

## Minutes Formal City Council Meeting April 9, 2009

Minutes of the Formal Council Meeting of Thursday, April 9, 2009, 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 7:42 p.m.*

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

1. Council's Executive Session – March 24 & 26, 2009
2. Council's Issue Review Session – March 26, 2009 [20090409clrkck03.pdf](#)
3. Council's Formal Meeting – March 26, 2009 [20090409clrkck01.pdf](#)
4. Council's Special Five-Year Financial Planning Session – March 24, 2009  
[20090409clrkck02.pdf](#)
5. Council's Community Sustainability Committee – January 14, 2009 [20090409csc01.pdf](#)
6. Council's Code Sustainability Subcommittee – February 25, 2009 [20090409css01.pdf](#)
7. Council's Economic Sustainability Subcommittee – March 11, 2009 [20090409ess02.pdf](#)
8. Council's Education Partnerships Committee – March 16, 2009 [20090409ep01.pdf](#)
9. Council's Housing Committee – March 23, 2009 [20090409chc01.pdf](#)
10. Council's Technology Sustainability Subcommittee – February 25, 2009  
[20090409tss01.pdf](#)

**B. Acceptance of Board & Commission Meeting Minutes**

Motion by Councilmember Woods to accept the following **COMMITTEE & BOARD MEETING**

**MINUTES.** Second by Councilmember Shekerjian. Motion passed unanimously on a voice vote.

11. Double Butte Cemetery Advisory Committee – January 21, 2009 [20090409dbac01.pdf](#)
12. Human Relations Commission – February 10, 2009 [20090409hrc01.pdf](#)
13. Neighborhood Advisory Commission – February 4, 2009 [20090409nac01.pdf](#)
14. Rio Salado Advisory Commission – January 27 & February 24, 2009 [20090409rsac01.pdf](#)  
[20090409rsac02.pdf](#)
15. Transportation Commission – January 13, 2009 [20090409tc01.pdf](#)
16. Transportation Commission – Multi-modal Planning & Project Review – January 14, 2009 [20090409tc03.pdf](#)
17. Transportation Commission – Public Involvement/Marketing Committee – January 26 & March 2, 2009 [20090409tc04.pdf](#) [20090409tc05.pdf](#)

#### 4. REPORTS AND ANNOUNCEMENTS

##### A. Mayor's Announcements

- a. Mayor Hallman stated that the **Tempe Academy Drum and Bugle Corps** has been performing outside the Council Chambers this evening. The Academy is a nonprofit organization that makes its home in Tempe. The Corps rehearses at the Tempe Sports Complex at Hardy and University, and under the leadership of its Executive Director, Mark Richardson, has 150 members and competes in world class competitions each summer. Since 2001, the Academy has represented the City of Tempe in dozens of coast-to-coast competitions. The Corps continues to provide and contribute to several events in Tempe, most recently with the community Memorial Day celebration at Tempe Town Lake which is scheduled to launch on May 25<sup>th</sup>. The Academy is committed to developing leaders of tomorrow and the organization continues to draw support from the community in order to make its activities available and affordable to any young student who desires to achieve great things. He introduced **Mark Richardson** who expressed thanks on behalf of the Corps. Their mission is "Building Great People through Great Performances" and they are proud to make Tempe their home.
- b. Mayor Hallman announced that **April is Fair Housing Month** and Tempe supports both affordable and workforce housing to ensure that the community remains diverse in all areas and welcomes people from all levels of the socio-economic spectrum. Tempe has formed the first Housing Trust Fund in the Valley and the seed money for that fund has been generated through agreements with development partners over the past four years and illustrates the City's great public/private partnerships which are one of the great characteristics of this community. Funds can be used by qualified applicants for new construction, emergency repairs, rental assistance, adaptive re-use, weatherization, and work to reduce utility costs. The Housing Committee was previously chaired by Vice Mayor Ellis and is currently chaired by Councilmember Woods. He introduced Housing Services Coordinator **Liz Chavez** and Homeless Coordinator **Theresa James** who accepted a proclamation designating April, 2009, as Fair Housing Month in Tempe, Arizona.
- c. Mayor Hallman announced that for the fourteenth year, tree-friendly Tempe has received the Arbor Day Foundation's **Tree City USA** certification. Revitalizing the "Trees for Tempe" program this past fall enabled the City to meet the requirements for this prestigious award, even after losing more than 400 of the community's trees during last summer's monsoon storms. To observe Arbor Day and celebrate the success of the "Trees for Tempe" program, four trees will be planted at Scales Technical Academy on April 24<sup>th</sup>. This will bring the total trees planted since October 2008 to 401. All of the native trees were donated by generous sponsors. He

recognized **Robson Communities** and SRP representatives **Hassan Elsaad** and **Sue Hahn** who helped support the program. He read a proclamation designating **April 24, 2009, as Arbor Day** in Tempe. He also thanked Parks and Recreation Manager **Mark Richwine** and Parks and Recreation Deputy Manager **Sam Thompson** who have been coordinating this entire program.

- d. Mayor Hallman announced that in honor of **Cesar Chavez Day**, the Diversity Department coordinated a coloring contest in partnership with Thew School using the theme “Cesar Chavez had a calling, what’s yours?” They asked children to draw a picture representing Cesar Chavez’s life and work and representing their future of public service calling. The message to the children is to educate, honor and celebrate the life of Cesar Chavez and to encourage them to think about their calling and consider a future as a public servant. Winners have received a \$25 Target gift card. Diversity Manager **Rosa Inchausti** and Deputy Manager **Ginny Belousek** acknowledged the winners:

Kindergarten: Pricila Escarcega and May Tran  
1<sup>st</sup> Grade: David Cisneros and Alexis Rosales  
2<sup>nd</sup> Grade: Ivette Ibanez and Czarina Cisneros  
3<sup>rd</sup> Grade: Jazmyn Ortiz and Olivia Whitehorse  
4<sup>th</sup> Grade: Miguel Fernandez and Enrique Porter  
5<sup>th</sup> Grade: Jocelyne Gamez and Adriana Flores

B. Manager’s Announcements – None.

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 Woods to approve the Agenda as amended (Items #25, #26, #31, #32, and #36 were removed for separate consideration). Second by Councilmember Navarro. Motion passed on a voice vote 7-0.**

A. Miscellaneous Items

- \*18. Held a **public hearing** to obtain citizen input regarding the allocation of additional monies for the Community Development Block Grant (CDBG) and Homeless Prevention and Rapid Re-Housing Programs from the American Recovery and Reinvestment Act of 2009.  
**DOCUMENT NAME:** [20090409cdch01.pdf](#) **COMMUNITY DEVELOPMENT BLOCK GRANT/HOMELESS PREVENTION (0207-30)**
- \*19. Held a public hearing and recommended the approval of a Series 12 restaurant liquor license for Hippies Cove LLC dba Hippies Cove, 414 South Mill Avenue, #118.  
**COMMENTS:** John Newell is the Agent for this application.  
**DOCUMENT NAME:** [20090409LIQ01.pdf](#) **LIQ LIC (0210-02)**

- \*20. Held a public hearing and recommended the approval of a Series 10 beer and wine store liquor license for EV Wash Holdings LLC dba Breaktime I, 616 West Baseline Road.  
**COMMENTS:** Randy Nations is the Agent for this application.  
**DOCUMENT NAME:** [20090409LIQ02.pdf](#) LIQ LIC (0210-02)
- \*21. Held a public hearing and recommended the approval of a Series 10 beer and wine store liquor license for Nogales LCT, LLC dba Breaktime III, 7700 South Autoplex Loop.  
**COMMENTS:** Randy Nations is the Agent for this application.  
**DOCUMENT NAME:** [20090409LIQ03.pdf](#) LIQ LIC (0210-02)

B. Award of Bids/Contracts

22. Awarded **Contract #2009-57**, a professional services contract with Brown and Caldwell, Inc., for the rehabilitation of the Southern Avenue Interceptor (SAI).  
**COMMENTS:** Total cost for this contract is \$360,981.  
**DOCUMENT NAME:** [20090409PWTG01.pdf](#) WASTEWATER MANAGEMENT (0812-01)  
PROJECT NO. 3200585
23. Awarded **Contract #2009-58**, a construction manager at risk (CMAR) contract with Hunter Contracting Company for construction services, awarded **Contract #2009-59**, a construction management contract with CMX, and approved a project contingency, all related to modifications to the Johnny G. Martinez Water Treatment Plant.  
**COMMENTS:** Total amount for the construction services contract is \$2,124,157.36, total amount for the construction management contract is \$253,113.57, and the amount of the project contingency is \$212,000.  
**DOCUMENT NAME:** [20090409PWTG02.pdf](#) JOHNNY G. MARTINEZ WATER TREATMENT PLANT (0811-03) PROJECT NO. 3201091
24. Awarded **Contract #2009-60**, a professional services design contract with Water Technology, Inc., for the Kiwanis Park Center wave pool equipment and filtration renovations.  
**COMMENTS:** Total cost for this contract is \$99,180.  
**DOCUMENT NAME:** [20090409PWTG05.pdf](#) KIWANIS COMMUNITY PARK (0706-25)  
PROJECT NO. 6305081
25. ***THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.***  
Awarded **Contract #2009-61**, a one-year contract with four one-year renewal options to CIGNA Dental Health, Inc., for a dental health maintenance organization (HMO) plan for eligible City employees and their dependents.  
**COMMENTS:** (RFP 09-058) Total amount not to exceed \$80,000 during the initial one-year contract period.

Mayor Hallman declared a conflict of interest and Item #25 and #26 were considered with one motion.

**DOCUMENT NAME:** [20090409sta01.pdf](#) PURCHASES (1004-01)

26. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**  
Approved a one-year renewal of a contract with CIGNA Health Care for a health maintenance organization (HMO) medical plan for City employees, their families and retirees.  
**COMMENTS:** (T97-001-01) Total amount not to exceed \$5,000,000.

Mayor Hallman declared a conflict of interest and Vice Mayor Ellis asked for a motion.

**Motion by Councilmember Shekerjian to approve Items #25 and #26. Second by Councilmember Navarro. Motion passed on a voice vote, 6-0, with Mayor Hallman abstaining.**

**DOCUMENT NAME:** [20090409fsta06.pdf](#) **PURCHASES (1004-01)**

27. Awarded **Contract #2009-62**, a two-year contract with three one-year renewal options to Coyote Tire Retreading, Inc., for tire retreading services.  
**COMMENTS:** (RFP 09-093) Total amount not to exceed \$250,000 during the initial two-year contract period.  
**DOCUMENT NAME:** [20090409fsta02.pdf](#) **PURCHASES (1004-01)**

28. DELETED

29. Approved a one-year renewal of a contract with Keller Electrical Industries, Inc., (formerly Keller Equipment Company, Inc.) for the maintenance, repair, and purchase of electric motors for the Water Utilities Department.  
**COMMENTS:** (T08-061-01) Total amount not exceed \$500,000.  
**DOCUMENT NAME:** [20090409fsts04.pdf](#) **PURCHASES (1004-01)**

30. Approved the utilization of a one-year City of Chandler contract with Bank of America for procurement card services for the purchase of products and services.  
**COMMENTS:** (MS5-946-2124-01) Total procurement card expenditure volume under this contract shall not exceed \$10,000,000.  
**DOCUMENT NAME:** [20090409fsts03.pdf](#) **PURCHASES (1004-02)**

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

- \*31. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**  
Introduced and held the **first public hearing** for a General Plan Land Use Map Amendment, Zoning Map Amendment, and Planned Area Development Overlay for LEMON MIXED USE DEVELOPMENT, located at 919, 1011, and 1019 East Lemon Street. **The second public hearing is scheduled for April 23, 2009.**  
**COMMENTS:** (PL080449) (Rick Kafka, Colgate Tempe 268, LLC, property owner; Manjula Vaz, Gammage & Burnham, applicant) consisting of three (3) mixed use buildings of commercial and residential totaling approximately 694,000 s.f. of total building, including 478 units and approx. 16,000 s.f. of commercial area on approx. 5.73 acres, located at 919, 1011, and 1019 East Lemon Street, in the R-4, Multi-Family Residential District and CSS, Commercial Shopping and Services District and in the TOD, Transportation Overlay District (corridor). This request includes

the following:

**GEP09001 (Resolution No. 2009.15)** – General Plan Land Use Map Amendment from “Residential” to “Mixed-Use.”

**ZON09001 (Ordinance No. 2009.14)** – Zoning Map Amendment from R-4, Multi-Family General District and CSS, Commercial Shopping and Services District in the TOD, Transportation Overlay District to MU-4, Mixed-Use High Density District in the TOD (corridor).

**PAD09001 (Ordinance No. 2009.14)** – A Planned Area Development Overlay to modify development standards to allow for a modification in the minimum TOD parking requirements from 1,425 spaces to 1,034 spaces; a proposed density of 83.4 dwelling units per acre; a maximum building height of 180'-0"; maximum lot coverage 70%; minimum landscape area 30%; and minimum building setbacks 0' front, 15' sides, 30' rear and maximum 20' setback.

#### APPLICANT PRESENTATION

**Manjula Vaz, Tempe**, stated that she would allow the neighbors to speak first and she would address any concerns. Applicant asked for Council's consensus to provide a larger presentation at the second public hearing.

There was consensus.

#### PUBLIC HEARING

**Bill Amorosi, Tempe**, stated that he is not against the entire development. For ten years he was chair of the Redevelopment Committee for Apache Boulevard, and he is in favor of any redevelopment in that area. He is concerned, however, that the Lemon Development is requesting variances on the PAD. He did submit a letter to the Development Review Commission (DRC) and he pointed out that the DRC agreed and recommended a denial of the PAD. When he was on that committee, their understanding was that the highest, most dense development would be happening around the downtown area. This is 16 stories high and is farther away from downtown. At one point, ASU wanted to build two 14-story towers at Apache and Rural and former City planner, Steve Nelson, now employed by ASU, convinced them to rather break it down to stepped 6- and 8-story developments. This is across from that development on Lemon Street. One nearly completed development is The View, with 10 stories but was originally supposed to be 8 stories. There was nothing happening on Apache Boulevard then, so to get the ball rolling, they recommended that they could have the requested extra two stories to get started on redevelopment. Since that time, there has been a lot of development on Apache Boulevard. Over 4,000 beds are coming on line, and ASU wants to have all freshmen live on campus. Right now, there is Campus Suites on Apache, Newman Center that has been approved, another developer wants to build a smaller unit on Spence, and another wants to build on Terrace, all student housing. The Lemon Development is beyond all of these. They want nearly 500 units and 1600 beds in just one building. He is asking that it be toned down. They want to be accepted as part of the TOD, yet they want to have variances on the TOD and drop the parking lower and the density even higher. They should not go higher than the existing 10-story tower next to it.

Mayor Hallman asked about the station stop on Terrace.

Mr. Amorosi responded that the light rail line goes down Terrace. If they were on Terrace across from the ASU station, there could be even more reason to go higher. He didn't think it needed to be 16 stories outside of the downtown area.

Mayor Hallman asked if his concern is about their profitability.

Mr. Amorosi confirmed that he is worried about their ability to rent this project, since there are no many other student housing developments. If the other developments can pencil out at a lower density, why can't this development do the

same? If the City approves a 16-story building, then the next developer will want to be bigger.

**Kolby Granville, Tempe**, stated that he has lived in that area. He had a bike stolen in that area and a friend who was assaulted in that area. The area is sorely in need of redevelopment. He has no doubt that these developers are the ones to do it. He does have concerns. The height is too great. The overlay permits height, but it is a downtown building not in the downtown area. The height of The View is appropriate for that area and that would be acceptable. His bigger concern is the issue of student housing and the pricing of that area. So many of the houses and apartments that were built on 8<sup>th</sup> Street were built as infill and they weren't taking anything away. There are wealthy students that are appropriate for The View and other \$350K locations, but there are also not wealthy students, as well as international students. When cheap housing is taken away, then single family housing looks cheaper. When we take away the ability to have bad housing at \$150K, then the \$200K housing at Rural and Southern is now affordable housing. That is the basis of his concern. In the earlier meeting, there was discussion about what happened to the music in downtown Tempe. Individuals talked about the music having left downtown, when it was the very actions of the Council and developers that pushed the music out of Tempe. It is ironic now to hear housing development planned when it is potentially these very developments that push low income housing out of Tempe. Development for this area is absolutely essential and he would encourage Council to remember that students come in all shapes and sizes.

Mayor Hallman stated that Mr. Granville's argument on affordable housing was interesting. The University's goal has been to help address the problem of the tendency for single family homes to become small dormitories. The pricing we have seen is that it continues to be driven upward. That is because the main issue is the number of people that can be stuffed into a building. Students are willing to live stacked like cord wood, and as a result, when someone can charge \$250 per student, they can make \$2K on a single family every month. That is cheap in many ways for the student, but lucrative for the owner. The goal has been to work with the University over the last four years to get them to build the bed units. Michael Crow's push is to get all freshmen living on campus. The problem is that over the last 25 years, the University built almost no housing. A lot of the housing being built is actually private sector housing in partnership with the University. To get to the planned 20,000 students has been a hard press. At the moment, we are looking at almost 6,000 bed units opening by next fall. That leaves us with about another 14,000 to go. Any thoughts on how we can continue to seek student housing but do it in a way we can actually get the market to build it?

Mr. Granville responded that The Tower apartment complex is actually their initial trial run into that and it has proven to be successful over the last ten to twelve years. The issue is where the variety of students will go. Resident halls run at a certain rate, and the new builds seem to sell between \$275K to \$350K. A house in his neighborhood can be purchased for \$180K.

Mayor Hallman asked Mr. Granville what housing is currently on this site.

Mr. Granville responded that the condition of the buildings is deteriorating.

Mayor Hallman noted that if we tear down inexpensive housing, students will have fewer options and it would be nice to know what is currently there and the condition of the rentals.

Manjula Vaz responded that there are currently three different apartment complexes at this site. The two-stories are about thirty years old and they have lived out their economic life. This just starts a phase, and they won't be torn down. There are 220 apartment units there currently and they are replaced by something that is more expensive with 490 units over the three phases.

**Dan Petocavitch, San Diego, California**, managing member of Campus Point Apartments at 1115 East Lemon and also the managing member of Riviera Palms at 914 East Lemon. He was in support of the development and the other projects in the area. He has had an opportunity to purchase approximately 100 different properties in the Greater Phoenix area. Tempe is very pro-development and has given a lot of forethought.

**Charles Buss, Tempe**, Chair of the University Heights Neighborhood Association which is east of this development. He has concerns that there won't be enough parking, especially for students. Currently, there is not enough parking and parking has been restricted on 8<sup>th</sup> Street. That entire area is full all day. His neighborhood is attempting to get permitted parking to deal with that potential impact. Ballots have been sent to the neighbors on a few of the streets to put it up for vote on a portion of the neighborhood first. He is also concerned with the height of the project. Now that The View is being built, he can't even see the sunset now because of that 10-story building. This project will be a little farther north and will be higher. His biggest concern is that most of his neighborhood has been declared a historic district. They are trying to get the district recognized, and the drawback to fixing up the neighborhood is that there are also so many rentals in his neighborhoods. In twenty years, it has gone from 25% to 50% rental rate, and most are students. When affordable housing for students is removed, they will look to his neighborhood instead and that 50% rate will increase.

Mayor Hallman asked how that problem can be solved if we don't allow people to build more dense urban style housing for students?

Mr. Buss agreed that it is a dilemma. The owner of the property has a right to redevelop the property.

Mayor Hallman added that we have to get the student housing built and we have been pressuring ASU. They have responded appropriately and moved forward on 6,000 units. Their long term plan is 15,000 units. They have slowed because they can't get money themselves, so they have to rely on the private sector to get it built. This is some of that kind of housing we are trying to get built.

Mr. Buss added that the problem is the developers that have rushed in are cherry-picking the richest students and not building anything affordable.

Mayor Hallman added that the students who have single family homes are those who have the BMW's in the parking lot. That's the reality. They will go for the easiest first, but we have to get them out of the houses, too.

Mr. Buss added that he is waiting for the first project that will address students on a budget.

Mayor Hallman added that one of the projects that was going to be done at Newman Center is a more affordable housing project. That is off the board right now because the financing markets don't allow that to happen. What we are stuck with are people who can make money at the higher rates right now. The hope would be that as we turn the corner, the cost of money will come down and it will help get more cost effective units.

Mr. Buss stated that he hoped that this project could find a way to designate some of the units as affordable student units.

**FIRST PUBLIC HEARING ONLY - NO FORMAL ACTION TAKEN. SECOND PUBLIC HEARING IS SET FOR APRIL 23, 2009.**

DOCUMENT NAME: [20090409dsrl01.pdf](#) [20090409dsrl01a.pdf](#) PLANNED  
DEVELOPMENT (0406)

D. Ordinances and Items for Second Hearing/Final Adoption

- \*32. Held the **second public hearing** and approved **with conditions** a Zoning Map Amendment with a Planned Area Development for 2150 SOUTHERN CAMPUS MASTERPLAN, located at 2150 E. Southern Avenue.

**COMMENTS:** (PL080282) (Thomas Sawner, Educational Options, property owner; William Sawner, applicant) consisting of a phased mixed-use development with a charter school, a private school, assembly space for performances, recreational uses, commercial and residential uses initially located within six existing structures and eventually built into five new structures with building heights of 48 to 70 feet tall. Completed development will consist of approximately 192,156 s.f., on 8.87 net acres net acres, located at 2150 E. Southern Avenue in the R/O Residential Office, CSS Commercial Shopping and Service and R1-6 Single Family Residential Districts. The request includes the following:

**ZON08011 – (Ordinance No 2008.66)** Zoning Map Amendment from R/O Residential Office, CSS Commercial Shopping and Service and R1-6 Single Family Residential districts to MU-2, Mixed-Use, Medium Density District.

**PAD08019 – (Ordinance No 2008.66)** Planned Area Development Overlay to define setbacks: zero-foot front and street side, 30-foot side and rear, with an actual building location 80 feet from the rear; building height to be 42 feet at rear of lot and 60 feet at front of lot; maximum lot coverage 40% and minimum landscape area 15%; maximum density not to exceed 9 dwelling units per acre, with a maximum of 80 residences.

The following conditions were also approved:

General

1. The Planned Area Development is approved with the following standards:
  - Development Standard – MU-2 with Planned Area Development Overlay, 8.87 acres.
  - Residential Density – 9 du/ac
  - Residential Units – 80 du allowed, 10 units proposed
  - Building Height Maximum – 20 feet high to 65 feet high plus mechanical as noted on the attached PAD height standard and site plan.
  - Maximum Lot Coverage – 40%
  - Minimum Landscape Area – 15%
  - Front Setback (South) – 0 feet
  - Street Side Setback (East) – 0 feet
  - Side Setback (West) – 30 feet (buildings to be located 80' from north and west property line)
  - Rear Setback (North) – 30 feet (buildings to be located 80' from north and west property line)
2. Plant the west and north perimeter with 1 ½" caliper trees within the existing available landscape buffer as part of phase I, with additional trees to be added during development in phase II.
3. Perimeter buffer trees shall be non-deciduous dense canopy trees that retain canopy in the 9-30' height at maturity.
4. Replace all dead or missing landscape as part of phase I, including 1 ½" caliper trees and 5 gallon shrubs within the landscape islands and along the street front and perimeter. Species may be modified pursuant to planning staff review.
5. Repair any gaps, breaks or structurally deficient sections of the existing wall within 6 months of occupancy of the site or no later than the start of the 2009 school year.

6. Provide an 8' cmu screen wall along the north and west perimeter of the property with commencement of phase II construction. Work with residents on the schedule and implementation of construction of any walls impacting yards.
7. Retain as many mature trees on site as possible in phase I, for phases II & III, provide a plant inventory no later than the start of the 2009 school year, that identifies all existing trees to remain with the new landscape.
8. The applicant shall conduct a neighborhood meeting prior to the Development Plan Review for phases II and III. Notification and process to be determined by the applicant, but with a minimum mailing to property owners within 300 feet of the property lines of the site.
9. The applicant must follow the same process used for a hearing for the Development Review Commission meeting for the Development Plan Review (sign postings and mailings) in compliance with the Zoning and Development Code requirements for hearings: Section 6-404 Public Hearing requirements.
10. A building permit shall be obtained for phase II on or before April 9, 2012 or the zoning of the property may revert to that in place at the time of application, subject to a public hearing.
11. 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 May 9, 2009, or the Zoning Amendment and PAD approval shall be null and void.
12. If any portions of phases II or III encroach within City right-of way, an Encroachment Permit must be obtained from the Engineering Department prior to submittal of construction documents for building permit. The limitations of this encroachment include;
  - a. a maximum projection of eight (8) feet for any upper level balconies or decorative architectural features of the building,
  - b. a minimum clear distance of twenty-four (24) feet between the sidewalk level and any overhead structure, and
  - c. any other requirements described by the encroachment permit or the building code.
13. The Planned Area Development for 2150 Southern Campus Masterplan 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.
14. An amended Subdivision Plat is required for this development and shall be recorded prior to issuance of building permits.
15. The developer must provide a final traffic impact study prior to any submittal for a building permit for phase II.
16. The developer must receive approval of the final Traffic Impact Study from the Traffic Engineering prior to issuance of a building permit for phase II.
17. An updated Traffic Impact Study shall be completed prior to Development Plan Review process for phase III.
18. The number of units shall not exceed 80 dwelling units (10 units proposed) or student housing as part of any phase of the development.

**CONDITIONS FOR FUTURE DESIGN:**

19. Applicant shall work with City staff and residents in Phase II and Phase III to control view corridors into adjacent residential properties prior to approval at the Development Review Commission.
20. All stairwells shall be enclosed or internal to the buildings or not visible from the perimeter of the site.
21. There shall be no upper story exterior circulation paths adjacent to or facing single-family residences.

22. Exterior building surfaces shall include at least three distinct building materials.
23. The building façade shall have architectural variation to break up the massing.
24. Parking islands shall be spaced 1 per 10 parking spaces on the north and west side of the site.
25. No temporary or permanent athletic field lights shall be added to the existing field.
26. Any parking or site lighting added shall not exceed 18' in height and shall have no light trespass outside of the north and west property line and shall comply to the CPTED standards as integrated in the Zoning and Development Code.
27. No loud speaker or public announcement system shall be installed or used on the property.

ALL PREVIOUS CONDITIONS OF APPROVAL FOR THE TWO USE PERMITS ARE STILL APPLICABLE AS APPROVED ON JANUARY 13, 2009.

**CODE/ORDINANCE REQUIREMENTS:**

THE BULLETED ITEMS REFER TO EXISTING CODE OR ORDINANCES THAT PLANNING STAFF OBSERVES ARE PERTINENT TO THIS CASE. THE BULLET ITEMS ARE INCLUDED TO ALERT THE DESIGN TEAM AND ASSIST IN OBTAINING A BUILDING PERMIT AND ARE NOT AN EXHAUSTIVE LIST.

- Specific requirements of the Zoning and Development Code are not listed as a condition of approval, but will apply to any application. To avoid unnecessary review time, and reduce the potential for multiple plan check submittals, it is necessary that the applicant be familiar with the Zoning and Development Code (ZDC), which can be accessed through [www.tempe.gov/zoning](http://www.tempe.gov/zoning), or purchased at Development Services.
- SITE PLAN REVIEW: Verify all comments by the Public Works Department, Development Services Department, and Fire Department given on the Preliminary Site Plan Reviews dated August 6, 2008. If questions arise related to specific comments, they should be directed to the appropriate department, and any necessary modifications coordinated with all concerned parties, prior to application for building permit. Construction Documents submitted to the Building Safety Department will be reviewed by planning staff to ensure consistency with this Design Review approval prior to issuance of building permits.
- STANDARD DETAILS:
  - Tempe Standard "T" details may be accessed through [www.tempe.gov/engineering](http://www.tempe.gov/engineering) or purchased from the Engineering Division, Public Works Department.
  - Tempe Standard "DS" details for refuse enclosures may be accessed through [www.tempe.gov](http://www.tempe.gov) or may be obtained at Development Services.
- BUILDING HEIGHT: Measure height of buildings from top of curb along front of property (as defined by Zoning and Development Code).
- COMMUNICATIONS: If this building is taller than 50'-0", Staff recommends (does not require) a parapet system that would allow a cellular provider to incorporate and/or conceal antenna within the architecture of building, such that future installations may be accomplished with little modification.
- PUBLIC ART: Phases II and III are required to provide public art as part of this development in conformance with the Art in Private Development Ordinance and the Zoning and Development Code; see the Zoning and Development Code Sec. 4-407 and Appendix D. Contact the City of Tempe, Cultural Services (480-350-5161) regarding implementation of this requirement prior to receiving building permits.
- WATER CONSERVATION: Under an agreement between the City of Tempe and the State of Arizona, Water Conservation Reports are required for landscape and domestic water use for this project. Have the landscape architect and the mechanical engineer prepare reports and submit them with the construction drawings during the building plan check process. Report example is contained in Office Procedure Directive # 59, available from Building Safety (480-350-8341).

Contact Water Conservation Division (480-350-2668) if there are any questions regarding the water conservation reports.

- HISTORIC PRESERVATION: State and federal laws apply to the discovery of features or artifacts during site excavation (typically, the discovery of human or associated funerary remains). Where such a discovery is made, contact the Arizona State Historical Museum (520-621-6302) for removal and repatriation of the items. Contact the Tempe Historic Preservation Officer (Joe Nucci 480-350-8870) if questions regarding the process described in this condition.
- SECURITY REQUIREMENTS:
  - Phases II & III design building entrance(s) to maximize visual surveillance of vicinity. Limit height of walls or landscape materials, and design columns or corners to discourage to opportunity for ambush opportunity. Distances of 20'-0" or greater, between a pedestrian path of travel and any hidden area allow for increased reaction time and safety.
  - Follow the design guidelines listed under appendix A of the Zoning and Development Code. In particular, reference the CPTED principal listed under A-II Building Design Guidelines (C) as it relates to the location of pedestrian environments and places of concealment.
  - Phases II and III will need to provide emergency radio amplification for buildings larger than 50,000 square feet, as required. Amplification will allow Police and Fire personnel to communicate in the buildings during a catastrophe. Refer to this link ([http://www.tempe.gov/itd/Signal\\_booster.htm](http://www.tempe.gov/itd/Signal_booster.htm)) and if needed contact Information Technology Department (480-350-8364) to discuss the size and materials of the buildings, to verify radio amplification requirement, and determine the extent of construction to fulfill this condition.
- FIRE:
  - Fire lanes need to be clearly defined. Ensure that there is at least a 20'-0" horizontal width, and a 14'-0" vertical clearance from the fire lane surface to the underside of tree canopies; or overhead structure, if allowed by Fire Department. Details of fire lane(s) are subject to approval of the Fire Department.
- ENGINEERING AND LAND SERVICES:
  - Commencing with phase II, power lines on or adjacent to the site to be undergrounded as part of the new development. Underground utilities requirement excludes high-voltage transmission line unless project inserts a structure under the transmission line. Coordinate site layout with Utility provider(s) to provide adequate access easement(s).
  - Commencing with phase I, clearly indicate property lines, the dimensional relation of the buildings to the property lines and the separation of the buildings from each other.
  - Commencing with phase I, verify location of any easements, or property restrictions, to ensure no conflict exists with the site layout or foundation design.
  - Maintain existing retention during phase I and provide 100 year onsite retention for this property during phases II and III; coordinate design with requirements of the Engineering Department.
- REFUSE commencing when any changes are made to refuse:
  - Double container enclosure is exclusively for refuse. Construct walls, pad and bollards in conformance with Standard Detail DS-116.
  - Contact Sanitation Division (480-350-8131) to verify that vehicle maneuvering and access to the enclosure is adequate.
  - Develop strategy for recycling collection and pick-up from site with Sanitation. Roll-outs may be allowed for recycled materials. Coordinate storage area for recycling containers with overall site and landscape layout.
  - Gates for refuse enclosure(s) are not required, unless visible from the street. If gates are provided, the property manager must arrange for gates to be open from 6:00am to 4:30pm on collection days.

- DRIVEWAYS commencing with phase II:
  - Construct driveways in public right of way in conformance with Standard Detail T-320. Alternatively, the installation of driveways with return type curbs as indicated, similar to Standard Detail T-319, requires permission of Public Works, Traffic Engineering (480-350-2775)
  - Correctly indicate clear vision triangles at both driveways on the site and landscape plans. Identify speed limits for adjacent streets at the site frontages. Begin sight triangle in driveways at point 15'-0" in back of face of curb. Consult "Corner Sight Distance" leaflet, available from Development Services or from Traffic Engineering (480-350-2775) if needed. Do not locate site furnishings, screen walls or other visual obstructions over 2'-0" tall (except canopy trees are allowed) within each clear vision triangle.
- PARKING SPACES commencing with phase I:
  - Verify conformance of accessible vehicle parking to the Americans with Disabilities Act of 1990 (42 U.S.C.A. §12101 ET SEQ.) and the Code of Federal Regulations Implementing the Act (28 C.F.R., Part 36, Appendix A, Sections 4.1 and 4.6). Refer to Standard Detail T-360 for parking layout and accessible parking signs.
  - At parking areas, provide demarcated accessible aisle for disabled parking.
  - Distribute bike parking areas nearest to main entrance(s). Provide parking loop/rack per standard detail T-578. Provide 2'-0" by 6'-0" individual bicycle parking spaces. One loop may be used to separate two bike parking spaces. Provide clearance between bike spaces and adjacent walkway to allow bike maneuvering in and out of space without interfering with pedestrians, landscape materials or vehicles nearby.
- LIGHTING commencing with phase I:
  - For phase I, repair and replace any missing lamps or fixtures from the original plan, and provide any additional lighting required per the security plan to assure the safety of students and guests during phase I uses of the site.
  - For phases II and III, follow requirements of ZDC Part 4 chapter 8
  - Follow the guidelines listed under appendix E "Photometric Plan" of the Zoning and Development Code.
  - Indicate the location of all exterior light fixtures on the site, landscape (and photometric) plans. Avoid conflicts with lights in order to maintain illumination levels for exterior lighting.
- LANDSCAPE commencing with phase II:
  - Prepare an existing plant inventory for the site and adjacent street frontages. The inventory may be prepared by the Landscape Architect or a plant salvage specialist. Note original locations and species of native and "protected" trees and other plants on site. Move, preserve in place, or demolish native or "protected" trees and plants per State of Arizona Agricultural Department standards. File Notice of Intent to Clear Land with the Agricultural Department (602-364-0935). Notice of Intent to Clear Land form is available at [www.agriculture.state.az.us](http://www.agriculture.state.az.us). Follow the link to "form", to "native plants", and to "notice intent to clear land".
- SIGNS commencing with phase I: Obtain sign permit for any identification signs as well as for internally (halo) illuminated address signs. Directional signs (if proposed) may not require a sign permit, depending on size. Directional signs are subject to review by planning staff during plan check process. Separate Development Plan Review process is required for signs ZDC Part 4 Chapter 9 (Signs).

#### APPLICANT PRESENTATION

Eric Emmert, Tempe, Vice President of Door and Policy Group contracted with the applicant, Educational Options, to handle public outreach. On March 21<sup>st</sup>, Council received a copy of the agreement between the applicant and the

neighborhood leaders. He would be happy to answer any questions.

PUBLIC HEARING

No one came forward to speak.

Councilmember Arredondo asked that this item be removed for separate consideration to verify that there were no issues.

Councilmember Mitchell asked about verification that this PAD goes with this developer.

Mayor Hallman clarified that the issue in this instance is whether these entitlements go with the land and whether they restrict anyone who acquires it. Because the PAD goes with the land, anybody who buys this land is restricted to these entitlements as they are approved. Council didn't raise the issue of a "no flip" clause, but just raised the issue to make sure anyone who got it can't build outside of these stipulations.

Chris Anaradian added that there is a tight envelope given the document they brought forward. Any change within that envelope would require an amended PAD which would come back to this Council.

**Motion by Councilmember Navarro to approve Item #32. Second by Councilmember Shekerjian. Motion passed on a voice vote, 6-1, with Councilmember Arredondo voting no.**

DOCUMENT NAME: [20090409dsdk01.pdf](#) [20090409dsdk01a.pdf](#) PLANNED  
DEVELOPMENT (0406)

- \*33. Held the **second public hearing** and adopted ORDINANCE 2009.16 authorizing the Mayor to execute **Contract #2009-63**, a Covenant and Agreement Regarding Maintenance of Yards for an Oversized Building located at 809 East Southern Avenue, on which the Tempe Historical Museum is located.

DOCUMENT NAME: [20090409PWW06.pdf](#) TEMPE HISTORICAL MUSEUM  
(0705-04)

E. Resolutions

- \*34. DELETED

35. Approved RESOLUTION NO. 2009.20 establishing a fee to administer the Tempe Double Butte Cemetery burial plot purchase agreement. This fee would be effective May 1, 2009.

DOCUMENT NAME: [20090409prsw01.pdf](#) DOUBLE BUTTE CEMETERY (0702)

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

Approved RESOLUTION NO. 2009.19 recognizing THE ACADEMY DRUM AND BUGLE CORPS as the official drum and bugle corps of Tempe.

Councilmember Mitchell asked that this item be removed for separate consideration. He noted that this request came through his and Councilmember Sherkerjian's committee and he wished to verify with the City Attorney that there would be no liabilities with this resolution.

City Attorney Andrew Ching responded that based on what Council would approve tonight, this is more for symbolic purposes and honorary purposes and if there would be any further relationship that would be fleshed out in future agreements, which would bind the City more.

**Motion by Councilmember Mitchell to approve Item #36. Second by Councilmember Shekerjian. Motion passed unanimously on a voice vote, 7-0.**

DOCUMENT NAME: [20090409cdcm02.pdf](#) CULTURAL PROGRAMS (0105-01-05)

37. DELETED

38. **THIS ITEM WAS DELETED BY STAFF**

Request approval of a resolution approving and authorizing the City Manager to sign an Intergovernmental Agreement between Maricopa County and the City of Tempe for heavy equipment and driver awareness training services for eligible employees.

COMMENTS: Total expenditure shall not exceed \$55,000 per fiscal year.

DOCUMENT NAME: [20090409fst05.pdf](#) MARICOPA COUNTY (0109-29)  
RESOLUTION NO. 2009.23

## 6. PUBLIC APPEARANCES

### SCHEDULED PUBLIC APPEARANCE

- **Kolby Granville re: consideration of dollar limits for items to be voted on as part of the consent agenda.** He stated that he is always impressed with City staff. He cannot think of an instance where he has had more than a 24-hour wait on a response to an email. During the last meeting, he noted that items totaling \$170M were approved with one vote. That was an exceptional instance, but that is a lot of money to approve in one vote, especially given the size of the City budget. He does understand that Tempe is the gold standard in disclosure of City Council meetings. Yet at the top, as Tempe is, other cities are no longer the standard by which to judge. The City could potentially be the standard now by which it judges itself. He appreciates that any councilmember who wants to vote "no" on an item could simply remove it, vote "no", and express their concern. It still is a lot of money with one vote. For someone in the audience or someone tuning in on TV, it is difficult sometimes to understand the magnitude of a single vote that might be taken. In some instances it might be appropriate for the City to go further in clarifying what is being voted on. He asked Council to consider for future discussion some limit placed on items that can be voted on in a single vote. It would show a clarity of purpose and a fiscal accountability that would serve the City well. He would suggest something between \$5M and \$10M.

Councilmember Shekerjian stated the transparency issue is very important for government. Council tends to take those for granted but it doesn't mean, however, that we shouldn't rise to the occasion and go above and beyond the call of duty. She supported his principles. She thought that an amount between \$5M and \$10M would be reasonable to consider separately.

## 7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

- Councilmember Navarro congratulated Tempe High's Robotics team ranked 15<sup>th</sup> out of 44 teams in competition. There was a great turnout for last weekend's music festival. We wished a speedy recovery to

- Officer Todd Long who had an accident over the weekend.
- Councilmember Shekerjian stated that she loves the fact that she lives in a community that would recognize an organization like the Academy Drum and Bugle Corps. The arts are still important in Tempe even during tight economic times. The Drum and Bugle Corps is an organization that has members from 17 to 21 years of age. They will be featured at a free event at the Tempe Center for the Arts Art Park for the “Music Under the Stars” on April 17th, sponsored by the Salt River Pima Maricopa Indian Community. A variety of different organizations will be featured.
  - Vice Mayor Ellis thanked the City employees who put on the third annual “Bike-a-Palooza” this past Sunday. The event was held at Kiwanis Park with hundreds of bikers. She specifically thanked Tanya Chavez from the Transportation Office. She also announced the second annual Kiwanis Easter Egg Hunt on April 11<sup>th</sup> at 9 a.m. at the Kiwanis Park softball field.
  - Mayor Hallman announced that the Tempe IMPACT Education Foundation Awards Dinner will be on Saturday evening at the Fiesta Inn and it honors, among others, the Arredondo family for their decades of service to education. Please contact the Tempe Elementary School District Office for tickets. Funds go to support education.

*Meeting adjourned at 8:55 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 April 9, 2009, by the Tempe City Council, Tempe, Arizona.

\_\_\_\_\_  
Hugh Hallman, Mayor

ATTEST:

\_\_\_\_\_  
Jan Hort, City Clerk

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2009.