

## Minutes Formal City Council Meeting May 3, 2007

Minutes of the Formal Council Meeting of Thursday, May 3, 2007, 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 Hut Hutson  
Councilmember P Ben Arredondo  
Councilmember Barbara J. Carter  
Councilmember Shana Ellis  
Councilmember Mark W. Mitchell  
Councilmember Onnie Shekerjian

*Mayor Hallman called the meeting to order at 7:40 p.m.*

1. Vice Mayor Hutson gave the invocation.
2. Mayor Hallman led the audience in the Pledge of Allegiance.
3. **MINUTES**

A. Approval of Council Meeting Minutes

Motion by Vice Mayor Hutson for the reconsideration of Item #46 on the April 19, 2007, Formal Meeting Minutes, and that it be placed on the May 17, 2007, Formal Meeting Agenda. Second by Councilmember Carter. Motion passed on a roll call vote, 7-0.

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

1. Council's Executive Session – April 19, 2007
2. Council's Issue Review Session – April 19, 2007 [20070503clrkck03.pdf](#)
3. Council's Formal Meeting – April 19, 2007 [20070503clrkck02.pdf](#)
4. Council's Special Budget Meeting – April 12, 2007 [20070503clrkck01.pdf](#)

B. Acceptance of Board & Commission Meeting Minutes

Motion by Councilmember Mitchell to accept the following COMMITTEE & BOARD

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

5. Committee for Youth, Families & Community – March 19, 2007 [20070503cyfc01.pdf](#)
6. Community Special Events Task Force – April 24, 2007 [20070503setf01.pdf](#)
7. Development Review Commission – March 13 & 27, 2007 [20070503drc01.pdf](#)  
[20070503drc02.pdf](#)
8. Hearing Officer – April 3, 2007 [20070503ho01.pdf](#)
9. Historic Preservation Commission – March 8, 2007 [20070503hpc01.pdf](#)
10. Human Relations Commission – March 13, 2007 [20070503hrc01.pdf](#)
11. Mayor's Youth Advisory Commission – April 3, 2007 [20070503myac01.pdf](#)
12. Tardeada Advisory Board – February 1, 2007 [20070503tab01.pdf](#)
13. Tempe Sports Authority – March 6 & 14, 2007 [20070503tsa01.pdf](#)  
[20070503tsa02.pdf](#)

#### 4. REPORTS AND ANNOUNCEMENTS

##### A. Mayor's Announcements

- Vice Mayor Hutson introduced representatives of the **Desert Southwest Chapter of the Alzheimer's Association** who **recognized Mayor Hallman** for his active role in promoting the Association's mission through his service and support. He also conducted the live auction at their major fundraising event, the Annual Cameo Black Tie Ball, and \$50K was raised to go back into the community to help provide services.
- Mayor Hallman announced that the Tempe Municipal Court invited 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> grade Tempe students to participate in the **Annual Law Day** contest. Theme for the art contest was "**Liberty Under Law; Empowering Youth, Assuring Democracy.**" Judge Louraine Arkfeld introduced the winners and presented their prizes.
- Mayor Hallman announced that "**Grad Night**" has become a successful program in Tempe, with no alcohol-related fatalities of new high school graduates since the program's inception. "Grad Night" celebrations are fun, safe, drug and alcohol free celebrations for graduating seniors. Kate Hanley, executive director of Tempe Community Council, and Dave Lind, Assistant Police Chief, presented checks to the grad night committee representatives.
- Mayor Hallman stated that May 15<sup>th</sup> is **Peace Officer Memorial Day**, and he read a proclamation designating the week of May 15<sup>th</sup> as National Police Week.

##### 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 Shekerjian to approve the Agenda as amended (Items #17, #26, #31 & #32 were removed for separate consideration). Second by Vice Mayor Hutson. Motion passed on a roll call vote 7-0.**

**A. Miscellaneous Items**

14. Approved the Report of Claims Paid to be filed for audit for the weeks of March 11, 18 & 25 and April 1 & 8, 2007.

**COMMENTS:** A copy of the detailed claims report may be obtained by contacting the City Clerk's Office.

15. Approved **Contract #2000-123G**, an agreement between the Greater Phoenix Economic Council (GPEC) and the City of Tempe for fiscal year 2007 – 2008.

**COMMENTS:** The City agrees to pay \$64,654 for services provided by GPEC, based on approximately \$.39 per capita based on a City population of 165,890.

**DOCUMENT NAME:** [20070503cddh01.pdf](#) **ECONOMIC DEVELOPMENT PROGRAM (0111-03)**

- \*16. Held a public hearing to amend Appendix A of the Tempe City Code relating to sewer and water development fees. Final adoption of the resolution is scheduled for May 17, 2007.

**COMMENTS:** These proposed changes establish the sewer and water development fee rate structure with the effective date of September 1, 2007.

**DOCUMENT NAME:** [20070503fstd01.pdf](#) **MISCELLANEOUS FEES (0210-05)**  
Resolution No. 2007.24

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

**Denied** the appeal of the June 21, 2006, Development Review Commission decision regarding sign package modifications for the POINTE OFFICE SUITES at 2221 West Baseline Road.

**COMMENTS:** **PL060550** The petitioner James Domaz of the Law Firm Cheifetz Iannitelli Marceolini, P.C., representing Annette Bau of 2233 West Baseline Road, Suite 103. The request includes the following:

**DPA06002** – Appeal of a Design Review Board staff decision DRB06083 regarding sign package modifications.

**APPELLANT PRESENTATION**

**Claudio Iannitelli, appearing on behalf of the Appellant, AB & JK Limited, LP.** He distributed color prints of the property. He summarized as follows:

- The business center had a sign package submitted and approved in April 2003.
- The building has four suites. The two center suites, #102 and #103, are owned by his client, Annette Bau.

- There are two doors on the north side of the building, one for each of those suites. The suites on either side are owned by other tenants. On the south side of the building, there are only three doors. These are described as the main entrance since it is closer to the parking lot.
- The sign above suites #102 and #103 is for a business located in suite #104.
- The approved sign package dictated that the only owner or tenant who could advertise on the space on the north side of the building would be the owner of suite #102 or #103.
- Subsequent to the approval, the owner of suite #104 (Dr. Ten Eyck) submitted and received a permit to have a sign on the north side of the building over #104. Instead, he put his sign over suites #102 and #103.
- Ms. Bau received a valid permit issued 11/29/05 for that space for her sign, but she was precluded from installing her sign because Dr. Ten Eyck refused to remove his sign.
- Subsequently, the City allowed an amendment to the sign package stating that the board of the association could allow a tenant who did not own the suites immediately below the signage space to advertise his business in that space. The board adopted a resolution. **Iannitelli** stated that this was done so that Dr. Ten Eyck could keep his sign there.
- At the time his client received her permit, there was no other valid permit.

Mayor Hallman clarified that this sign was in this location when Ms. Bau bought her property. She owns the space within that building, but not the exterior of the building, which is owned by the condo association. He asked if she has another location for signage associated with suites #102 and #103.

Mr. Iannitelli responded that she has a location for signage on the other side of the building.

Mayor Hallman clarified that Mr. Iannitelli is seeking to have Council overturn the ruling of our lower board, saying that this sign complies with the City Code, and to enter into a private dispute between Ms. Bau and the board of the condo association.

Mr. Iannitelli responded that the lower board has interjected itself into what could become a private dispute by stepping over a valid permit.

Mayor Hallman clarified that Ms. Bau takes the position that she bought two suites, knowing that this sign was there, and that it was after she bought the suites with signs facing south on the parking lot side, that she decided she would like a sign on the north side, and the way to do that was to claim that this sign was improperly located, get a permit from the City, and seek to use that as the means to cause this sign to be removed.

Mr. Iannitelli responded that she knew the sign was there and she never relinquished any rights. The package she bought with the building indicated that she and only she could have a sign there.

Mayor Hallman clarified that Mr. Iannitelli believes that the fact that the condo association amended the CC&R's and the City approved that change in the sign package, allowed a non-occupant in the suites to put a sign there. Mr. Iannitelli believes it was improper for the condo association to amend the CC&R's and for the City to approve an amended sign package that would allow the owner of suite #104 to have his sign on the north side of the building.

Mr. Iannitelli disagreed, and added that the City has allowed a subsequently-issued permit. The original permit is gone.

Mayor Hallman asked for clarification that because she got a permit, even though there was already a sign there, that conveys property rights?

Mr. Iannitelli responded that it does not. It was an unlawful use of that space and she sought to pursue the lawful use. The City recognized that hers was a lawful use and the City issued a notice to remove the sign so she could engage in her lawful use.

Mayor Hallman clarified that Mr. Iannitelli believes that because there was a sign permit issued to Ms. Bau, it was therefore improper for the CC&R's to be amended by the board and improper for the City to recognize the amended sign package, based solely on the fact that a permit was issued to his client. When Ms. Bau bought the suites, the developer still owned this building. They would have the right to the sign space over those two suites. He asked Mr. Iannitelli if he believed, by virtue that Ms. Bau bought the space, that she vested in the rights to that sign space and the City confirmed that by issuing a permit and that it was, therefore, wrong and improper for the CC&R's to be amended by the board and further for the City to recognize the amended sign package?

Mr. Iannitelli agreed.

Mayor Hallman asked for clarification that Mr. Iannitelli argues that she had a property right in that sign space.

Mr. Iannitelli responded that it is certainly a right that once she had obtained a permit to have that permit be recognized.

Mayor Hallman added that Ms. Bau bought a building that had a sign belonging to someone else on the north side of the building. A property right had apparently been amended by action, if not formal resolution, by the board in allowing this sign to be granted to a third party. Either she has a property right here or she doesn't.

Mr. Iannitelli responded that he had not considered it in the context of a property right, but she certainly had the right to follow the procedures that were in place.

Mayor Hallman stated that it is a matter of contract. Ms. Bau bought a place that had a sign right and that sign right has been amended out from under her by the amendment of the CC&R's and subsequent recognition by the City of the changed sign package. Why isn't this just a lawsuit against the board of the condo?

Mr. Iannitelli responded that the lawsuit concerns whether the owner of suite #104 has any claim against those who promised him an illegal sign.

Mayor Hallman stated that the Notice of Appeal that was filed was merely that the municipal body acted in an arbitrary, capricious and unreasonable manner. If the City had not issued the permit, would there still be an

action?

Mr. Iannitelli responded that his claim would be whether or not she was entitled to the permit. The City recognized that the prior permit issued to Dr. Ten Eyck did not authorize him to place a sign there and the City will not dispute that. The City knows there was no permit for the sign, and they know a permit could not have been issued.

Mayor Hallman summarized that the rights are set and Dr. Ten Eyck currently has the rights as recognized under the sign package and the CC&R amendment, and the question is whether Ms. Bau was promised this sign location.

Mr. Iannitelli added that she was only promised a set of guidelines that were in existence. He added that the other issue has to do with whether the amendment was proper. This gets into the business identification and the “way find” characteristics that must be considered in a sign package. The primary arguments are the confusion that is created even if it is determined that it can be retroactively amended to deprive an existing right. The south side of the building only has three doors.

#### APPELLEE PRESENTATION

**Jeffrey Schoen, Tempe, representing the Pointe Office Suites Owners Association.** He stated that many of the issues have been misrepresented.

Mayor Hallman asked the clarification that the CC&R's clearly allowed this particular sign location to be used only by suites #102 and #103.

Mr. Schoen responded that it is disputed. The petitioner has characterized that the north-facing side is critical. In reality, each of the buildings in the complex has a south-facing side toward the parking lot. That is the main entrance for each building and every occupant has their signage there. That's how people get in. There are premium sign locations on each building and each building has the ability to negotiate with the owner of the project for the sign location. Dr. Ten Eyck got there first, two years before the petitioner, and he paid the premium to get his sign up there. There is a dispute, however, that the original developer, Shea Commercial, made a technical error when they submitted the original sign package and that sign package was subsequently amended. One of the critical things about this timeline misses the point that the petitioner's permit expired after 120 days.

Mayor Hallman clarified that the appellant's claim is that it expired only because the City refused to allow her to erect her sign.

Mr. Schoen clarified that there is a procedure for requesting an extension of the expiration date. If petitioner wanted to continue to resolve this issue, she could have asked for an extension of up to one year. She chose not to do so. The concept that the Design Review Board somehow ignored her permit when granting Dr. Ten Eyck's permit is false. There was no permit to consider. The Design Review Board was within its right to grant a reapplication to Dr. Ten Eyck. The CC&R's actually do specify that no sign goes anywhere on the outside of

any building except as permitted by the board of directors of the association.

Mayor Hallman clarified that the CC&R provisions allow the board to amend the CC&R's, and in this regard, to amend the sign package.

Mr. Schoen specified that anyone who buys a unit in this association is automatically subject to those CC&R's.

Mayor Hallman asked for clarification that as a right of action if they bought a suite and used two signs on the south side for suites #102 and #103, if they got a sign erected and the sign package were amended to eliminate their rights to the sign, would they not have a cause of action.

Mr. Schoen agreed. It would be a private right of action between an owner and the board of directors. It's not a City matter. Also, there was no property right granted or taken away from the petitioner, nor was there a property right granted to Dr. Ten Eyck. The only rights were that the board of the association can describe where they want signs erected, they submit a sign package to the City, and as long as the sign package conforms to City Code, it needs to be approved. The fact that petitioner allowed her permit to expire is no one's fault but her own. The board only has what's in front of it and in June of 2006, they had Dr. Ten Eyck's application which conformed to the sign package as amended, and there was no other permit to consider.

Mayor Hallman asked whether she have a right to that space if she had not allowed that permit to expire.

Mr. Schoen responded that she would not necessarily have that right, but she might have a better cause of action against the City for granting the second permit over hers.

Mayor Hallman clarified that Mr. Schoen's point is that the second permit was granted after Ms. Bau's expired. Would she have a right of action against the board, as well, on the grounds that she had a sign right under the CC&R's that was amended out from under her?

Mr. Schoen responded that the sign package was amended. The concept that it was out from under her is false. The issue of the entrance keeps coming up. Staff has already indicated that the entrance does not comply with the code for primary entrance.

Mayor Hallman asked whether there are second entrances for suites #102 and #103.

Mr. Schoen responded that all of the suites have entrances on the south side and they all have signs over their entrances.

Mayor Hallman noted that appellant's counsel said there was not a means for ingress.

Mr. Schoen clarified that counsel said that if the current set of suites were split, there might be a problem. If that is the case, then that split might not be allowed to occur. That might be a dispute between the appellant and the developer.

Mayor Hallman noted that there's no sidewalk or ADA accessible path to get to the north entrance.

Chris Anaradian responded that if the lots were split, ADA access would have to be added. Up until now, this has not been planned as an entry. This building was planned with the idea this would be entered and exited from the south side.

**Jan Grossman, representing SAXA, formerly Shea Commercial**, in support of Dr. Ten Eyck's position. He stated that there are provisions for amendments in the CC&R's.

Mayor Hallman asked if the amendments indicate that the owners of suites #102 and #103 would have the rights to the sign package space above their doors on the north side.

Mr. Grossman responded that it is not really indicated per se in the CC&R's. The CC&R's mention a sign package or sign criteria. Dr. Ten Eyck is the original purchaser of any condominium unit in this entire project. When he purchased that, he negotiated and paid for the particular sign location, not as a matter of identifying his unit. In this entire complex there are just a few of the larger facades on each of the buildings and those are prime areas. Those are the only ones suitable for marketing purchases, not for way-finding or business identification. Also, the developer made a mistake at the time by not monitoring its sign criteria development company and they erected a standard sign that had been used in the past. This error was recognized, but Dr. Ten Eyck had invested money, it was pursuant to his contract, and they wanted to do what needed to be done with the association to make it right.

Mayor Hallman clarified that the mistake made in adopting the standard model was that the sign criteria provided that the only people who could use that sign location would be those who owned either suite #102 or suite #103.

Mr. Grossman responded that that is the case for all of the other signage on the other side of the complex. Petitioner saw this sign in place for several months. Dr. Ten Eyck was in possession, having installed the sign, the association acknowledged its original error, but then did what was appropriate and permissible under the CC&R's to rectify that error.

Mayor Hallman clarified that Mr. Grossman believes Ms. Bau bought into the CC&R's and the CC&R's included a clause that allowed amendment to the sign package, and as a result, she is subject to having this amendment imposed upon her.

#### APPELLANT'S RESPONSE

**Mr. Iannitelli** responded that there is nothing in any CC&R that allows the developer to come back after the fact and do an amendment to take away from people that which was in place when they had vested rights. She had a right to place a sign at a time when she requested to place the sign. There was no change then.

Mayor Hallman asked if their point was correct that the real action here is that if this has been amended out from under her, she had a right by contract, and that right has been violated by the HOA and the lawsuit lies against the HOA for stripping that right and not against the City since the City properly amended a sign



package.

Mr. Iannitelli responded that the amendment of the sign package, whether it is right or wrong, deals with the issue of whether or not it violates the business identification and way-find issues. The problem is that the City backed down from the demand that Dr. Ten Eyck remove the sign.

Mayor Hallman clarified that their point is that Ms. Bau allowed the permit to expire and didn't seek an extension and it was only after her permit expired that Dr. Ten Eyck was issued a permit.

Mr. Iannitelli responded that a letter demanding removal was sent on May 25, 2005, to Dr. Ten Eyck by the City so Ms. Bau could proceed with her sign. On June 21<sup>st</sup>, the Design Review Board staff approved his over hers and that was appealed. She couldn't proceed until the 30 days from 5/26/05. The 6/21/05 decision was made prior to the 30-day expiration and she rightly appealed from that. The City was working with her on the basis of her being precluded from going forward. This is not where she allowed it to expire. We are here a year after and she has not been able to exercise those rights. There is nothing in the CC&R's to allow a retroactive amendment to strip people of signage they may already have.

Mayor Hallman stated that, again, the only issue is that she had a vested right to that sign space at the time she bought the suite and that has been amended out from under her through an amendment to the sign package in the CC&R's, subsequently followed by the City approving the change in the sign package. Doesn't her right of action fall on the HOA for amending away from her a property right she previously had? It is necessary for the sign to be approved by the City, but that is not sufficient. It is also required that the HOA board of directors approve the sign.

Mr. Iannitelli responded that the only language he is aware of calls for the board of directors to approve anything on the sign if the sign is over someone else's space. In that case, the board has to approve it. There are no criteria as to why that may or may not be granted.

Mayor Hallman clarified that Ms. Bau could put anything she wanted on her sign over the doors on the south side of suites #102 and #103, as far as the HOA is concerned.

Mr. Iannitelli responded that there is no requirement for pre-approvals by the board.

Mr. Anaradian stated that staff is duty-bound to deal with the owners of the property and the terms of this particular space is a common area. The City doesn't have a choice but to deal with the HOA. When an application is made, it is the City's responsibility to compare that with the City Code.

Mayor Hallman clarified that Ms. Bau doesn't own that space and she has to deal with the HOA.

Mr. Anaradian added that it would be the same if it were a residential condo building and there was a common area. Staff doesn't deal with each tenant in the building to discuss things in the common area. That's one of the primary reasons these boards are established and they deal directly with the City regarding the common property. There was concern about emergency response to the building. Staff works hard with our public

safety personnel to correctly address buildings to make sure the letter addressing facing our arterial streets are of significant size and are well-lit. Building addressing drives emergency response, and in this particular case, if we relied on the sign facing the street advertising a business use, the landscaping would be a difficulty for firefighter response. Way-finding signage is what appears in a lobby. The sign in question is an advertising sign.

Mayor Hallman asked if the sign permit issued to Ms. Bau by staff was a mistake.

Mr. Anaradian responded that based on the information staff had at the time, consideration was given and there was a double tenant use established, and on that basis, she was given an allowance. The board came in to amend that, there was no conflict with the Code, the amendment was accepted, and precluded.

**Motion by Councilmember Arredondo to deny Item #17. Second by Councilmember Carter. Motion passed on a roll call vote, 6-1, with Councilmember Ellis voting no.**

**DOCUMENT NAME:**      [20070503dsjt01.pdf](#)      **PLANNED**      **DEVELOPMENT**  
**(0406)**

18. Approved **with conditions** an Amended Subdivision Plat for MCARTHUR NO.1 at 2539 East Don Carlos Avenue.

**COMMENTS:** (PL070110) (Edward and Elia Perez, property owners; Matthew Kalatsky, applicant) located at 2539 East Don Carlos Avenue, in the R1-6, Single Family Residential District, including the following:

**SBD07010** – Amended Subdivision Plat for one (1) lot into two (2) lots on 0.48 net acres.

The following conditions were also approved:

1. The Subdivision Plat shall be put into proper engineering 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 May 3, 2008**. Failure to record the plan within one year of City Council approval shall make the plan null and void.
2. Existing accessory building on the proposed Lot 2 shall be a minimum of fifteen (15) feet from the new rear property line. All buildings shall comply with applicable Building Codes and the Zoning and Development Code requirements for building structures prior to recordation of plat.
3. No variances shall be granted by future property lines without prior approval of the City of Tempe.

**DOCUMENT NAME:**      [20070503dsrl02.pdf](#)      **PLANNED**      **DEVELOPMENT**  
**(0406)**

19. Approved **with condition** an Amended Subdivision Plat for REMEMBER THE USS AZ at 2515 East Maryland Drive.

**COMMENTS:** (PL070088) (Ronald Scott Merino, applicant/property owner) located at 2515 East Maryland Drive in the R1-6, Single Family Residential District for:

**SBD07008** - An Amended Subdivision Plat to split one (1) lot into two (2) separate lots. The following condition was also approved:

1. The Subdivision Plat for Remember the USS Arizona 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.

**DOCUMENT NAME:**      [20070503dsgk01.pdf](#)      **PLANNED**      **DEVELOPMENT**  
**(0406)**

20. Approved **with conditions** a Final Subdivision Plat for RIVERSIDE OFFICE PLAZA PHASE III at 1275 West Rio Salado Parkway.

**COMMENTS:**      (PL060707) (Richard J. Lund, HOF-Biltmore Rio Salado II, L.L.C., property owner; Gary R. Brandt, Hunter Engineering P.C., applicant) for a Subdivision Plat, located at 1275 West Rio Salado Parkway, in the GID District and the Rio Salado Overlay District , including the following:

**SBD07013** – Subdivision Plat to combine seven adjacent parcels into one lot on 6.968 net acres.

The following conditions were also approved:

1. The Final Subdivision Plat for Riverside Office Plaza Phase III shall be put into proper engineering 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 May 3, 2008**. Failure to record the plan within one year of Council approval shall make the plan null and void.
2. The Public Works Department shall approve all roadway and utility easement dedications, refuse collection and construction documents for driveways, storm water retention, street drainage, sewer and water utilities, and all off-site improvements.
  - a. Off-site improvements to bring roadways to current standards include:
    - (1) Water lines and fire hydrants
    - (2) Sewer lines
    - (3) Storm drains
    - (4) Roadway improvements including streetlights, curb, gutter, bikepath, sidewalk, bus shelter, and related amenities.
  - b. Fees to be paid with the development of this project include:
    - (1) Water and sewer development fees,
    - (2) Water and/or sewer participation charges,
    - (3) Inspection and testing fees.
  - c. If applicable, all off-site plans shall be approved prior to recordation of Final Subdivision Plat.
  - d. Public Works improvements shall be installed prior to the issuance of any occupancy permits. Any phasing shall be approved by the Public Works Department.
  - e. All new and existing, as well as on-site and off-site, utility lines (other than transmission lines) shall be installed underground prior to the issuance of an occupancy permit for this development in accordance with the Code of the City of Tempe – Section 25.

**DOCUMENT NAME:**      [20070503kko01.pdf](#)      **PLANNED**      **DEVELOPMENT**  
**(0406)**

**B.      Award of Bids/Contracts**

21. Approved **Contract #2007-66**, a professional services contract with CSA Engineering for the Town Lake Upstream Storm Drain Pump Station.

**COMMENTS:** Subject to execution of the final written contract in an amount not to exceed \$477,713.

**DOCUMENT NAME:** [20070503PWCH02.pdf](#) **STORM DRAIN & FLOOD CONTROL (0808) PROJECT NO. 5802612**

22. Awarded **Contract #2007-67**, a seven-year limited source lease contract to DCT - AZ for the lease of offsite premises for Police operational needs.

**COMMENTS:** (Limited Source #07-180) Subject to execution of the final written contract. Total cost for this contract shall not exceed \$985,000 during the contract period.

**DOCUMENT NAME:** [20070503fsta07.pdf](#) **PURCHASES (1004-01)**

23. Approved a one-year contract renewal with MSDS Solutions, Inc., for a vendor- hosted web-based material safety data sheet (MSDS) management system.

**COMMENTS:** (T06-066RBA-01) Total amount not to exceed \$123,000.

**DOCUMENT NAME:** [20070503fst08.pdf](#) **PURCHASES (1004-01)**

24. Approved a two-month contract renewal with Mariposa Horticultural Enterprises for landscape maintenance services.

**COMMENTS:** (T03-109-01) Total amount not to exceed \$100,000.

**DOCUMENT NAME:** [20070503fslq01.pdf](#) **PURCHASES (1004-01)**

25. Approved a one-year contract renewal with Bound Tree Medical, LLC, for emergency medical supplies.

**COMMENTS:** (T04-114-01) Total amount not to exceed \$92,000.

**DOCUMENT NAME:** [20070503fslq02.pdf](#) **PURCHASES (1004-01)**

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

Approved a month-to-month contract renewal (with a maximum of six months) with ACS State and Local Solutions for photo radar services.

**COMMENTS:** (T02-042-01) Total amount not to exceed \$200,000.

Councilmember Arredondo requested this item be removed for separate consideration. He suggested the Police Department come forward to make a recommendation on photo radar during this six-month period.

**Motion by Councilmember Arredondo for approval of Item #26. Second by Councilmember Mitchell. Motion passed on a roll call vote, 7-0.**

**DOCUMENT NAME:** [20070503fsta04.pdf](#) **PURCHASES (1004-01)**

27. Approved the increase by \$150,000 of the contract amount with Lacor Streetscape for mini transit shelters.

**COMMENTS:** (T06-033-01) Increase from \$250,000 to \$400,000.

DOCUMENT NAME: [20070503fslq06.pdf](#)

PURCHASES (1004-01)

28. Approved **Contract #2004-04F**, a change order to a takeover agreement with Capitol Indemnity Corporation for completion of construction of the South Tempe Water Treatment Plant Environmental Services Building and plant entrance improvements, and approved **Contract #2007-67**, a Settlement and Release Agreement related thereto.

**COMMENTS:** Total amount of the change order shall not exceed \$346,076.

**DOCUMENT NAME:** [20070503PWMV03.pdf](#) **SOUTH TEMPE WATER TREATMENT PLANT (0811-08) PROJECT NO. 3201093 AND 3201095**

29. Approved the utilization of a one-year State of Arizona contract with Midway Chevrolet/Isuzu for the purchase of eleven vehicles.

**COMMENTS:** (Contract SCC070002-A4) Total amount of the contract shall not exceed \$194,050 during the initial contract period.

**DOCUMENT NAME:** [20070503fsta03.pdf](#) **PURCHASES (1004-01)**

30. Approved the utilization of twenty-one month US Communities contracts with Haworth, Inc., and Herman Miller, Inc., for the purchase of office furniture.

**COMMENTS:** (RQ07-878957-20A and 20C) Total cost of the contracts shall not exceed \$800,000 during the contract period.

**DOCUMENT NAME:** [20070503fsts05.pdf](#) **PURCHASES (1004-01)**

- 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 an ordinance authorizing the Mayor to execute agreements to terminate the lease with and convey property to FLY (CD) LLC, a Delaware limited liability company, and AWHQ LLC, an Arizona limited liability company. **The second public hearing is set for May 17, 2007.**

Vice Mayor Hutson asked for this item to be removed for separate consideration. He checked his notes and this is the fifth time he has requested to know who FLY LLC is, who owns that building, and who is getting the proceeds from the thousands of dollars the City spent.

Chris Salomone responded that the ownership of the building is 75% FLY LLC, principal owner Mr. Bill Franke, and 25% America West Headquarters. He will provide that information prior to the second public hearing.

**\*\*\*FIRST PUBLIC HEARING ONLY, NO COUNCIL ACTION TAKEN. THE SECOND PUBLIC HEARING IS CURRENTLY SCHEDULED FOR MAY 17, 2007.**

DOCUMENT NAME: [20070503cdcm01.pdf](#)

COMM DEV/REDEVELOPMENT

**ADM (0403-01) ORDINANCE NO. 2007.31**

\*32. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**

Introduced and held the **first** public hearing for an Amended Planned Area Development Overlay for PIER 202 located at 1200 East Rio Salado Parkway. **The second public hearing is set for May 17, 2007.**

**COMMENTS:** (PL060548) (Pier 202 Tempe LLC, property owner; Brad Gorman, applicant) consisting of nine (9) new buildings up to 310 feet in height for commercial, 285 room hotel and 1,484 residential units on +/-27.4 acres, located at 1200 East Rio Salado Parkway, in the MU-4, Mixed-Use High Density District, including the following:

**PAD07003 – (Ordinance No. 2007.17)** Amended Planned Area Development Overlay to modify development standards for nine (9) buildings, totaling approximately 3,693,000 s.f. of building area on +/-27.4 acres.

**APPLICANT PRESENTATION:**

**Brad Gorman**, one of the Principals of Pier 202, introduced Ernie Vasquez, architect of the master plan, who provided a video overview of the project.

**Ernie Vasquez** summarized that the local firm of Architekton is part of their partnership. The design goals were for a project that integrated the philosophy of the desert and reinforced the connections of the City, the relationship with Rio Salado and the Town Lake, and created a unique place in the desert and in urban living, entertainment, retail and restaurants. They desired to create something identifiable to the Tempe and Arizona environment, a project that created a diverse, architectural palette, a unique and enriching environment that would complement all of its uses. A variety of residential will be integrated throughout the project. The site plan covers 27 acres of land and each parcel ranges from 2 acres to 3.3 acres. The purpose is to create incremental phases that would complement each other's uses. Districts have been created within the environment. Retail is at the core at the intersection of the street and it celebrates itself onto a public plaza. The open spaces run between the buildings and open to the view of the lake. Each development area has its own recreational amenity and the plaza area is a core gathering place. Each parcel will sustain its own parking needs and the parking is never exposed in order to create better pedestrian experiences. The first parcel is the hotel. The office component is closest to Rio Salado and has a corporate identify with two buildings of 230,000 sq. ft. each. It also includes some residential. The project is a blend of low-rise and high-rise. The boardwalk is the active zone and where the restaurants and retail will be located. Phase 1 includes four parcels to create the critical mass as part of the retail success.

**Michael Barker, Principal**, commended City staff for their effort in developing this plan.

Mayor Hallman asked for the timeline for Phase 1, assuming approval of this item on May 17<sup>th</sup>.

Mr. Baxter responded that they are well on the road of having the infrastructure drawings completed for streets and utilities for the entire project. The engineering drawings are about 60% complete and will be completed about the middle of July to begin the bidding process for the infrastructure work. Groundbreaking would be sometime in the Fall.

Councilmember Shekerjian asked about build-out.

Mr. Baxter responded that current market prospects would project about seven to ten years for a complete build-out. If the infrastructure gets underway this Fall; Phase 1 would begin during the first part of 2008.

***\*\*\*FIRST PUBLIC HEARING ONLY, NO COUNCIL ACTION TAKEN. THE SECOND PUBLIC HEARING IS CURRENTLY SCHEDULED FOR MAY 17, 2007.***

DOCUMENT NAME: [20070503dsrl01.pdf](#) PLANNED DEVELOPMENT  
(0406)

- \*33. Introduced and held the **first** public hearing for a General Plan Amendment for DOUBLE BUTTE CEMETERY at 2505 W. Broadway Road. **The second public hearing is scheduled for May 17, 2007.**

COMMENTS: (PL070054) (City of Tempe, applicant) for a General Plan Land Use Map Amendment for 5.42 acres for the Double Butte Cemetery future mausoleum site located at 2505 W. Broadway Road, in the GID, General Industrial District, including the following:

**GEP07002 (Resolution No. 2007.17)** – General Plan 2030 Projected Land Use Map Amendment for approximately 5.42 acres to be amended from the Public Open Space Land Use designation to the Public Recreational/Cultural Land Use designation.

DOCUMENT NAME: [20070503dsdk01.pdf](#) PLANNED DEVELOPMENT  
(0406)

- \*34. Introduced and held the **first** public hearing for a General Plan Amendment for VICTORY ACRES PARK at 2407 E McArthur Drive. **A second public hearing is set for May 17, 2007.**

COMMENTS: (PL060586) (Jeff Valasquez of J2 Design, applicant, on behalf of City of Tempe, owner) A General Plan Land Use Map Amendment for approximately 3 acres for the new Victory Acres Park in the R-2 Multi-Family Zoning and CSS Commercial Shopping and Service districts. The request includes the following:

**GEP07001 (Resolution No. 2007.18)** - for a General Plan 2030 Projected Land Use Map Amendment for approximately 3 acres to be amended from the Residential Land Use designation to the Public Open Space Land Use designation.

DOCUMENT NAME: [20070503dsdk02.pdf](#) PLANNED DEVELOPMENT  
(0406)

- \*35. Introduced and held the **first** public hearing for an ordinance approving the Operations and Maintenance Agreement with Valley Metro Rail, Inc. **The second public hearing is set for May 17, 2007.**

DOCUMENT NAME: [20070503pwjism01.pdf](#) [20070503pwjism02.pdf](#)  
TRANSPORTATION PLANNING (1101-01) ORDINANCE NO. 2007.33



D. Ordinances and Items for Second Hearing/Final Adoption

- \*36. Held the **second** public hearing and approved ORDINANCE NO. 2007.22 granting **Contract #2007-68**, an easement to Southwest Gas Corporation to install and maintain the facilities necessary to provide service to the East Valley Bus Operation and Maintenance Facility at 2050 West Rio Salado Parkway.  
**DOCUMENT NAME:** [20070503PWCH01.pdf](#) **GRANT OF EASEMENTS (0904-02)**
- \*37. Held the **second** public hearing and approved ORDINANCE NO. 2007.28 amending Chapter 19 of the Tempe City Code relating to Motor Vehicles and Traffic by amending Section 19-141 relating to position of motor-driven cycles.  
**COMMENTS:** The purpose of this amendment is to make it lawful to park more than two motor-driven cycles within one parking meter space in order to maintain constitutionality as well as provide equitable enforcement of the law for citizens and patrons of Tempe.  
**DOCUMENT NAME:** [20070503pdsam01.pdf](#) **MOTOR VEHICLES & TRAFFIC (0503-19)**

E. Resolutions

38. Approved RESOLUTION NO. 2007.29 authorizing the approval and submission of the Community Development Block Grant (CDBG) and HOME Programs Action Plan for Fiscal Year 2007-2008.  
**DOCUMENT NAME:** [20070503cdlc01.pdf](#) **COMMUNITY DEVELOPMENT BLOCK GRANT (0207-26)**
39. Approved RESOLUTION NO. 2007.22 amending City Code Appendix A—Schedule of Fees and Charges, Chapter 21, Nuisances and Property Enhancement and Chapter 35, Zoning.  
**DOCUMENT NAME:** [20070503cacc01.pdf](#) **MISCELLANEOUS FEES (0210-05)**

6. **PUBLIC APPEARANCES**

**SCHEDULED PUBLIC APPEARANCES**

**Ruth Kolb Smith, Tempe, re: Neighborhood Circulators.** For 30 years she has used College Avenue between Alameda and Broadway as a walker, a bicyclist, and a driver. At Broadmor School on March 26<sup>th</sup>, City staff presented the plan to run 128 buses daily on College. Safety concerns of residents were dismissed and many residents left feeling frustrated and angry. The half mile stretch on College between Alameda and Broadway is unique. There are two schools on the same block with two school crosswalks. Traffic is frequently stopped at the crosswalks. The most heavily used bike path in Arizona is there.



ASU's website estimates 15,000 bicycles to ASU daily, and a large portion of these cyclists use the College bike path. It is inherently dangerous to have 128 buses passing daily and stopping in the bike lane. Under normal traffic conditions it is not easy to see the crossing guard. Circulator buses in the bike lane could obstruct the view ahead making the guard even less noticeable. There is very heavy school bus traffic on College as well. Many parents with safety concerns prefer to drive their children to school and the presence of Neighborhood Circulators may cause even more parents to drive their children to school. Many driveways also exit onto College. She recommended this segment of the route be moved to Mill. She is not opposed to the circulator system in general, but because of the inherent safety hazards, she requested that the circulator route now planned for the half mile of College between Alameda and Broadway be moved off College.

**Rick Vullo, Tempe, re: Neighborhood Circulators.** He has lived on College for six years and has a family of seven. An increase in traffic is a danger to the neighborhood. From Alameda to Broadway, College Avenue is narrower. Adding more traffic increases the risk for injury or fatality and 128 buses per day is almost 2.7%. This is an increase over the 4749 vehicles that use College between Broadway and Southern. By using the statistics from the 5<sup>th</sup> Street program, it means he can expect a 1.6% increase in accidents involving these buses in his neighborhood. For every 100 accidents, nearly two of them will involve this bus. It is his job to protect his family from risk and adding a route to College increases his family's risk. Comparing the median home prices of his neighborhood to 5<sup>th</sup> Street, College has 13.5% higher median home prices. The average household income is 21.5% higher. The same rules can't be applied to two different neighborhoods. Fifth Street has the lowest median priced homes in Tempe. Approximately 20% more of the Fifth Street neighborhood population attends either school or college and there is considerable multi-family and commercial zoning in this area. The College Avenue neighborhood is made up largely of single family homes with R-16 zoning and the area north of Southern on College to Broadway has no commercial zoning. College Avenue is the busiest street for pedestrians and bikers in the state. The volume of traffic going by your home will affect the resale value of your home. With more traffic, there will be less home value. There are fifteen homes directly on College, with nine owner-occupied and six rentals. Of the six owner-occupied he spoke to, one was undecided, one was for the circulator and four were against it.

**Rose Weitz, Tempe, re: Neighborhood Circulators.** She has worked and lived in Tempe since 1978 and has owned a house on Balboa since 1985. She lives in the neighborhood because she prefers to walk and bicycle. In the survey of the neighborhood, including the neighborhood where there was the most opposition, the grand total of opponents was 11% with 72% in favor. The circulators are not buses, but a van a little bigger than a Suburban and would be carrying people who would otherwise be in cars. This will mean less noise, less cars, and less pollution. People who aren't used to circulators or buses see the dangers. Her experience as a bicyclist, a pedestrian and a driver in Tempe is that cars are the most dangerous for her, for bicyclists, for pedestrians, and for other people in cars. What will make the City safer for children and adults is having fewer cars and this is what the circulator will do. It will provide options. There has yet to be a single accident between a Neighborhood Circulator and either a pedestrian or bicyclist in Tempe. She provided petitions which specifically say they would like to see the circulator routed back onto College for the entire route as originally proposed. It's where it makes the most sense.

**Joan Westlake, Tempe, re: Neighborhood Circulators.** She lives south of Alameda on College and she walks on College every day. College is an important part of her community and she supports the Neighborhood Circulators. She had concerns, but when she looked at the facts, her support increased. She had heard a concern about ASU students parking in the neighborhood, but when she learned the students have bus passes, she would think the students would be taking the buses out onto Rural and Mill and there would be no reason to come down into the neighborhood. The issue of safety doesn't really seem to be a problem. It is fortunate to have had a pilot program for six years. The schools are supporting this because they know the problems have been worked out. Home prices don't have to do with bike lanes and how buses are used. The majority of people in her neighborhood support this. This bus reflects the ideals and things about Tempe that she respects.

**Stu Greenstein, Tempe, re: Neighborhood Circulators.** Did not speak.

**James Foard, Tempe, re: Neighborhood Circulators.** He has been a bike commuter for 28 years, with 16 of those on College Avenue. He supports the circulator buses. It may result to some inconvenience to him if the circulator runs every 10 minutes, because he can ride on College in its entirety for 10 minutes. The most that would happen is that he would come up behind it once for a very brief stop on each trip. In return, there will be a reduction in automobile traffic which is the real threat to bicyclists on College. It is an excellent back-up transportation mode for bike commuters. It will be a connection to light rail which is a great convenience so we don't have to drive in order not to drive. The parking situation does bear watching, but this route covers an enormous area and if students were to do this, they would be doing it now. There has also been concern about an increase in crime and loitering. He has trouble imagining a crime for which the circulator would be the preferred vehicle for the criminal. Regarding the concern for increase in student rentals, that will be decided by market forces, not by the circulator. He commended the City's staff for their patience and excellence in dealing with this issue. Staff deserves Council's support, as do the overwhelming majority of taxpayers and voters who have voted for this in 1996 and have paid for it for over ten years.

**Bob Atkinson, Tempe, re: Neighborhood Circulators.** Did not speak.

**Anne Schutte, Tempe, re: Neighborhood Circulators.** She comes from a modest background and has lived in a modest home on Palmcroft Drive, just off of College for 13 years. She asked for Council to consider moving the circulator bus off College Avenue. It is a beautiful street with two schools near Broadway, one further north, three churches and a heavily used bike path. It carries hundreds of riders daily to ASU and elsewhere. Circulator buses added to the mix of school buses, bicycles, children walking and children riding bikes and motorized wheelchairs could result in an increase in accidents and be detrimental to the bike path. Everyone wants children to be safe, property values to hold, and people who need City mobile services to get them, but they want to preserve the quality of life in the neighborhood. Council must recognize that many residents do not want a bus riding through the neighborhood and that the neighborhood will change in unacceptable ways. They are concerned that people will be standing in their yards waiting for buses, that people will be noisy outside their windows between 6 a.m. and 10 p.m. They don't want buses passing by their front door 128 times a day. They

are worried about an increase in crime. They fear students will be parking in their neighborhood to catch the bus. Our bike path reduces pollution, gets residents where they need to go, and provides a wonderful place for family outings on the weekends. Buses cannot safely co-exist. The potential risk is not worth the gains. The wishes of the people are being ignored. Please reconsider your plans and listen to your residents who will be most directly affected.

**Bob Bostic, Tempe, re: Neighborhood Circulators.** He has lived in Tempe since 1974, and he rides on the bike path every day. He is not against the Neighborhood Circulators, but he is against running bus trips every 15 minutes up and down College Avenue and pulling into the bike path at any time. College Avenue is one of the most heavily traveled bicycle paths in the State. City staff said that Fifth Street is identical to College Avenue. His wife rode the 5<sup>th</sup> Street Circulator Bus last week and she didn't see any bicycles. She asked the driver if he had concerns with bicycle riders when he pulled into the bike lanes and he stated that the bicycle traffic is very light on Fifth Street. In contrast, the College Avenue bike lane is heavily used. If these buses pull into the bike lanes, they will block the lane as well as part of the traffic lane. He urged moving the bus route off of College and back on Mill.

**Michael Fields, Tempe, re: Neighborhood Circulators and neighborhood parking.** He has lived in the neighborhood since 1973. He was disappointed in the public meeting at Broadmor School. Staff had their own agenda to promote these buses. There is no significant traffic problem that would warrant calming measures. During the school year, for a period of about an hour in the morning and again in the afternoon, there is traffic on College mostly related to McKerny Middle School and Broadmor Elementary School. There are school buses, children riding bicycles, children walking, and parents dropping off and picking up their children. The rest of the day the traffic is calm. On weekends, it is especially peaceful and quiet. Over the past few years, there has been an increase in ASU students parking on College. They unload their bikes and then bike to school. With the Circulator buses, this problem will expand and his neighborhood will be faced with the same student parking issues as the Daley Park residents encountered years ago. How do 128 bus trips on College Avenue enhance the quality of life in the neighborhood? What safety issues do these buses cause for the children? How many of these free bus passengers may be individuals with ill intentions? The City needs to continue to protect our neighborhoods and not allow a mass transit plan to diminish the quality of life for the many families who live, work and raise their children there. The buses will mean more noise, congestion and parking.

**Harvey Smith, Tempe, re: crime.** He is a math professor at ASU. He has published papers on criminology, conducted operations research for police organizations and served as consultant for the Center for Criminological Research at the University of Pennsylvania. He has also been a resident of Tempe for 30 years. There has been some concern about the effect of the Neighborhood Circulator buses on the crime rate in Tempe. City staff has published statements aimed at calming these fears. In particular, they have said that buses would have surveillance cameras and the drivers would be equipped with radios and would be an extra pair of eyes on the streets. It has also been said it would be irrational for criminals to ride buses. Radios and extra eyes on the street may be useful in alerting police to crimes in progress. For crimes committed by people after exiting the buses, the security cameras might help in apprehending the perpetrator. For this reason, they are likely to deter crimes that are rationally planned with an awareness of the probability of being caught. Persons planning such crimes would be more likely

to use cars rather than a bus. Many crimes, however, are committed by people who are less than rational, who simply find an opportunity irresistible or an impulse overwhelming. These crimes are not carefully planned. It cannot be a foregone conclusion that the introduction of Neighborhood Circulators will not increase crime along its route. It may well be that certain categories of certain crimes will increase and others will decrease. The City should carefully track the geographical distribution of certain crimes and try to determine whether the circulator system being introduced plays any role in changing the patterns of crime incidents. He predicts that it will.

**Steve Bowles, Tempe, re: parking.** He submitted petitions containing 500 signatures of residents of the south College neighborhoods opposed to College Avenue being included as part of the circulator route. The bus plan is a great plan and those who oppose it for College Avenue are in support of the objectives and what it will do for Tempe. That does not mean that College Avenue is an appropriate part of the plan, however. It is easy to understand where wide acceptance in the City can be generated. ASU is a magnet which draws people from neighboring communities to park on the streets on the last leg before the circulator bus reaches ASU. He has lived at or near College Avenue for 39 years. Most people don't have easy access to step out of their house and grab an express bus.

Mayor Hallman concurred that there is an issue that the circulator bus might encourage students to get rental houses in the neighborhood because they already have the circulator out their door and they don't have to get in the car. He didn't understand the argument that people will drive their car to the neighborhood to park there to ride the circulator. If they are going to drive a car to a location to easily take a bus, there are arterial buses that are more quickly accessible with easier parking in safer locations.

Mr. Bowles responded that there is a shortage of parking at ASU. Over the years they have not added parking and they don't intend to add any more parking. The disaster of this has already been seen south of campus into the Daley Park neighborhood and it is moving further south. With free bus service coming down College Avenue and only residential streets connecting in, it will be more attractive than the arterial buses.

Mayor Hallman clarified that Mr. Bowles has a problem now with students parking in his neighborhood without this circulator. We need to start working with the neighborhood now to talk about how to stop student parking before it gets worse. Even if Council decided there would be no Neighborhood Circulators, the parking problem needs to be solved.

Mr. Bowles added that the City and ASU need to be in partnership. His house is a 5-minute drive from ASU and his neighborhood will be vulnerable to parking to get on the bus. The problem needs to be quantified.

Mayor Hallman stated that the Neighborhood Circulator doesn't make it more convenient to drive to the bus because it is unscheduled. The regular buses are scheduled. For light rail, the City is building park-and-rides that will accommodate ASU staff and students and Tempe staff at Price Road and Apache. Those kinds of things are taking place now because we see this problem accelerating. He asked Mr.

Bowles if he is prepared to lead his neighborhood to start solving this parking problem that has nothing to do at the moment with the circulator bus. This issue won't come before Council until June 28<sup>th</sup>. No decision has been made by Council on this route, other than a decision to have a neighborhood process to see which neighborhoods want it and which wouldn't.

Mr. Bowles agreed. This neighborhood cares and is on board. We need a partnership between the City and ASU and we need data from ASU to help characterize the situation.

Mayor Hallman added that there are parking sticker programs. The neighborhood needs to decide if they want to start down that road. Council won't impose it upon the neighborhood.

Mr. Bowles stated that this is a good launching point. They don't want to implement further transportation plans that feed the problem. This is a vulnerable neighborhood for this. Regarding safety, it's not an issue of the dimensions of the bus. It's a narrow street and the bike lane is even narrowed down. When a bus suddenly pulls over because someone flags it down, there are real safety issues. There is an ideal reason to bring the bus up College Avenue and that is to gather in the people that live in our neighborhood that work at ASU and downtown. If this neighborhood has problems for other reasons, then what's left is that we are gathering people up from all over the rest of the City and driving them to ASU and downtown by bringing them right down the funnel of College Avenue.

Mayor Hallman asked if he felt he is reflective of the other people in the neighborhood.

Mr. Bowles responded that of the 80% acceptance rate citywide, it is probably 80% opposed in the College Avenue neighborhood.

Mayor Hallman explained that when staff refers to unduplicated responses, staff is looking at individuals giving their names, addresses and other data, and they are being counted as one person one time. If someone sends ten emails opposing or ten emails supporting, they are counted only once. If our staff counts that up and, contrary to your perception, said 75% to 25% in favor, would he accept that conclusion?

Mr. Bowles responded that he believes in the will of the people.

Mayor Hallman summarized that this Council has no interest in forcing a Neighborhood Circulator through a neighborhood where it isn't wanted. The entire purpose is to supply the residents along the route with a convenient access to this van, which is about 5 or 6 feet longer than a Suburban. He is puzzled that people assume, in opposition, that the bus drivers will suddenly randomly pull over without recognizing the traffic, the bikers, and the pedestrians. By the same token, he is puzzled that the proponents don't acknowledge that there are some concerns about whether it will add to the parking problem. As a matter of procedure, this matter doesn't come before Council until June 28<sup>th</sup> because Council has told the public that this process will go forward and that people will have a chance to give input during this entire period of time. On the 28<sup>th</sup> of June, staff will compile all of the information, supply it to Council, and there will be another hearing like this to describe parking issues. Some people have said there's no traffic problem on

College. Others are saying College Avenue is the most heavily traveled street in the city and that we are driving traffic up and down that street because the University has a parking lot on Apache Boulevard. That's why we've decided to look at the bigger problem and Council has given direction to move forward on traffic-calming. Council's goal is to give your street the residential character it deserves and we have a lot of work to do to accomplish that. Please understand that this Council is not seeking to push a Neighborhood Circulator into your neighborhood if your neighbors don't want it, but we do have to go through a process to make that determination.

Mr. Bowles added that the City has a lot to gain from this and with the parking problems that exist at ASU and in the downtown, we need a plan that will allow people to live in our Tempe neighborhoods, leave their car at home, step to the curb and get a ride. If we don't include College Avenue in the loop, we will get the benefit everywhere else and we will bring those people to their destination of ASU and downtown and we will either do it through Mill or Rural.

Mayor Hallman clarified that the goal isn't to get people from everywhere else to ASU. All of these neighborhoods also want to get to the grocery store, to the Library and the myriad of places along the way. This isn't about collecting everyone from everywhere else to drag them through your neighborhood to get to ASU. That might be the direction for some people, but it is also as likely that the direction of travel is the opposite and that we are trying to supply a circulator that hits major points along the route. The loop will go both directions.

Mr. Bowles agreed and added that he spoke about ASU and downtown because ASU is one of the largest organizations in Tempe. We can roll out the plan and get the benefits throughout the City, except this College Avenue neighborhood has some significant challenges. We need to figure out a different plan for gathering those people out of that neighborhood and connecting them into the circulator service. Even if we can't find a solution, it is a relatively small chunk of Tempe that didn't get access to it, but Tempe overall would have the benefits. We can find a workable solution.

#### UNSCHEDULED PUBLIC APPEARANCE

**Mike Ruppel, Tempe.** His neighborhood has a parking permit system that was implemented ten years ago. The City has been diligent in its efforts to determine the level of public support for Neighborhood Circulators between Apache Boulevard and Southern Avenue along College Avenue. The positive response from 75% of the sampled citizens in the area is indicative of significant support. The neighbors he has spoken to consider Neighborhood Circulators as a valuable amenity that can have the effect of reducing cut-through traffic on residential streets. Having Neighborhood Circulators instead of cross-town traffic will promote safety for our residents and children. We will have difficulty in convincing our children that the time for using cars for all transportation is over until we provide convenient opportunities for them to experience the benefits of public transportation. The City's Transportation Department has an excellent track record of studying the effects of their activities before action is taken. It also has a good reputation for being responsive to correcting unintended consequences of their actions and it would seem reasonable to expect that any negative effect on citizens' health and happiness would also be resolved. The potential for producing more means of mitigating for neighborhood circulators in the form of petitions, endorsements, direct correspondence and residents addressing Council is considerable. Although

informative, these meetings do not form a scientific and objective picture of what the citizens of Tempe believe. The formative data has already been collected and using that data to formulate public policy seems to make the best use of taxpayer funds.

**Lorrie Nelson, Tempe**, stated that she has lived just off of College Avenue since 1973. Her husband and son-in-law bike to ASU. College Avenue is very special to a lot of people. Many people have said "not in my backyard." We all treasure our neighborhoods but increasingly, we remember that our backyard is the earth. The neighborhood circulator is environmentally responsible and the surveys show it does have widespread support. It will enhance our neighborhoods and it will improve the quality of life. She taught at Scales for 12 years. Before the traffic-calming and the circulator on Fifth Street, she observed problems, but she has watched the street slow down and become what it is now. She would use a circulator and come downtown more often. She knows from experience that Council makes hard decisions and citizens understand that the Council makes decisions for the common good.

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

- Councilmember Shekerjian thanked the Tempe Diablos for hosting a dinner to celebrate excellence in education. Five staff members from each of the high schools were honored. On August 4<sup>th</sup> at Sun Devil Stadium, Tempe's own award-winning Drum Corps will be hosting the Drum Corps International's regional competition, bringing 8,000 to 10,000 people to the community. Also, last Saturday our Mayor was awarded an honorary Doctorate Degree in Technology from ASU's University of Advancing Technology.
- Councilmember Arredondo added that he toured the new Police facility on Apache Boulevard and reminded citizens of the formal dedication this weekend beginning at 10 a.m. on Saturday.

*Meeting adjourned at 10:45 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 May 3, 2007, by the Tempe City Council, Tempe, Arizona.

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Hugh Hallman, Mayor

ATTEST:

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Jan Hort, City Clerk

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2007.