: (T08-065-01) Total amount not to exceed \$300,000.

DOCUMENT NAME: [20081106fslg01.pdf](#) **PURCHASES (1004-01)**

APPROVED

32. Request approval of a one-year renewal of a contract with Arizona Refuse Sales, LLC, for truck mounted roll-off container hoists.

COMMENTS: (T07-078-01) Total amount not to exceed \$36,000.

DOCUMENT NAME: [20081106fsta02.pdf](#) **PURCHASES (1004-01)**

APPROVED

C. Ordinances and Items for Introduction/First Hearing - These items will have two public hearings before final Council action.

- *33. This is the **introduction and first public hearing** to adopt an ordinance abandoning an existing Waterline Easement located at 1666 N. McClintock Drive. **The second public hearing is scheduled for November 20, 2008.**

DOCUMENT NAME: [20081106PWCH09.pdf](#) ABANDONMENT (0901)
ORDINANCE NO. 2008.64

INTRODUCED AND HELD FIRST PUBLIC HEARING.
SECOND PUBLIC HEARING SET FOR NOVEMBER 20, 2008.

- *34. This is the **introduction and first public hearing** to amend Chapter 2, Article V, Boards, Commissions, Etc., of the Tempe City Code, by amending Section 2-181 relating to Powers and Duties; amending Div. 12, relating to Tempe Citizens' Panel for Review of Police Complaints and Use of Force by amending Sections 2-285 and 2-88; and repealing Section 2-287. **The second public hearing is scheduled for November 20, 2008.**

DOCUMENT NAME: [20081106pdsam03.pdf](#) TCC CH 2 - CITY CODE
ADMINISTRATION (0503-02) ORDINANCE NO. 2008.68

INTRODUCED AND HELD FIRST PUBLIC HEARING.
SECOND PUBLIC HEARING SET FOR NOVEMBER 20, 2008.

- *35. This is the **introduction and first public hearing** to adopt an ordinance authorizing the Mayor to execute a Land and Improvements Lease between the City and Melrose 223, LLC and Cardiff Capital LLC or their successor in interest, and a Memorandum of Lease. **The second public hearing is scheduled for November 20, 2008.**

DOCUMENT NAME: [20081106cdnr01.pdf](#) RIO SALADO MASTER PLAN (0112-07-03) ORDINANCE NO. 2008.70

INTRODUCED AND HELD FIRST PUBLIC HEARING.
SECOND PUBLIC HEARING SET FOR NOVEMBER 20, 2008.

D. Ordinances and Items for Second Hearing/Final Adoption

- *36. This is the **second public hearing** of an ordinance authorizing the Mayor to sign a Covenant and Agreement to Hold Property as One Parcel. The property is located adjacent to 4th Street and Maple Avenue.

DOCUMENT NAME: [20081106cdcm01.pdf](#) DEVELOPMENT PROJECT (0406)
ORDINANCE NO. 2008.54

APPROVED

- *37. This is the **second public hearing** for a Zoning Map Amendment, Planned Area Development

Overlay for ELEMENT HOTEL located at 919 East Apache Boulevard.

COMMENTS: (PL080167) (Bill Swank, 915 Apache LLC, property owner; Manjula Vaz, Gammage & Burnham PLC, applicant) consisting of a new 152-room hotel with ground floor commercial located on Apache Blvd. within approximately 113,800 square feet of building area, six stories in height on 2.1 acres, located at 919 East Apache Boulevard in the CSS, Commercial Shopping and Service District and R-4, Multi-Family Residential General District. The request includes the following:

ZON08007 - (Ordinance No. 2008.48) Zoning Map Amendment to be added into the (TOD) Transportation Overlay District, with existing CSS and R-4 Zoning Districts.

PAD08013 – Planned Area Development Overlay to modify the development standards to allow a maximum building height increase from 35 feet to 85 feet and reduce the minimum required parking from 188 to 142 spaces.

DOCUMENT NAME: [20081106dsrl01.pdf](#) **PLANNED DEVELOPMENT (0406)**

APPROVED

- *38. This is the **second public hearing** to adopt an ordinance abandoning existing Public Utility Easements located at 2235 E. Apache Boulevard.

DOCUMENT NAME: [20081106PWCH06.pdf](#) **ABANDONMENT (0901)**
ORDINANCE NO. 2008.55

APPROVED

- *39. This is the **second public hearing** to adopt an ordinance amending Article II of Chapter 29 of the Tempe City Code relating to Streets and Sidewalks.

DOCUMENT NAME: [20081106PWWS07.pdf](#) **STREETS AND SIDEWALKS (0503-29)**
ORDINANCE NO. 2008.56

APPROVED

- *40 This is the **second public hearing** to amend Chapter 26A of the Tempe City Code relating to Procurement.

DOCUMENT NAME: [20081106fsmg04.pdf](#) **TCC CH 26A – PROCUREMENT & MATERIALS MGT (0503-41)**
ORDINANCE NO. 2008.63

APPROVED

- *41. This is the **second public hearing** to amend Chapter 22, Article IV of the Tempe City Code, relating to Alarm Regulations by amending Section 22-77.1 relating to service fees for excessive false alarms.

DOCUMENT NAME: [20081106pdsam01.pdf](#) **TCC 22 – OFFENSES-MISCELLANEOUS**
ORDINANCE NO. 2008.62

APPROVED

E. Resolutions

42. Request approval of a resolution to amend Appendix A of the Tempe City Code relating to sewer and water development fees. A public hearing was held October 2, 2008.

COMMENTS: These proposed changes establish the sewer and water development fee rate structure with the effective date of the increases occurring February 1, 2009.

DOCUMENT NAME: [20081106mkwud01.pdf](#) MISCELLANEOUS FEES (0210-05)
RESOLUTION NO. 2008.87

APPROVED

43. Request approval of a resolution to enter into a Memorandum of Understanding with Maricopa County to accept funding from the Justice Assistance Grant (JAG) program for the purchase of Smartboards, symposiums and computers.

COMMENTS: Funding in the amount of \$23,268.30.

DOCUMENT NAME: [20081106pdsj01.pdf](#) POLICE DEPARTMENT
ADMINISTRATION (0606-02) RESOLUTION NO. 2008.100

APPROVED

44. Request approval of a resolution authorizing the Mayor to execute a Development Agreement with Clear Channel regarding the disposition of three existing billboards within the City of Tempe.

DOCUMENT NAME: [20081106cdcm02.pdf](#) COMM DEV/REDEVELOPMENT ADM
(0403-01) RESOLUTION NO. 2008.98

APPROVED

45. Request approval of a resolution amending City Code Appendix A – Schedule of Fees and Charges, Chapter 29, Streets and Sidewalks, relating to Engineering Fees.

DOCUMENT NAME: [20081106PWWS05.pdf](#) MISCELLANEOUS FEES (0210-05)
RESOLUTION NO. 2008.89

APPROVED

46. Request approval of a resolution amending City Code Appendix A – Schedule of Fees and Charges, Miscellaneous Offenses, relating to the fees for Permits for Alarms.

COMMENTS: Change the initial fee for alarm permits from \$10 to \$15 for businesses only; set an annual alarm renewal fee for businesses at \$15 and no renewal fee for residents; and change the fee structure for businesses to receive one free false alarm.

DOCUMENT NAME: [20081106pdsam02.pdf](#) MISCELLANEOUS FEES (0210-05)
RESOLUTION NO. 2008.97

APPROVED

6. PUBLIC APPEARANCES

According to the Arizona Open Meeting Law, the City Council may only discuss matters listed on this agenda. Matters discussed by the public during public appearances cannot be discussed by the City Council unless they are specifically listed on this agenda. There is a five-minute time limit per speaker. Speaker's visual aids or recorded tapes are not allowed. Comments are aired live and replayed on Tempe Channel 11.

Members of the public shall refrain from making personal, impertinent or slanderous remarks and from becoming boisterous while addressing the City Council or while attending the meeting. Unauthorized remarks from the audience, clapping, stomping of feet, yelling or any similar demonstrations are also prohibited. Violations of these rules may result in removal from the City Council meeting.

7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

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