

## Minutes Formal City Council Meeting February 21, 2008

Minutes of the Formal Council Meeting of Thursday, February 21, 2008, held at 7:30 p.m. in the Harry E. Mitchell Government Center, Municipal Building, City Council Chambers, 31 E. Fifth Street, Tempe, Arizona.

**COUNCIL PRESENT:**

Mayor Hugh Hallman  
Vice Mayor Hut Hutson  
Councilmember P Ben Arredondo  
Councilmember Barbara J. Carter  
Councilmember Shana Ellis  
Councilmember Mark W. Mitchell

**COUNCIL ABSENT:**

Councilmember Onnie Shekerjian

Mayor Hallman called the meeting to order.

1. Councilmember Carter 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 Carter to approve the following **COUNCIL MEETING MINUTES**.  
Second by Vice Mayor Hutson. Motion passed unanimously on a voice vote.

1. Council's Executive Review Session – February 7, 2008
2. Council's Issue Review Session – February 7, 2008 [20080221clrkck02.pdf](#)
3. Council's Formal Meeting – February 7, 2008 [20080221clrkck01.pdf](#)
4. Council's Transportation, Housing & Environment Committee – January 22, 2008  
[20080221the01.pdf](#)

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

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

5. Apache Boulevard Project Area Committee – January 14, 2008 [20080221apac01.pdf](#)
6. Hearing Officer – January 15, 2008 [20080221ho01.pdf](#)
7. Historical Museum Advisory Board – January 23, 2008 [20080221csjc01.pdf](#)
8. Historical Museum Advisory Board – Petersen House Endowment Committee –  
January 9, 2008 [20080221cdjc02.pdf](#)

9. Library Advisory Board – January 7, 2008 [20080221lab01.pdf](#)
10. Mayor's Youth Advisory Commission – January 15, 2008 [20080221myac01.pdf](#)
11. Municipal Arts Commission – December 12, 2007 [20080221mac01.pdf](#)
12. Tempe Fire Public Safety Personnel Retirement Board – September 6, 2007
13. Tempe Police Public Safety Personnel Retirement Board – January 3, 2008
14. Tempe Sports Authority – December 5, 2007 [20080221tsa01.pdf](#)

#### 4. REPORTS AND ANNOUNCEMENTS

##### A. Mayor's Announcements

- Mayor Hallman announced that he was joined by 60 fellow citizens to raise awareness and funds through participation in the PF Chang's Rock 'n' Roll Marathon. Four non-profit organizations that have a positive impact in our community were the beneficiaries. He introduced representatives of those organizations. **Susan Wilkins**, Association for Supportive Child Care; **Vinny Mirizio**, Tempe Family YMCA; **Dave Cutty**, President of The Centers for Habilitation; and **Kate Hanley**, Executive Director of Tempe Community Council, representing the Tempe Community Foundation. With the help of business leaders, Team Tempe raised funds to help Tempe's local charities. Almost \$180,000 was raised and the effort exceeded any effort the Rock 'n' Roll Marathon had seen previously throughout the country. He thanked and recognized the four corporations who were the top sponsors for the event. The Gold Sponsor at \$50,000 was Vestar, represented by **David Malin** of Tempe Marketplace. The three Silver Sponsors at \$10,000 were Avenue Communities, represented by Manager **Jim Osburn**, SunCor Development/Hayden Ferry Lakeside, represented by **Randy Levin**, and Gray Development. **Kate Hanley** thanked the Mayor for his assistance in the fund-raising and presented him with a plaque. The Mayor also acknowledged **Emma Bordner** and **Jayson Matthews** who coordinated the Team Tempe effort.
- Mayor Hallman recognized the **Tempe High School National Merit Scholarship Recipients** and read a proclamation declaring February 1, 2008, as National Merit Scholar Day in Tempe.
- Mayor Hallman announced that Tempe has received two prestigious **Women in Transit Awards** - the Rosa Parks Diversity Leadership Award and the Innovation in Transportation Award. The Women in Transportation Seminar (WTS) was created in 1977 to enhance professional and personal advancement and recognition of the increasing involvement of women in the field of transportation. The WTS is now celebrating its thirtieth anniversary and has become an international organization with over 4,000 transportation professionals. He presented the diversity award to Diversity Manager **Rosa Inchausti** and the 2007 Innovation in Transportation Award for the green facility (the East Valley Bus Operations and Maintenance Facility), along with Scottsdale and Valley Metro, to **Robert Yabes**, Principal Transportation Planner, and **Tom Willhite**, Principal Civil Engineer.
- Mayor Hallman read a list of current **Board and Commission vacancies** and encouraged residents to apply.

B. Manager's Announcements

- City Manager Charlie Meyer announced that the intersection at University and McClintock has been reopened to traffic. Repair of the broken water main was a major undertaking on the part of a number of City departments. He apologized for any inconvenience caused by this repair. Mayor Hallman added his thanks to all who helped in the repair.

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 Mitchell to approve the Agenda as amended (Items #44 and #56 were removed for separate consideration). Second by Vice Mayor Hutson. Motion passed on a roll call vote 6-0, with Councilmember Shekerjian absent.**

A. Miscellaneous Items

15. Approved the Report of Claims Paid to be filed for audit for the month of January, 2008.  
**COMMENTS:** A copy of the detailed claims report may be obtained by contacting the City Clerk's Office.
16. Authorized Tempe's share of preconstruction funding for a Regional Office Center that will house the offices of Valley Metro Rail, Inc.  
**COMMENTS:** Request approval to authorize the expenditure of up to \$181,500 to pay the up-front costs associated with the Tempe's portion of design and construction of the Regional Office Center Project, as obligated through Tempe's membership in Valley Metro Rail (VMR), Inc.  
**DOCUMENT NAME:** [20080221pwjism02.pdf](#) **TRANSPORTATION PLANNING (1101-01)**
- \*17. Held a public hearing and recommended the approval of a Series 12 Restaurant Liquor License for LBM Ventures LLC dba Brew City Bar & Grill, 1475 West Elliot Road.  
**COMMENTS:** Frank Kasha, Agent  
**DOCUMENT NAME:** [20080221LIQ01.pdf](#) **LIQ LIC (0210-02)**
- \*18. Held a public hearing and recommended the approval of a Series 12 Restaurant Liquor License for Maria Maria Arizona LLC dba Maria Maria, 2000 East Rio Salado Parkway, Ste. K-1.  
**COMMENTS:** Randy Nations, Agent

**DOCUMENT NAME:**     [20080221LIQ02.pdf](#)    LIQ LIC (0210-02)

- \*19.   Held a public hearing and recommended the approval of a Series 10 Beer and Wine Store Liquor License for Cross Refrigeration Products Inc., dba Coolgrass Wine Cellar Solutions, 1121 North Sickles Drive.

**COMMENTS:**       Thomas Stephens, Agent

**DOCUMENT NAME:**     [20080221LIQ03.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 Danny's Tempe LLC dba Danny's Tempe Town Market Place, 2090 East Rio Salado Parkway.

**COMMENTS:**       Lauren Merrett is the Agent for this application.

**DOCUMENT NAME:**     [20080221LIQ04.pdf](#)    LIQ LIC (0210-02)

- \*21.   Held a public hearing and recommended the approval of a Series 12 Restaurant liquor license for No Chaser LLC dba Nates Place Pub and Grill, 5235 South Kyrene Road, #104.

**COMMENTS:**       Destiny Myres is the Agent for this application.

**DOCUMENT NAME:**     [20080221LIQ05.pdf](#)    LIQ LIC (0210-02)

**B.    Award of Bids/Contracts**

22.   Awarded **Contract #2008-37**, a Construction Manager at Risk Construction Services contract to McCarthy Building Companies, approved **Contract #2008-38**, a professional services design contract with Stantec Consulting, approved **Contract #2008-39**, a construction management contract with Bosak CPM, approved a construction change order contingency for the City Hall Parking Garage and Retail Building Shell – Guaranteed Maximum Price (GMP) Phase 2, and approved the funding necessary to complete the project financing.

**COMMENTS:**       Construction Manager at Risk Construction Services contract with McCarthy Building Companies for a GMP of \$15,325,085; professional services design contract with Stantec Consulting in an amount not to exceed \$150,000 and a construction management contract with Bosak CPM in an amount not to exceed \$131,700, all subject to execution of the final written documents; and a construction change order contingency of \$1,000,000.

**DOCUMENT NAME:**     [20080221PWDR02.pdf](#)    **PARKING (0503-19) PROJECT NO. 6702971**

23.   Approved **Contract #2008-40**, a Construction Manager at Risk Design Phase Contract with PCL Construction, Inc., for Town Lake Downstream Pedestrian Bridge.

**COMMENTS:**       Construction Manager at Risk Design Phase Contract in an amount not to exceed \$90,742 with PCL Construction, Inc., subject to execution of the final written contract.

**DOCUMENT NAME:** [20080221PWDR03.pdf](#) **RIO SALADO PARK (0706-32)**  
**PROJECT NO. 6501541**

24. Approved **Contract #2008-41**, a professional services design contract with Project Engineering Consultants, Ltd., for Evelyn R. Hallman Park Waterline – Marigold Lane to McKellips Road.

**COMMENTS:** Professional services design contract in an amount not to exceed \$47,704 with Project Engineering Consultants, Ltd., subject to execution of the final written contract.

**DOCUMENT NAME:** [20080221PWDR04.pdf](#) **WATERMAIN CONSTRUCTION-NEW (0810-06) PROJECT NO. 3207051**

25. Approved **Contract #2007-218A**, a construction Job Order with Sunland Asphalt and a construction change order contingency for Reconstruction of Neighborhood Streets for the area bounded by Mill Avenue to Rural Road and Baseline Road to US 60.

**COMMENTS:** Job order in the amount of \$860,615.44 with Sunland Asphalt and a construction change order contingency of \$86,000, subject to execution of the final written contract.

**DOCUMENT NAME:** [20080221PWDR05.pdf](#) **STREET UPGRADING-MAINT-CONSTRUCTION (0809-05) PROJECT NO. 5407071**

26. Approved **Contract #2007-238A**, a construction Job Order with Cactus Asphalt and a construction change order contingency for Arterial Street Rehabilitation - Priest Drive and Baseline Road.

**COMMENTS:** Job order in the amount of \$727,754.59 with Cactus Asphalt and a construction change order contingency of \$110,000, subject to execution of the final written contract.

**DOCUMENT NAME:** [20080221PWDR06.pdf](#) **STREET UPGRADING-MAINT-CONSTRUCTION (0809-05) PROJECT NO. 5407061**

27. Approved **Contract #2007-218B**, a construction Job Order with Sunland Asphalt and a construction change order contingency for Rehabilitation of Neighborhood Streets for the area bounded by Mill Avenue to Rural Road and Baseline Road to US 60.

**COMMENTS:** Job order in the amount of \$816,769.74 with Sunland Asphalt and a construction change order contingency of \$122,500, subject to execution of the final written contract.

**DOCUMENT NAME:** [20080221PWDR07.pdf](#) **STREET UPGRADING-MAINT-CONSTRUCTION (0809-05) PROJECT NO. 5407081**

28. Approved **Contract #2007-221A**, a construction Job Order with J. Banicki Construction, Inc., and a construction change order contingency for Arterial Street Rehabilitation of Priest Drive, Mill Avenue and the intersection of Kyrene and Baseline Roads.

**COMMENTS:** Job order in the amount of \$777,217.73 with J. Banicki Construction,

Inc., and a construction change order contingency of \$116,000, subject to execution of the final written contract.

**DOCUMENT NAME:** [20080221PWDR08.pdf](#) **STREET UPGRADING-MAINT-CONSTRUCTION (0809-05) PROJECT NO. 5407091**

29. Approved **Contract #2008-42**, a professional services design contract with Dibble & Associates, Inc., for Elements at TCA – An Arts Community.

**COMMENTS:** Professional services design contract in an amount not to exceed \$294,413.51, conditioned upon execution of the final written documents.

**DOCUMENT NAME:** [20080221PWDR09.pdf](#) **TEMPE PERFORMING ARTS CENTER (0109-19) PROJECT NO. 6707021**

30. Awarded **Contract #2008-43**, a one-year contract with Gruber Power Services for the replacement of the backup power supply generator at City Hall.

**COMMENTS:** (IFB08-110) Total cost for this contract shall not exceed \$44,000.

**DOCUMENT NAME:** [20080221fsta02.pdf](#) **PURCHASES (1004-01)**

31. Awarded **Contract #2008-44**, a two-year contract with three, one-year renewal options to Brooks Brothers Utility Contractors, Inc., for street light maintenance.

**COMMENTS:** (IFB #08-109) Total cost for this contract shall not exceed \$1,200,000 during the initial contract period.

**DOCUMENT NAME:** [20080221fsta04.pdf](#) **PURCHASES (1004-01)**

32. Awarded **Contract #2008-45**, a one-year contract with four, one-year renewal options to Neptune Technology Group, Inc., for the purchase of lead-free, residential water meters, equipment, parts, supplies and services.

**COMMENTS:** (IFB #08-031RB) Total cost for this contract shall not exceed \$350,000 during the initial contract period.

**DOCUMENT NAME:** [20080221fst12.pdf](#) **PURCHASES (1004-01)**

33. Approved a one-year contract renewal with Water Movers, Inc., for rental of pumps and supply of fuel to bypass pump nuisance water from upstream of Tempe Town Lake.

**COMMENTS:** (T07-127-01) Total amount not to exceed \$265,000.

**DOCUMENT NAME:** [20080221fslq01.pdf](#) **PURCHASES (1004-01)**

34. Approved a one-year contract renewal with T.A. Caid Industries, Inc., for the purchase of modular traffic signal poles for the construction and/or modification of the signalized intersection system throughout the City.

**COMMENTS:** (T05-073-01) Total amount not to exceed \$1,817,872.

**DOCUMENT NAME:** [20080221fsta03.pdf](#) **PURCHASES (1004-01)**

35. Approved a one-year contract renewal with Liberty Mutual for Voluntary Group Auto, Homeowners and Personal Umbrella Insurance for eligible City employees.

**COMMENTS:** (T05-064-01) There is no cost to the City. Employees currently pay approximately \$425,000 annually for these services.

**DOCUMENT NAME:** [20080221fsta05.pdf](#) **PURCHASES (1004-01)**

36. Approved a one-year contract renewal with Chapman Chevrolet for the purchase of Police patrol style vehicles.

**COMMENTS:** (T06-096-01) Total amount not to exceed \$300,000.

**DOCUMENT NAME:** [20080221fsta06.pdf](#) **PURCHASES (1004-01)**

37. Approved a one-year contract renewal with Trucks West of Phoenix for the purchase of refuse vehicles.

**COMMENTS:** (T07-112-01) Total amount not to exceed \$2,200,000.

**DOCUMENT NAME:** [20080221fsta07.pdf](#) **PURCHASES (1004-01)**

38. Approved a one-year contract renewal with Dana Kepner Company, Inc., for the purchase of double strap service saddles and repair clamps for the maintenance and repair of City water mains.

**COMMENTS:** (T07-110-01) Total amount not to exceed \$55,000.

**DOCUMENT NAME:** [20080221fsts11.pdf](#) **PURCHASES (1004-01)**

39. Approved a one-year contract renewal with Action Containers, US Transport, Nuwave (dba Rehrig Pacific), Impact Plastics and Top Metals for the purchase of refuse containers.

**COMMENTS:** (T07-025-01, 02, 03 & 05) Total amount not to exceed \$172,000.

**DOCUMENT NAME:** [20080221fsta13.pdf](#) **PURCHASES (1004-01)**

40. Approved a one-year contract renewal with Contractors West for the installation of traffic pole foundations.

**COMMENTS:** (T04-013-02) Total amount not to exceed \$200,000.

**DOCUMENT NAME:** [20080221fsta14.pdf](#) **PURCHASES (1004-01)**

41. Approved the utilization of a twenty-two month State of Arizona contract with Environmental Systems Research Institute, Inc., for the support of ESRI's computer-based mapping software that is used on the City's Geographic Information System (GIS).

**COMMENTS:** (AD040025-001-A4) Total amount not to exceed \$200,000.

**DOCUMENT NAME:** [20080221fsts08.pdf](#) **PURCHASES (1004-01)**

42. Approved the utilization of one (1) year Western States Contracting Alliance (WSCA) contracts with Verizon Wireless and Sprint/Nextel Communications for cellular telephone, services and related equipment.

**COMMENTS:** (EPS070070-1-A1 and 3-A1) Total amount not to exceed \$340,000.

**DOCUMENT NAME:** [20080221fsts10.pdf](#) **PURCHASES (1004-01)**



43. Approved an emergency purchase to replace a backup power generator at the Carver/Rural sewer lift station from Power Plus.

**COMMENTS:** (Emergency Procurement 08-133) Total cost of this purchase shall not exceed \$49,000.

**DOCUMENT NAME:** [20080221fst09.pdf](#) **PURCHASES (1004-01)**

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

- \*44. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**

Introduced and held the **first public hearing** for a Planned Area Development Overlay for ALL SAINTS NEWMAN CENTER STUDENT HOUSING located at 230 East University Drive. **The second public hearing is set for March 20, 2008.**

**COMMENTS:** (PL070404) (Roman Catholic Diocese of Phoenix, property owner; Timothy Lies, Domus Communities, applicant) for a mixed-use development consisting of a twenty-two (22) story building for student housing, worship hall and chapel within approximately 260,000 sq. ft. of building area, while maintaining the existing church (St. Mary's / Our Lady of Mt. Carmel Catholic Church) on approx. 0.72 acres, located at 230 East University Drive, in CC, City Center District, Transportation Overlay and a Historic Designated Property. This request includes the following:

**PAD07027 – (Ordinance No. 2007.85)** Planned Area Development Overlay to modify development standards to allow a maximum building height from the required 50 feet to 244 feet in total height, and to reduce the minimum required parking from 530 spaces to 147 spaces at off-site locations.

#### APPLICANT WAIVED APPEARANCE

#### PUBLIC HEARING

**Bill Butler**, Tempe, disagreed that 530 students will not have cars and will not need more than the 50 parking spaces. Long term leases of 147 spaces could disappear 35 years from now when the land becomes more valuable. The neighborhoods west of the site will have a problem with the resident students parking on the streets. Parking on the neighborhood streets is already a problem. This is the time for all those talking about protecting the neighborhoods to step forward. This is wanton disregard for the welfare of the Riverside, Sunset, and Lindon Park neighborhoods. Does Council respect the developer or does Council respect the longtime residents of Northwest Tempe?

Mayor Hallman stated that it seems inconsistent to argue that students who would reside in this facility won't walk three blocks, but they would park on the west side of the tracks. Council needs to make sure that this is locked down in a way that those who are intended to use this facility will have imposed upon them an obligation not to have cars.

Mr. Butler added that as he understands it, ASU is going to sell 75 parking permits at \$850 per year.



Mayor Hallman responded that the bigger issue is what items are going to be put in place to protect the community so that these students don't have cars. That's what Council will find out tonight.

**Jonathan Thums**, Tempe, stated that he supports the mission of the Newman Center and he would like to see it stay there forever. He also supports the preservation of St. Mary's Church. He didn't think this project will achieve those two things, however. The building is proposed to have zero parking. The developer states parking in the adjacent lot owned by the Kellers of 72 spaces and 75 spaces at University Towers. At the Development Review Commission hearing, the diocese attorney admitted that both leases were probably voidable. ASU cannot lease out their spaces on a no-bid situation. The project, in other words, has no parking. These are walking spaces that people can drive to. All of these projects have huge parking garages and large surface parking lots. The baby boomers are the demographically dominant generation and most of us drive rather than walk. Many people have told him they would have attended tonight if they knew where they could find a parking space. The complaint he hears is that downtown Tempe is becoming a private playground. The City offers an elegant solution to those motorists who will succeed, and those that do not, will fail. Other developers will insist on similar parking reductions. If the issue goes to court, we will lose. Not only will we have to grant a parking reduction, we will have to compensate for the delay in construction of their projects. This project has a built-in bankruptcy. The parish will put up the land and millions of dollars that were donated for the construction of a free-and-clear, much smaller project. It should be noted that many of the donors are unhappy that their donations are being used for a project they did not approve. The construction loan will be taken out based on this equity. The project could fail at this point because of cost overruns and go back to the lender. If the construction is on budget and on time, there will be a bridge loan. That will pay off the construction loan and provide time to lease up the project. If it fails to lease up in a timely manner, it will default on the loan, and again, it will go back to the lender. Even it does lease up, there is a good possibility that no reasonably priced permanent loan can be obtained for this project. What lender will want a 22 or 24-story building with insufficient parking? They will give a loan but the interest rate will be outrageous. In any event, the project is likely to go into bankruptcy where a federal judge can overrule the preservation easement and order the construction of parking for the existing St. Mary's Church. The diocese attorney admitted to that at the DRC hearing. This project requires 500 spaces to succeed. The diocese attorney intends to park any car of the tenant on campus. That's public parking. If it were in a parking garage, it would be \$15,000 per space, and 500 spaces at \$15,000 equal \$7.5M of public money. Students work and they need their cars. If the project goes into bankruptcy it will be sold to an owner who will want to capitalize on the location. We are basically giving them 500 spaces, \$30K, and that's \$15M from the City of Tempe.

**Darin Price**, Tempe, stated that it is ironic that ten years ago he attended a memorial service at the Newman Center for a friend who was killed on an ASU outing. He appreciates the work they do in terms of ministering to students. He is, however, against this project. He knows that parking is an issue. It is important to look at this concept. We are using public infrastructure to promote a concept that is not in the public good. Their website says that they are dedicated to building Catholic student housing communities. He is told it will be open to all students. Regardless of what you know about who is going to live there, it is a Catholic student housing community. It is private, but it is student housing. When you say "student housing" you have a concept of a public university with public student housing. This is blurring the line between what we are doing publicly with public funds, including the parking structures, and private religious-oriented groups.

Mayor Hallman asked how he sees that the City is doing anything with public funds.

Mr. Price responded that he should differentiate between City funds and ASU funds. Where is the parking going to be? It goes back to concepts and what we perceive when we drive down University Drive and see a large residential student housing. To him it gives the concept of public student housing sponsored or approved by the University, but it is attached to a religious organization. He has a problem with that. He got his Master's Degree in History from ASU, and the concept of historical preservation doesn't mean simply keeping the building intact, or surrounding it with another building.

Councilmember Arredondo clarified that this is a first public hearing. Council is simply taking information tonight. Council will do its due diligence after tonight.

Mayor Hallman clarified that the only reason for having two hearings is to make sure the public is fully informed and aware of the project's proposals so that by the second hearing, citizens will have had a good shot at participating in the process.

The public hearing was closed.

#### APPLICANT'S PRESENTATION

**Charles Huellmantel**, on behalf of the applicant. He certainly plans to return to the second hearing. Fortunately, supporters of the project walked to the meeting. He disagrees with the factual basis brought forward by the opponents tonight. He did not understand Mr. Thums' statements concerning the commitments made by the diocese or his understanding of the federal system and what a judge might or might not be able to do. He will meet again with Mr. Butler and speak again with Mr. Thums to try to straighten out his information. The purpose of the project is to expand the chapel for the Newman Center. The Newman Center was built in 1903, it was revamped in the '60's, and it has outgrown the facilities. As part of the expansion, it has been decided to preserve the old St. Mary's Church and an historic easement on that has been offered. That helps protect that piece of history for all of Tempe. Secondly, they want to provide student housing. The property is surrounded on four sides by ASU. This is an ideal opportunity to provide students an opportunity to live in a campus environment particularly fitting with the Newman Center. It is surrounded by bike paths, Orbit and bus stops, and light rail. City Council decided long ago to find alternate modes of transportation. They are trying to build a sustainable project that will allow University students to live, work, play and learn on campus and to do it without a car. He will continue at the next hearing to talk about how that works and why it works. He believes strongly that what they are trying to build will take cars out of neighborhoods and put students in the downtown. This is where students want to live.

Mayor Hallman stated that Mr. Thums suggested that the agreements being put in place for parking would be voidable.

Mr. Huellmantel responded that is not true. Two sets of parking spaces are being provided, with 72 of them in a spot immediately adjacent to the Newman Center. There is a lot immediately north and somewhat west of the existing church and there are an additional 75 spaces in the University Towers parking garage.

Mayor Hallman asked why it would be correct to be concerned that the parking spaces immediately adjacent to the Center would disappear at some point.

Mr. Huellmantel responded that it is relevant to be concerned. Mr. Anaradian and his staff have spent time making sure there would be adequate reason that there would be spaces. They are prepared to provide a 50-year lease on those spaces. What happens within that time? A number of things can happen. In 50 years if there isn't greater demand on that lot, then there probably wouldn't be a need for more parking spaces. Tempe would probably have been a miserable failure. He doesn't believe that will happen. It's more likely that at some point in time, someone will want those spaces, but they have rights to those spaces for 50 years, and if someone wants them sooner, they will have to provide them back into another project. That would be good for everyone because they would go into another project and would be kept, and there would be another project there that would be fitting for that time. A lot of money has been spent on light rail, Orbit and bus transportation, and we want people to use alternate modes of transportation. Council has put in the infrastructure that makes this possible. Council decided we would spend money for things like light rail and buses to service the immediate area. Every project in the downtown should be different and not the same. If this project were four blocks in a different direction and if this project were not student housing, and if there were no bus system or light rail, this would be a very different conversation. It is student housing and it is in close proximity to ASU and in close proximity to these other modes of transportation.

Mayor Hallman stated that this project has potential for parking under it and it is a private sector partner that will be participating in the project. Is that partner going to acquire a lease on the dirt?

Mr. Huellmantel responded that this is a condominium project and the answer would be no. This is a project that has various things at various stages. The church itself and the ground will continue to be used for the purposes of the religious community. The housing above the ground will be used for student housing. It is a Catholic church. We are going to be inclusive and there will be people living there that aren't Catholic. The primary purpose is to associate it and the diocese will continue to own the dirt.

Mayor Hallman clarified that the diocese owns the property.

Mr. Huellmantel added that they are not asking the City or the University to do anything for them that they wouldn't do for any other citizen.

Mayor Hallman clarified that the earlier point was that a lease of a University parking structure for this site somehow provides an advantage to the Catholic church. He assumes there are at least 500 Catholic students at ASU, and they are not all living in the same house.

Mr. Huellmantel responded that there are approximately 12,000.

Mayor Hallman asked how many of those 12,000 students who identify themselves as Catholic come to the Newman Center on a weekly basis.

Mr. Huellmantel responded that about 2500 registered Catholics students come.

Mayor Hallman clarified that we have students already in our neighborhoods and a proportion of those are Catholic students who are living in residential units throughout our community, many in single-family rentals. It has been one of the missions of this Council to seek to move students from those neighborhoods back to the campus. The University grew over the last twenty-five years by 25,000 students, and the University only built about 800 student housing units. This is moving things in the right direction. That does, however, raise the issue that those students potentially have cars now. He presumes that when they go to school, they still have the right to drive and park in an ASU parking garage. That is probably not offensive. Those students currently exist and if they have cars, they are allowed to use the University parking just like anyone else. He didn't think it's particularly offensive to try to reduce the number of students living off-campus and increase the number living on-campus, and in that process, seek to reduce the number of cars within our community, let alone driving from our neighborhoods to the University campus now.

Mr. Huellmantel agreed that it is the responsible thing to do.

Mayor Hallman added that if and to the extent those students couldn't pay for parking or didn't want to pay for parking in the current ASU parking garages, and wanted to instead park in Mr. Butler's neighborhood, they do that now. The goal would be to get them to move to campus and reduce the likelihood that any one of them is parking in Mr. Butler's neighborhood and taking a bus to school. The issue is that we have an opportunity with this developer who is developing the housing portion of this. Will it continue to be privately owned?

Mr. Huellmantel responded that the student housing will continue to be owned by the Catholic diocese.

Mayor Hallman clarified that the building itself would not ever become owned by a private entity that would pay property tax. If and to the extent this is a project that would generate property taxes, he would still pursue some parking on the site that the City could acquire as public parking. We have been attempting to build back into the community public parking and while he will pin Mr. Huellmantel down in the next hearing to make sure that the students who will be renting do not have cars and that he will be taking steps that are legally enforceable to assure that. The City could enforce to make sure that these students in this project will not have cars unless they make private arrangements one way or another, and that if there are private sector dollars in this project in a way that the City would be generating property tax, he would seek to invest that property tax in additional parking that might be built concurrent with the construction of the facilities. It could reduce some risk that if there was a loss or need to change the parking arrangements, the City would have another supply of additional parking available.

Mr. Huellmantel responded that, first, if they would try to significantly reduce the need for students to have vehicles, it would be in line with their mission. Secondly, the issue of placing parking within the building is more problematic. At the DRC hearing last week, staff presented a drawing for 70 spaces. They continue to evaluate that proposal, but it is not what they proposed. They have significant concerns in terms of cost, but they continue to evaluate it and at the second hearing on March 20<sup>th</sup>, they will be prepared to discuss that more specifically. It is problematic, however. They have worked with staff and the community throughout this process and will continue to do that. In terms of the concern of students not having vehicles, that is something

we will look forward to discussing it. We think it is more responsible for people to be living on campus in the Newman Center without a vehicle while they are studying, rather than driving three and four miles through our neighborhoods, not only causing congestion but adding pollution and cost. He believes Tempe is going to be a truly urban place, and people are needed downtown. We can't continue to build parking spaces for everyone and require one parking space for one bedroom for one person. We're going to try to reduce parking. Every time another parking space is added to a project, it gets paid for. That's true whether it is parking at the supermarket or student housing or a condo. Someone has to make the first attempt to reduce that and we are the ideal candidate, based on our location and product type, to start justifying a much lower number. We look forward to the conversation of assuring that actually happens.

**\*\*\*FIRST PUBLIC HEARING ONLY, NO COUNCIL ACTION TAKEN. THE SECOND PUBLIC HEARING IS CURRENTLY SCHEDULED FOR MARCH 20, 2008.**

DOCUMENT NAME: [20080221dsrl02.pdf](#) PLANNED DEVELOPMENT  
(0406)

- \*45. Introduced and held the **first public hearing** for a General Plan Amendment, Zoning Map Amendment, and Planned Area Development Overlay for 501 WEST FIRST located at 501 West 1<sup>st</sup> Street. **The second public hearing is set for March 20, 2008.**  
**COMMENTS:** (PL070385) (Plan C LLC, property owner; Todd Marshall, Marshall Urban Development Company, applicant) consisting of seven (7) three-story live/work units with carports and detached garages within approximately 15,312 s.f. of building, on 0.36 acres in the GID, General Industrial District. The request includes the following:  
**GEP08002 – (Resolution No. 2008.06)** General Plan Density Map Amendment from Medium Density (up to 15 du/ac) to Medium-High Density (up to 25 du/ac).  
**ZON08002 – (Ordinance No. 2008.05)** Zoning Map Amendment from GID, General Industrial District to MU-3, Mixed-Use, Medium-High Density District.  
**PAD08002 –** Planned Area Development Overlay to establish development standards for a 15,312 s.f. building on 0.36 acres.

DOCUMENT NAME: [20080221dsrl03.pdf](#) PLANNED DEVELOPMENT  
(0406)

- \*46. Introduced and held the **first public hearing** for a General Plan Density Map Amendment, Zoning Map Amendment and Planned Area Development Overlay for APACHE ASL TRAILS located at 2428 E. Apache Boulevard. **The second public hearing is set for March 20, 2008.**  
**COMMENTS:** (PL070371) (Cardinal Capital Management, Inc., owner; Paul Mickelberg, Welman Sperides Mickelberg Architects, applicant) for a General Plan Amendment and Zoning Map Amendment on approximately 1.06 acres and for a Planned Area Development for a mixed-use development serving special needs seniors, consisting of approximately 75 apartments and 60 condominiums and approximately +/-13,000 sq. ft. of retail, office and restaurant space for a total +/-180,000 sq. ft. development on +/-3.34 acres (2.27 acres previously approved General

Plan and Zoning Amendment and 1.06 acres for current General Plan and Zoning amendment) located at 2428 E. Apache, in the CSS Commercial Shopping and Services District. The request includes the following:

**GEP08001 (Resolution No. 2008.05)** – General Plan 2030 Density Map Amendment from Medium Density (up to 15 du/ac) to High Density (greater than 25 du/ac) on +/-1.06 acres.

**ZON08001 (Ordinance No. 2008.03)** - Zoning Map Amendment from Commercial Shopping and Service (CSS) to Mixed-Use High Density (MU-4) on +/- 1.06 acres.

**PAD08001** - Planned Area Development (PAD) overlay for development standards and a density of 41 du/ac, consisting of 135 residential units and 13,000 sq. ft. of retail, restaurant and office uses within four floors of mixed-use buildings on +/- 3.34 acres.

**DOCUMENT NAME:**     [20080221dsdk01.pdf](#)     **PLANNED DEVELOPMENT (0406)**

- \*47. Introduced and held the **first public hearing** to obtain citizen input regarding how funds could be allocated for the Community Development Block Grant (CDBG) and Home Programs for the 2008-2009 Annual Plan. **The second public hearing is set for April 17, 2008.**

**DOCUMENT NAME:**     [20080221cdlc01.pdf](#)     **COMMUNITY DEVELOPMENT BLOCK GRANT (0207-26)**

- \*48. Introduced and held the **first public hearing** to adopt an ordinance abandoning a water and sewer line easement located at 352 South Farmer Avenue. **The second public hearing is set for March 20, 2008.**

**DOCUMENT NAME:**     [20080221PWCH01.pdf](#)     **ABANDONMENT (0901)**  
**ORDINANCE NO. 2008.04**

**D. Ordinances and Items for Second Hearing/Final Adoption**

- \*49. Held the **second** public hearing and approved ORDINANCE NO. 2008.06 amending Chapter 2, Article II of the Tempe City Code relating to Officers and Employees, by amending Section 2-19 relating to the City Manager.

**DOCUMENT NAME:**     [20080221cacc01.pdf](#)     **TCC CH 2 – CITY CODE ADMINISTRATION (0503-02)**

- \*50. Held the **second** public hearing and approved ORDINANCE NO. 2008.09 amending Chapter 18 of the Tempe City Code relating to Mobile Homes and Trailer Coaches by amending Sections 18-1, 18-2, 18-3 and 18-7; and adding new Section 18-12; and **declared the existence of an emergency.**

**DOCUMENT NAME:**     [20080221cdnc01.pdf](#)     **TCC CH 18 – MOBILE HOMES & TRAILER COACHES (0503-18)**

- \*51. Held the **second** public hearing and approved ORDINANCE NO. 2008.10 amending

Chapter 2, Article V of the Tempe City Code relating to Boards and Commissions by amending Sections 2-205, 2-208, 2-209 and 2-210 and repealing Sections 2-211 and 2-212 relating to the Sponsorship Review Committee.

**DOCUMENT NAME:** [20080221prtd02.pdf](#) **TCC CH 2 – CITY CODE  
ADMINISTRATION (0503-02)**

- \*52. Held the **second** public hearing and approved **with conditions** an Amended Planned Area Development Overlay for CAMPUS EDGE located at 922 East Apache Boulevard.

**COMMENTS:** (PL070224) (Tim Becker, Nelson Companies 2, LLC., applicant/owner) for the development of a mixed-use project consisting of a mid-rise building with two wings totaling 269,640 square feet, including residential student housing and ground floor commercial on approximately 1.50 acres, located at 922 East Apache Boulevard, in the MU-4, Mixed Use High Density District, Transportation Overlay and Planned Area Development Overlay. This request includes the following:

**PAD07028** – Amended Planned Area Development Overlay to increase the number of dwelling units from 100 to 132 units, to increase the maximum building height from 97 to 116 feet, and to reduce the required parking from 369 to 249 spaces.

The following conditions were also approved:

1. The property owner(s) shall sign a waiver of rights and remedies pursuant to A.R.S. §12-1134, 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 thirty (30) calendar days after the date of approval, or the Planned Area Development approval shall be null and void.
2. The Planned Area Development for CAMPUS EDGE 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.
3. The maximum building height for this project shall include all mechanical, screening devices and other structures on the building.
4. The project and future management of the units, including its successors, shall provide two (2) vehicles with designated parking spaces for the purpose of providing the residents a "Flex Car Program" on site. This program will supply the use of two vehicles available to residents only for general use as needed. It shall be the responsibility of the apartment management to maintain such service.

**DOCUMENT NAME:** [20080221dsrl01.pdf](#) **PLANNED DEVELOPMENT  
(0406)**

#### E. Resolutions

53. Approved RESOLUTION NO. 2008.14 authorizing the Water Utilities Department to accept grant funding from the State of Arizona Department of Homeland Security to purchase equipment for detecting water quality changes in the City's water distribution system.

**COMMENTS:** This Urban Area Initiative grant of \$60,000 will be used to purchase equipment for real-time detection of significant water quality changes in Tempe's water distribution systems.



DOCUMENT NAME: [20080221cacc02.pdf](#) WATER MANAGEMENT  
ADMINISTRATION (0811-13)

54. Approved RESOLUTION NO. 2008.16 amending the Tempe Personnel Rules and Regulations, Rule 4, Section 404, by adding a new subsection C relating to severance agreements.

DOCUMENT NAME: [20080221casv01.pdf](#) PERSONNEL RULES AND  
REGULATIONS (0301-01)

55. Approved RESOLUTION NO. 2008.17 to move into **Contract #2008-46**, an Intergovernmental Agreement (IGA) between the Tempe Police Department and the Arizona Department of Public Safety for participation in a joint National Institute of Justice (NIJ) grant opportunity for Cold Case DNA processing.

**COMMENTS:** This agreement is to provide grant funding for overtime and travel costs associated with processing cold cases. The Tempe Police Department's portion of this grant totals \$72,159 for calendar year 2008.

DOCUMENT NAME: [20080221pdsam01.pdf](#) POLICE DEPARTMENT  
ADMINISTRATION

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

Approved RESOLUTION NO. 2008.18 approving **Contract #97-250F**, a Supplemental Development Agreement with US Airways with regard to Phase II of their development at Third Street and Mill Avenue.

Vice Mayor Hutson stated that he could understand the 72 parking spaces in the structure that would be permanent, 24/7, 365 days a year. The problem is that we get to utilize the rest of the parking spaces from 6 in the evening until 6 in the morning and all day on weekends and holidays. The parking spaces would be leased to the City for 40 years. The current parking structure has been there for so many years. We have an arrangement on the east end and a sign states "employee parking only." He wanted to make it clear that this wording should be changed because this is supposed to be used for public parking. He didn't care what kind of sign is there, but we have a problem now of trying to identify the parking for people coming down here, and if they look up and see the "employee parking only", they will turn around and leave. Then, we will be paying for those spaces for 40 years and not using them.

Mayor Hallman asked Chris Salomone for clarification.

Chris Salomone responded that the first phase Vice Mayor Hutson referred to doesn't have any 24/7 public parking. It only has evenings and weekends. Staff will address that problem.

**Motion by Vice Mayor Hutson to approve Item #56. Second by Councilmember Carter. Motion passed on a roll call vote, 6-0, with Councilmember Shekerjian absent.**

DOCUMENT NAME: [20080221cdcm01.pdf](#) DEVELOPMENT PROJECT

(0406)

57. Approved RESOLUTION NO. 2008.19 authorizing the Mayor to enter into **Contract #2008-47**, the Light Rail Transit Operations Master Cooperative Funding Agreement between the City of Tempe and Valley Metro Rail, Inc.

DOCUMENT NAME: [20080221pwjsm01.pdf](#) TRANSPORTATION PLANNING  
(1101-01)

## 6. PUBLIC APPEARANCES

### UNSCHEDULED PUBLIC APPEARANCE

**Jonathan Thums, Tempe**, suggested that Mr. Huellmantel and Council review the diocese attorney's comments from the Development Review Commission. They admitted the leases were ephemeral and for him, if this goes through, he will rent out his back yard and make \$18,000 a year for parking. In reality, this is going to damage the community in the long run, and at some point, the downtown and the Newman Center will be gone.

**Darin Price, Tempe**, apologized that he is a habitual web-surfer. Last October before coming to the Council meeting, he looked at the agenda and noticed the liquor licenses up for recommendation, and he came across one for the Haunted Castle. He found a blog and gave that to Mr. Butler. If anyone has a problem with what Council did, it was his problem.

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

- Councilmember Arredondo congratulated Travis Dray and Mark Richwine for their hard work on spring training. Spring training has started and will be kicked off next week. Ticket sales are ahead of last year. He also thanked the Fire Chief for allowing the gentlemen to talk to the College of Nursing students to let them know they are the first responders.

*Meeting adjourned at 9:20 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 February 21, 2008, 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            , 2008.