

Minutes Formal City Council Meeting October 16, 2008

Minutes of the Formal Council Meeting of Thursday, October 16, 2008, held at 7:30 p.m. in the Harry E. Mitchell Government Center, Municipal Building, City Council Chambers, 31 E. Fifth Street, Tempe, Arizona.

COUNCIL PRESENT:

Mayor Hugh Hallman
Vice Mayor Shana Ellis
Councilmember P Ben Arredondo
Councilmember Mark W. Mitchell
Councilmember Joel Navarro
Councilmember Onnie Shekerjian
Councilmember Corey D. Woods

Mayor Hallman called the meeting to order at 7:35 p.m.

1. Vice Mayor Ellis gave the invocation.
2. Mayor Hallman led the audience in the **Pledge of Allegiance**.
3. **MINUTES**
 - A. Approval of Council Meeting Minutes

Motion by Councilmember Mitchell to approve the following **COUNCIL MEETING MINUTES**.
Second by Councilmember Woods. Motion passed unanimously on a voice vote.

 1. Council's Issue Review Session – September 18 & October 2, 2008
[20081016clrkck02.pdf](#) [20081016clrkck03.pdf](#)
 2. Council's Formal Meeting – September 18 & October 2, 2008
[20081016clrkck01.pdf](#) [20081016clrkck04.pdf](#)
 - B. Acceptance of Board & Commission Meeting Minutes

Motion by Councilmember Mitchell to accept the following **COMMITTEE & BOARD MEETING MINUTES**. Second by Councilmember Woods. Motion passed unanimously on a voice vote.

 3. Aviation Commission – September 9, 2008 [20081016tavco01.pdf](#)
 - 3a. Building Code Advisory Board Work Session – August 26 & September 23, 2008
[20081016bcab01.pdf](#) [20081016bcab02.pdf](#)
 4. Commission on Disability Concerns – October 2, 2008 [20081016cdc01.pdf](#)
 5. Community Special Events Task Force – September 23 & October 1 & 7, 2008
[20081016setf01.pdf](#) [20081016setf02.pdf](#) [20081016setf03.pdf](#)

- 5a. Enhanced Services Commission – September 10, 2008 [20081016esc01.pdf](#)
6. Historical Museum Advisory Board – September 4, 2008 [20081016csjc01.pdf](#)
7. Municipal Arts Commission – August 13, 2008 [20081016mac01.pdf](#)
8. Neighborhood Advisory Commission – September 3, 2008 [20081016nac01.pdf](#)
9. Rio Salado Advisory Commission – August 26, 2008 [20081016rsac01.pdf](#)
10. Tempe Fire Public Safety Personnel Retirement Board – September 11, 2008

4. REPORTS AND ANNOUNCEMENTS

A. Mayor's Announcements

- a. Mayor Hallman announced that Mill Avenue has received the **American Planning Association's (APA) "Greatest Streets in America" Award for being one of the 10 best streets in the nation.** This national award seriously validates the City's efforts. The City's commitment to open, walkable spaces, neighborhood parks, public transit, bike paths, historic preservation, the arts, the concept of "live/work/play", along with LEED certification development tailored to a sustainable environment led to the receipt of this award. Mill Avenue is a picturesque reminder of Tempe's rich history and an indicator of our innovative planning. More than \$2B in high rise, mixed use projects are currently in the works, with over \$4B over the next 15 years. Town Lake and the Mill Avenue District are some of the most desirable real estate in the world. The Economic Development team is one of the smallest in any valley city, and they do a phenomenal job. Community Development Manager **Chris Salomone** and Principal Architect **Mark Vinson** were present to represent all of the Tempe employees involved in the development processes to create a sustainable, interactive community with the highest quality of life for residents and businesses. He also introduced **Nancy Hormann**, Executive Director of the Mill Avenue District, and Arizona APA President **Jill Kusy** who formally presented the "Great Streets" certification.

B. Manager's Announcements

5. AGENDA

All items in these minutes identified with an asterisk (*) are **public hearing items**. All items listed on the agenda are approved with one council action. Items scheduled for Introduction/First Public Hearing will be heard but not adopted at this meeting. Items scheduled for Second Public Hearing/Final Adoption will be voted upon at this meeting.

Mayor Hallman announced consideration of the **AGENDA**.

Motion by Councilmember Arredondo to approve the Agenda as amended (Items #24, #30, #51 and #55 were removed for separate consideration). Second by Councilmember Woods. Motion passed on a roll call vote 7-0.

A. Miscellaneous Items

11. Approved the Report of Claims Paid to be filed for audit for the month of September, 2008.
COMMENTS: A copy of the detailed claims report may be obtained by contacting the City Clerk's Office.

12. Approved **Contract #2008-200**, a Memorandum of Understanding between the City of Tempe, City of Mesa and Valley Metro Rail, Inc. (METRO) for the purpose of providing safety, security and fare enforcement for the METRO LRT system within the City of Tempe.
DOCUMENT NAME: [20081016pwjism01.pdf](#) **TRANSPORTATION PLANNING (1101-01)**

13. Approved **Contract #2008-201**, a Civic Ventures/AmeriCorps grant to provide the Experience Corps early literacy program in selected Tempe Elementary School District #3 schools.
COMMENTS: The grant is for \$35,812 for the 2008-09 school year.
DOCUMENT NAME: [20081016cskb03.pdf](#) **COMMUNITY SERVICE ADM (0701-01)**

14. Approved **Contract #2005-279C**, Amendment No. 3 to the Intergovernmental Agreement with the Arizona Department of Health Services for the Arizona Nutrition Network Local Incentive Award.
COMMENTS: The award is in the amount of \$286,805 for the Kid Zone Enrichment Program for the 2008/2009 federal fiscal year (Oct – Sept).
DOCUMENT NAME: [20081016cskb02.pdf](#) **COMMUNITY SERVICE ADM (0701-01)**

15. Approved **Contract #2008-202**, License between the Salt River Project Agricultural Improvement and Power District and the City of Tempe for use of a portion of the Western Canal property for the Western Canal Multi-Use Path.
COMMENTS: No fees are assessed to the City.
DOCUMENT NAME: [20081016PWWWS15.pdf](#) **SALT RIVER PROJECT (SRP) (0113-03) PROJECT NO. 6000421**

16. Approved **Contract #2008-203**, a License, and **Contract #2008-204**, a Consent to Use Easement Agreement, between the Salt River Project Agricultural Improvement and Power District and the City of Tempe for use of a portion of the Western Canal property for the Well #13 Equipping project.
COMMENTS: An annual license fee in the sum of Five Hundred Dollars (\$500.00) per License Year shall be waived in consideration of use of the well water into the canal system.
DOCUMENT NAME: [20081016PWWWS16.pdf](#) **SALT RIVER PROJECT (SRP) (0113-03) PROJECT NO. 3200015**

17. Approved the expenditure of funds under the existing Intergovernmental Agreement with the City of Phoenix for hazardous material and technical rescue training.
COMMENTS: (C97-179) Total expenditure of funds for this agreement shall not exceed \$100,000.
DOCUMENT NAME: [20081016fslg06.pdf](#) **PURCHASES (1004-01)**

18. Approved an emergency purchase to Somerset Landscape and Urban Forest Tree Care for Citywide tree services to remedy the 400 trees uprooted by a severe monsoon storm which occurred during the week of August 25, 2008.
COMMENTS: (Emergency Procurement #09-051) Total cost of this purchase shall not exceed \$75,000.

DOCUMENT NAME: [20081016fslq05.pdf](#) PURCHASES (1004-01)

19. Authorized the transfer of funds for the installation of artwork along the Rio Salado south bank multi-use path.

COMMENTS: Request authorization to transfer funds in the amount of \$289,431.78.

DOCUMENT NAME: [20081016PWDR12.pdf](#) RIO SALADO PARK (0706-32)
PROJECT NO. 60-996984

- *20. Held a public hearing and recommended the approval of a Series 10 beer and wine store liquor license for Sumalee LLC dba Thai Elephant Bistro, 815 West University Drive, #108.

COMMENTS: Kevin Rawlinson is the Agent for this application.

DOCUMENT NAME: [20081016LIQ01.pdf](#) LIQ LIC (0210-02)

- *21. Held a public hearing and recommended the approval of a Series 12 restaurant continuation liquor license for Casey Moore's LTD, dba Casey Moore's Oyster House, 850 South Ash Avenue.

COMMENTS: A restaurant continuation liquor license allows the applicant to continue to sell liquor during the application review process. Gavin Rutledge is the Agent for this application.

DOCUMENT NAME: [20081016LIQ03.pdf](#) LIQ LIC (0210-02)

B. Award of Bids/Contracts

22. Awarded Contract #2008-205, three-year contracts with two, one-year renewal options to Work of Art Painting and Fabiani Painting & Decorating for street light, traffic signal and miscellaneous outdoor structure painting.

COMMENTS: (09-038) Total cost for these contracts shall not exceed \$750,000 during the initial contract period.

DOCUMENT NAME: [20081016fsta03.pdf](#) PURCHASES (1004-01)

23. Approved Contract #2008-206, a two-year sole source contract with Knowledge Computing Corporation for the purchase of COPLINK Node and associated software applications to integrate the Police Department's current and future records management systems into the Mesa Police Department's East Valley Fusion Center.

COMMENTS: (Sole Source #09-050) Total cost for this contract shall not exceed \$59,946 during the contract period.

DOCUMENT NAME: [20081016fst08.pdf](#) PURCHASES (1004-01)

24. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**

Awarded Contract #2008-207, a three-year contract with two, one-year renewal options to Sierra Auction Management, Inc., for auction services to dispose of City surplus property including vehicles, equipment and police confiscated property.

COMMENTS: (RFP 09-030) Total value of this contract is estimated at \$200,000 that will be paid from sales commissions.

Councilmember Shekerjian asked that this item be removed for separate consideration. She asked staff whether or not

this contract precludes the City from moving forward in using technology to find other ways in which to auction some of the surplus property.

Michael Greene responded that this contract is a non-exclusive contract, so the City would be able to auction any item in any other way. He agreed that the City could look at electronic auctions.

Councilmember Shekerjian added that her technology committee may look at ways to do this rather than using outside organizations.

Mayor Hallman asked for clarification that the contract doesn't require the City to dispose of any property in a specific way. He asked if staff has examined other ways to dispose of used computer equipment to be more valuable to the community. There is at least one organization that supplies refurbished equipment to charities and schools.

Mr. Greene responded that staff has begun to look at ways to sell used computers, but donations to public entities could be done as well.

Councilmember Shekerjian suggested referring that item to the Sustainability Committee.

Motion by Councilmember Shekerjian to approve Item #24. Second by Councilmember Navarro. Motion passed on a roll call vote, 7-0.

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| | DOCUMENT NAME: | 20081016fsta10.pdf | PURCHASES (1004-01) |
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25. Awarded **Contract #2008-208**, a four-year, sole source contract to Sagem Morpho, Inc., for a service maintenance agreement for Police Department fingerprint equipment.
COMMENTS: (Sole Source 09-053) Total cost of the contract shall not exceed \$155,000.
DOCUMENT NAME: [20081016fsta09.pdf](#) **PURCHASES (1004-01)**
26. Awarded **Contract #2008-209**, a three-year contract with two, one-year renewal options to Phoenix Fence Company for fencing repair, installation and rental.
COMMENTS: (RFP09-040) Total cost for this contract shall not exceed \$500,000 during the initial contract period.
DOCUMENT NAME: [20081016fsta12.pdf](#) **PURCHASES (1004-01)**
27. Awarded **Contract #2008-210**, a one-year contract with four, one-year renewal options to Aquatic Consulting and Testing for water quality sampling, testing, aquatic weed control and insect monitoring services at Tempe Town Lake and Indian Bend Wash Habitat.
COMMENTS: (RFP #09-043) Total cost for this contract shall not exceed \$350,000 during the initial contract period.
DOCUMENT NAME: [20081016fst16.pdf](#) **PURCHASES (1004-01)**
28. Awarded **Contract #2008-211**, three-year contracts with three, one-year renewal options to Gateway Community College, Rio Salado College and Western International University for educational programs including Associates, Bachelors and Masters degree programs.
COMMENTS: (08-121) Total cost for these contracts shall not exceed \$1,200,000 during the initial contract period.

DOCUMENT NAME: [20081016fsta14.pdf](#) PURCHASES (1004-01)

29. Awarded **Contract #2008-212**, a two-year contract with three, one-year renewal options to West Coast Arborists, Inc., for tree trimming services for the downtown trees. This contract may also be used for other City-wide tree trimming services.

COMMENTS: (RFP #09-041) Total cost for this contract shall not exceed \$340,000 during the initial contract period.

DOCUMENT NAME: [20081016fslq04.pdf](#) PURCHASES (1004-01)

30. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**

Awarded **Contract #2008-213**, three-year contracts with two, one-year renewal options to Kay Automotive (dba One Source Distributing); Pro Auto Parts; Five Star Ford; North Valley Motorsports; Valley Truck & Trailer, USD, Inc.; Tri City Automotive Warehouse; Carquest of Tempe; Mighty Auto Parts of Arizona; Turbo & Electric; FleetPride, Inc.; Brown and Brown Chevrolet; Arizona Rubber Co.; Factory Motor Parts; American Filter & Equipment Corporation; The Lighthouse, Inc.; Auto Safety House; RLS Services, Inc.; McCandless of Arizona; Courtesy Chevrolet; Arizona Refuse Sales; Arizona Emergency Products; Watkins Specialist; Performance Plus Distributing, Inc.; Tempe Power Equipment, LLC.; Simpson Norton Corporation; and NAPA Auto Parts for vehicle and equipment repair parts.

COMMENTS: (RFP 09-032) Total cost for these contracts shall not exceed \$3,500,000 during the initial contract period.

Mayor Hallman asked for this item to be removed for separate consideration so that he could declare a conflict of interest and Vice Mayor Ellis conducted the vote.

Motion by Councilmember Mitchell for approval of Item #30. Second by Councilmember Arredondo. Motion passed on a roll call vote, 6-0, with Mayor Hallman abstaining.

DOCUMENT NAME: [20081016fsta13.pdf](#) PURCHASES (1004-01)

31. Approved **Contract #2008-136A**, job order no. 1 for installation and repair of bus shelters with SDB, Inc., and approved a project contingency.

COMMENTS: Total amount for job order no. 1 is \$166,224.00 and the initial project contingency is \$13,300.

DOCUMENT NAME: [20081016PWDR01.pdf](#) BUS BENCHES/SHELTERS/BUS BAYS (1107) PROJECT NO. 6009011

32. Awarded **Contract #2008-214**, a professional services design contract with CSA Engineering for water line upgrades and replacement along Margo and Geneva Drives.

COMMENTS: Total cost for this contract shall not exceed \$47,372.

DOCUMENT NAME: [20081016PWDR02.pdf](#) WATERMAIN UPGRADES (0810-04) PROJECT NO. 3209331

33. Awarded **Contract #2008-215**, a professional services design contract with Water Works Engineering for water line upgrades and replacement along Orange and Lemon Streets.

COMMENTS: Total cost for this contract shall not exceed \$114,650.

DOCUMENT NAME: [20081016PWDR03.pdf](#) WATERMAIN UPGRADES (0810-04)
PROJECT NO. 3209321

34. Awarded **Contract #2008-216**, a professional services design contract with Burns & McDonnell Engineering for water line upgrades and replacement along 22nd and 24th Streets between Hardy and Roosevelt Drives.

COMMENTS: Total cost for this contract shall not exceed \$87,482.

DOCUMENT NAME: [20081016PWDR04.pdf](#) WATERMAIN UPGRADES (0810-04)
PROJECT NO. 3209341

35. Approved **Contract #2008-136B**, job order no. 2 with SDB, Inc., for the construction of a temporary parking lot on the southeast corner of 7th Street and Myrtle Avenue and approved a project contingency.

COMMENTS: Total amount for job order no. 2 is \$44,736 and the project contingency is \$5,000.

DOCUMENT NAME: [20081016PWDR06.pdf](#) PARKING (0503-19) PROJECT NO. 6709101

36. Awarded **Contract #2008-217**, a construction manager at risk (CMAR) contract with PCL Construction, Inc., for construction services, awarded **Contract #2008-218**, a construction management contract with Wilson Engineers, approved **Contract #2001-150F**, an addendum to a design services contract with Carollo Engineers; and approved a project contingency, all related to phase three of the water quality improvements at the Johnny G. Martinez Water Treatment Plant.

COMMENTS: Total amount for the construction services contract is \$20,644,956, total amount for the construction management contract is \$1,157,870, total amount for the design services contract addendum is \$1,238,907, and the amount of the project contingency is \$1,000,000.

DOCUMENT NAME: [20081016PWDR07.pdf](#) JOHNNY G. MARTINEZ WATER TREATMENT PLANT (0811-03) PROJECT NO. 3201091

37. Awarded **Contract #2008-219**, a construction contract for rehabilitation of neighborhood streets to Sunland Asphalt and approval of a project contingency.

COMMENTS: Total cost for the construction contract is \$1,412,415.08 and the project contingency shall not exceed \$141,000.

DOCUMENT NAME: [20081016PWDR05.pdf](#) STREET UPGRADING-MAINT-CONSTRUCTION (0809-05) PROJECT NO. 5405001

38. Awarded **Contract #2008-220**, a construction contract for cape seal pavement to International Surfacing Systems and approval of a project contingency.

COMMENTS: Total cost for the construction contract is \$463,535.30 and the project contingency shall not exceed \$46,000.

DOCUMENT NAME: [20081016PWDR09.pdf](#) STREET UPGRADING-MAINT-CONSTRUCTION (0809-05) PROJECT NO. 5409121

39. Approved the increase of the contract amount with Water Movers Inc., for rental of pumps and

supply of fuel to bypass pump nuisance water from upstream of Tempe Town Lake.

COMMENTS: (T07-127-01) Increase in the amount of \$250,000 from \$265,000 to \$515,000.

DOCUMENT NAME: [20081016fslg01.pdf](#) **PURCHASES (1004-01)**

40. Approved a one-year contract renewal with The Segal Company for employee benefits consultant services.

COMMENTS: (T05-053-01) Total value of this contract will not to exceed \$125,000.

DOCUMENT NAME: [20081016fsta02.pdf](#) **PURCHASES (1004-01)**

41. Approved the utilization of a State of Arizona contract with Brown Evans Distributing Company for vehicle lubricants.

COMMENTS: (SCC070001) Total cost of this contract shall not exceed \$90,000.

DOCUMENT NAME: [20081016fsta15.pdf](#) **PURCHASES (1004-01)**

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

- *42. Introduced and held the **first 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. **The second public hearing is scheduled for November 6, 2008.**

DOCUMENT NAME: [20081016cdcm01.pdf](#) **DEVELOPMENT PROJECT (0406)**
ORDINANCE NO. 2008.54

- *43. Introduced and held the **first public hearing** for a Zoning Map Amendment, Planned Area Development Overlay for ELEMENT HOTEL located at 919 East Apache Boulevard. **The second public hearing is scheduled for November 6, 2008.**

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: [20081016dsrl01.pdf](#) **PLANNED DEVELOPMENT (0406)**

- *44. Introduced and held the **first public hearing** to adopt an ordinance abandoning existing Public Utility Easements located at 2235 E. Apache Boulevard. **The second public hearing is scheduled for November 6, 2008.**

DOCUMENT NAME: [20081016PWCH10.pdf](#) **ABANDONMENT (0901)**
ORDINANCE NO. 2008.55

- *45. Introduced and held the **first public hearing** to adopt an ordinance amending Article II of Chapter 29 of the Tempe City Code relating to Streets and Sidewalks. **The second public hearing is scheduled for November 6, 2008.**
DOCUMENT NAME: [20081016PWWWS11.pdf](#) **STREETS AND SIDEWALKS (0503-29) ORDINANCE NO. 2008.56**
- *46. Introduced and held the **first public hearing** to amend Chapter 26A of the Tempe City Code relating to Procurement. **The second public hearing is scheduled for November 6, 2008.**
DOCUMENT NAME: [20081016fsmg17.pdf](#) **TCC CH 26A – PROCUREMENT & MATERIALS MGT (0503-41) ORDINANCE NO. 2008.63**
- *47. Introduced and held the **first 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. **The second public hearing is scheduled for November 6, 2008.**
DOCUMENT NAME: [20081016pdsam01.pdf](#) **TCC 22 – OFFENSES-MISCELLANEOUS ORDINANCE NO. 2008.62**

D. Ordinances and Items for Second Hearing/Final Adoption

- *48. Held the **second public hearing** and approved ORDINANCE NO. 2008.51 authorizing the granting of an electrical Utility Easement located at 117 E. 5th Street to Arizona Public Service by the City of Tempe.
DOCUMENT NAME: [20081016PWCH14.pdf](#) **EASEMENTS (0904-02)**
- *49. Held the **second public hearing** and approved ORDINANCE NO. 2008.50 abandoning an existing Sewer Line Easement located at 904 E. Secretariat Drive.
DOCUMENT NAME: [20081016PWCH13.pdf](#) **ABANDONMENT (0901)**
- *50. Held the **second public hearing** and approved **with conditions** a General Plan Amendment, Zoning Map Amendment, and a Planned Area Development Overlay for THE ELEMENT @ ASU, located at 1949 East University Drive.
COMMENTS: (PL080041) (JLB Tempe LLC, property owner; Angie Rawie, JLB Partners, applicant) consisting of a new 215 unit student housing complex with 10 live/work units, including an internal parking garage. The building consists of 4 stories within approximately 132,000 s.f. of total building area on 6.35 acres, located at 1949 East University Drive in the R-4(PAD) District. The request includes the following:
GEP08004 – (Resolution No. 2008.80) General Plan Land Use map amendment from “Residential” to “Mixed-Use”, a Projected Residential Density map amendment from “Medium to High Density” (up to 25 du/ac) to “High Density” (greater than 25 du/ac).
ZON08006 – (Ordinance No. 2008.46) Zoning Map Amendment from R-4(PAD), Multi-Family Residential General District to MU-4, Mixed-Use High Density District.
PAD08012 – Amended Planned Area Development Overlay to modify the development standards to allow for a building height increase from 46 feet to 60 feet; reduce front yard building setback from 20 feet to 5 feet; and a density increase from 25 units/acre to 35.4 units/acre. The following conditions were also approved:

1. The property owner(s) shall sign a waiver of rights and remedies pursuant to A.R.S. §12-1134 that may now or in the future exist, releasing the City from any potential claims under Arizona's Private Property Rights Protection Act, which shall be submitted to the Development Services Department no later than November 17, 2008, or the General Plan Amendment Zoning Map Amendment and Amended Planned Area Development Overlay approval shall be null and void.
2. A building permit shall be obtained on or before October 16, 2010, or the zoning of the property may revert to that in place at the time of application, subject to a public hearing.
3. The Planned Area Development Overlay shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Development Services Department prior to issuance of building permits.
4. The PAD sets forth the proposed modified standards with a maximum allowable building height of 60'-0", minimum front yard building setback of 5'-0" and a maximum density of 35.4 dwelling units per acre of the site area. Any further reduction or increase in the standards shall require approval of an amended planned area development by the original decision-making body.
5. The maximum number of beds for this project shall not exceed six hundred forty (640) as identified on the plans.

DOCUMENT NAME: [20081016dsr102.pdf](#) PLANNED DEVELOPMENT (0406)

*51.

THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.

Held the **second** hearing and approved **with conditions** a General Plan Major Amendment for ELEMENTS ART CAMPUS PHASE 2 located at 1102 W. Rio Salado Parkway.

COMMENTS: (PL080239) (Nancy Ryan, City of Tempe, property owner and applicant) consisting of a General Plan Major Amendment of approximately 40.64 acres of land: 12.64 acres referred to as the Arts Park Phase 1 and 28 acres referred to as Phase 2 located at 1102 W. Rio Salado Parkway in the R1-6, Single Family Residential, MU-4, Mixed-Use High Density and GID, General Industrial districts. The request includes the following:

GEP08003 – (RES No 2008.72) General Plan Major Land Use Map Amendment to change:

4.5 acres from Public Recreational/Cultural to Mixed-Use (Phase 1)

2.57 acres from Public Recreational/Cultural to Industrial (Phase 1)

5.57 acres from Public Open Space to Industrial (Phase 1)

28 acres from Public Open Space to Commercial (Phase 2)

This request also includes a Density Map Amendment to change 4.5 acres from 0 to up to 3 dwelling units per acre.

The following conditions were also approved:

1. The property owner(s) shall sign a waiver of rights and remedies pursuant to A.R.S. §12-1134 that may now or in the future exist, releasing the City from any potential claims under Arizona's Private Property Rights Protection Act, which shall be submitted to the Development Services Department no later than November 15, 2008, or the General Plan Amendment Zoning Map Amendment and Amended Planned Area Development Overlay approval shall be null and void.
2. An amended Subdivision Plat is required for this development and shall be recorded prior to issuance of building permits.
3. The Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Development Services Department on or before November 16, 2009. Failure to record the plan within one year of City Council approval shall make the plan null and void.
4. *This request is specific to this proposal as outlined in any associated development disposition agreement and would revert to the previous zoning, subject to a public hearing.*

PUBLIC HEARING

Julie Lemmon, Tempe. She owns an office space at 1095 West Rio Salado Parkway, #102, which is directly across the street from the proposed development. She supports development. She is concerned, however, about the industrial zoning proposed for the parcel. She understands that tonight this is for the plan amendment, but there will be zoning following, and it is a permanent industrial zoning of 5.57 acres. The documents show that the City is the current owner and it is not clear whether the City will permanently own it or whether it will be leased or sold. She asked that there be some documentation of the City's intent to control future industrial uses. Could the City limit the industrial zoning to future arts uses only, or it could be a reversion with the industrial use going away if the proposed arts campus uses fail to thrive?

Chris Anaradian presented a proposed stipulation to be added to this action as follows: "This request is specific to this proposal as outlined in any associated development disposition agreement and would revert to the previous zoning, subject to a public hearing."

Andrew Ching asked if this speaks strictly about the General Plan amendment or the future re-zoning.

Mr. Anaradian responded that this speaks to the zoning request. The General Plan amendment informs zoning decisions, and they would be subject to future public hearings. This record would be part of that hearing as well.

Mr. Ching added that any future re-zoning would require a public hearing anyway.

Mayor Hallman stated that this issue also arose in the first hearing, and it is important that the community understands that the industrial usage is necessary because the proposed uses are industrial. Ultimately, because the City controls the property, the addition of the following stipulation would be a sensible addition to the record:

"This request is specific to this proposal as outlined in any associated development disposition agreement and would revert to the previous zoning, subject to a public hearing."

Motion by Councilmember Shekerjian for approval of Item #51 as amended with the addition of the stipulation as stated. Second by Vice Mayor Ellis. Motion passed on a roll call vote, 7-0.

DOCUMENT NAME: [20081016dsdk01.pdf](#) PLANNED DEVELOPMENT (0406)

E. Resolutions

52. Approved RESOLUTION NO. 2008.91 establishing fees for Parks and Recreation programs and services.

DOCUMENT NAME: [20081016prmr01.pdf](#) MISCELLANEOUS FEES (0210-05).

53. Approved RESOLUTION NO. 2008.94 to enter into **Contract #2008-221**, an Intergovernmental Agreement (IGA) between the Cities of Chandler, Mesa, Scottsdale, Tempe, and the town of Gilbert, as member agencies in the AZLink Eastern Region, to share law enforcement information.

DOCUMENT NAME: [20081016pdsam02.pdf](#) POLICE DEPARTMENT
ADMINISTRATION (0606-02)

54. Approved RESOLUTION NO. 2008.95 to enter into **Contract #2008-222**, a 10-year Intergovernmental Agreement (IGA), with automatic 10-year renewal terms, between the member agencies of the Regional Wireless Cooperative (RWC) and the City of Tempe to plan, design, construct, operate, maintain and finance a regional interoperable radio communications network.

COMMENTS: Total cost for this agreement is estimated at \$9,002,000 for the initial ten-year term.

DOCUMENT NAME: [20081016ITDH01.pdf](#) COMMUNICATION (1002)

55. ***THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.***

Approved RESOLUTION NO. 2008.96 authorizing the Mayor to execute **Contract #2008-223**, an Intergovernmental Agreement between the City of Tempe and Salt River Pima-Maricopa Indian Community ("SRPMIC") for disbursement of a portion of its gaming proceeds for services which benefit the public.

Mayor Hallman asked for this item to be removed so he could declare a conflict of interest and Vice Mayor Ellis conducted the vote.

Motion by Councilmember Mitchell to approve Item #55. Second by Councilmember Woods. Motion passed on a roll call vote, 6-0, with Mayor Hallman abstaining.

DOCUMENT NAME: [20081016graw01.pdf](#) STATE LEGISLATURE (0107-06)

6. PUBLIC APPEARANCES

No one came forward to speak.

7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

- Councilmember Arredondo asked the City Manager to relay congratulations to the Fire and Police Departments on their fine work in putting out a fire on the historical side of town in less than 6 minutes. He further asked the City Manager to work with staff to ensure that everyone is getting the most accurate information on the Light Rail Grand Opening.
- Councilmember Shekerjian stated that today she assisted in hosting the Tempe YMCA Youth Leadership Class No. 9, composed of sophomores and juniors in high school. Several councilmembers spoke to the group and the group was given a tour of City Hall. She also announced that on Saturday the City will host the annual GAIN night which provides a great opportunity to get out and get to know your neighbors.
- Councilmember Navarro announced that Esquer Park will be dedicated on Saturday, the 18th, at 1 p.m. He urged everyone to take part in the celebration.
- Councilmember Mitchell congratulated Councilmember Arredondo who will be recognized for his longtime support of minorities and women in the construction industry at the 11th Annual Associated Minorities Contractors of America awards banquet on October 25th.

Meeting adjourned at 8:15 p.m.

I, Jan Hort, the duly-appointed City Clerk of the City of Tempe, Maricopa County, Arizona, do hereby certify the above to be the minutes of the Formal City Council meeting of October 16, 2008, by the Tempe City Council, Tempe, Arizona.

Hugh Hallman, Mayor

ATTEST:

Jan Hort, City Clerk

Dated this _____ day of _____, 2008.