

Minutes Formal City Council Meeting March 20, 2008

Minutes of the Formal Council Meeting of Thursday, March 20, 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
Councilmember Onnie Shekerjian

Mayor Hallman called the meeting to order.

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

1. Council's Executive Session – February 21, 2008
2. Council's Issue Review Session – February 21, 2008 [20080320clrkck02.pdf](#)
3. Council's Formal Meeting – February 21, 2008 [20080320clrkck01.pdf](#)
4. Council's Public Safety & Neighborhood Quality of Life Committee –
February 12, 2008 [20080320psnql01.pdf](#)
5. Council's Finance, Economy & Veterans Affairs Committee – January 15, 2008
[20080320feva01.pdf](#)
6. Council's Social Services & Cultural Committee – January 16, 2008
[20080320ssc01.pdf](#)
7. Council's Tourism & Recreation Committee – February 13, 2008 [20080320tr01.pdf](#)
8. Ad Hoc Long Range Budget & Finance Planning Committee – January 17 & 31,
and February 14 & 28, 2008
[20080320lrbf01.pdf](#) [20080320lrbf02.pdf](#) [20080320lrbf03.pdf](#) [20080320lrbf04.pdf](#)

9. Affordable Housing Forum – February 8, 2008 [20080320ahf01.pdf](#)

B. Acceptance of Board & Commission Meeting Minutes

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

10. Board of Adjustment – January 23, 2008 [20080320boa01.pdf](#)
11. Commission on Disability Concerns – January 15 and February 19, 2008
[20080320cdc01.pdf](#) [20080320cdc04.pdf](#)
12. Commission on Disability Concerns – Architectural Compliance Committee –
February 5, 2008 [20080320cdc02.pdf](#)
13. Commission on Disability Concerns – Mayor's Awards Committee –
February 7 and March 6, 2008 [20080320cdc03.pdf](#) [20080320cdc05.pdf](#)
14. Committee for Youth, Families & Community – January 28, 2008 [20080320cyfc01.pdf](#)
15. Community Special Events Task Force – January 29, February 12 & 26, 2008
[20080320setf03.pdf](#) [20080320setf01.pdf](#) [20080320setf02.pdf](#)
16. Development Review Commission – November 27 & December 11, 2007
January 8 & 12, 2008 [20080320drc01.pdf](#) [20080320drc02.pdf](#)
[20080320drc03.pdf](#) [20080320drc04.pdf](#)
17. Double Butte Cemetery Committee – December 19, 2007 [20080320dbcc01.pdf](#)
18. Enhanced Services Commission – January 9, 2008 [20080320esc01.pdf](#)
19. Golf Committee – December 5, 2007 [20080320gc01.pdf](#)
20. Hearing Officer – February 5, 2008 [20080320ho01.pdf](#)
21. Historic Preservation Commission – November 8, 2007 [20080320hpc01.pdf](#)
22. Historical Museum Advisory Board – February 7, 2008 [20080320csjc01.pdf](#)
23. Human Relations Commission – January 8, 2008 [20080320hrc01.pdf](#)
24. Library Advisory Board – February 4, 2008 [20080320lab01.pdf](#)
25. Mayor's Youth Advisory Commission – February 5 & 19, 2008
[20080320myac01.pdf](#) [20080320myac02.pdf](#)
26. Municipal Arts Commission - January 9, 2008 [20080320mac01.pdf](#)
27. Neighborhood Advisory Commission – February 6, 2008 [20080320nac01.pdf](#)
28. Parks & Recreation Board – January 16, 2008 [20080320pr01.pdf](#)
29. Rio Salado Advisory Commission – September 25 & December 4, 2007 and
January 22, 2008 [20080320rsac01.pdf](#) [20080320rsac02.pdf](#) [20080320rsac03.pdf](#)
30. Rio Salado Advisory Commission Development Review Sub-Committee –
November 26, 2007 & January 3, 2008 [20080320rsac04.pdf](#) [20080320rsac05.pdf](#)
31. Sports Authority – January 16 & 29, and February 13, 2008 [20080320tsa01.pdf](#)
[20080320tsa02.pdf](#) [20080320tsa03.pdf](#)
32. Tardeada Advisory Board – September 10, 2007 [20080320tab01.pdf](#)
33. Tempe Fire Public Safety Personnel Retirement Board – February 7, 2008
34. Tempe Police Public Safety Personnel Retirement Board – February 7, 2008
- 34a. Tempe Police Public Safety Personnel Retirement Board – Executive Session
February 7, 2008

4. REPORTS AND ANNOUNCEMENTS

A. Mayor's Announcements

- Mayor Hallman announced that the **Diversity Dialogue** program is designed to foster community dialogues where issues of diversity are discussed. These dialogues have

brought a better understanding of self, community, and ways in which to improve the atmosphere for diversity in Tempe. Over the course of six weeks, the groups develop relationships and tackle difficult issues. The program is coordinated by the City's Diversity Department. Two groups recently completed the six-week program. He recognized the participants and thanked them for their participation and commitment to diversity in Tempe.

- Mayor Hallman read a proclamation for the **31st Annual Spring Tempe Festival of the Arts**, scheduled for March 28 – 30 on Mill Avenue and surrounding downtown streets, with more than 400 artists offering an array of original arts and crafts, and the **6th Annual Circle K Tempe Music Festival**, scheduled for March 28 and 29 at Tempe Beach Park with performances by 30 bands and a wide selection of musical exhibits and family activities. He declared **March 28 – 30, 2008, as Downtown Tempe Arts and Entertainment Weekend**. The proclamation was accepted by President of the Downtown Tempe Community, **Pam Goronkin**, and leader of the Circle K Tempe Music Festival, **Ken Koziol**.
- DELETED
- Mayor Hallman announced a newly created concept for the **Sponsorship Review Committee** and proposed the following appointments: three members appointed by the Mayor with the approval of City Council: **Shelley Hearn, Sheri Wakefield-Saenz and Travis Dray**; three members appointed by the Tempe Convention and Visitors Bureau (TCVB) Board of Directors: **Daryl Crawford, Kathi Overkamp and Stephanie Nowack**; one member jointly appointed by the Mayor with City Council approval and the TCVB Board of Directors: **Terri Cranmer**.

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 Arredondo to approve the Agenda as amended (Items #56 and #68 were removed for separate consideration). Second by Councilmember Carter. Motion passed on a roll call vote 7-0.

A. Miscellaneous Items

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

36. Approved the Mayor's appointment of members to the Sponsorship Review Committee.
DOCUMENT NAME: [20080320boards.pdf](#) **BDS, COMMISSION, COMMITTEES ADM (0102-01)**
37. Approved the canvass of the City of Tempe Primary Election held March 11, 2008.
DOCUMENT NAME: [20080320clrkjh01.pdf](#) **PRIMARY ELECTION – MARCH 11, 2008 (0506-31-01)**
38. Authorized the Mayor to execute **Contract #2008-49**, a lease between the City and BREF BNK2, LLC, for employee parking within the "P-2" garage at Centerpoint.
COMMENTS: Total lease payments not to exceed \$300,000 over a two-year period.
DOCUMENT NAME: [20080320cdnc01.pdf](#) **CENTRAL BUSINESS DISTRICT (0403-05)**
39. Approved **with conditions** a final subdivision plat for **UNIVERSITY CENTER III**, located at 1240 E. University Drive.
COMMENTS: (PL070127), (Talla Fallstich, St. Paul Travelers, Owner / George Swarstad, CMX Engineering, Applicant), for a Final Subdivision Plat on +/-19.2 net acres, within the GID, General Industrial Zoning District, and also within the Rio Salado and Transportation Overlay Districts, located at 1240 E. University Drive. The request includes the following:
SBD07056 – Final Subdivision Plat to divide one 19.2 acre site into two lots, 12.04 and 7.16 net acres.
The following conditions were also approved:
 1. The Subdivision Plat (Condominium Plat) for UNIVERSITY CENTER 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 March 20, 2009**. Failure to record the plan within one year of City Council approval shall make the plan null and void.
 2. The owner(s) shall provide a continuing care condition, covenant and restriction for all of the project's landscaping, required by Ordinance or located in any common area on site. The CC&R's shall be reviewed and in a form satisfactory to the Development Services Manager and City Attorney.**DOCUMENT NAME:** [20080320dsdk02.pdf](#) **PLANNED DEVELOPMENT (0406)**
40. Approved **with condition** a Final Subdivision Plat for **APACHE ASL TRAILS** located at 2428 E. Apache Boulevard.
COMMENTS: (PL070371) (Cardinal Capital Management, Inc., owner; Paul Mickelberg, Welman Sperides Mickelberg Architects, applicant) for a Final Subdivision Plat for nine parcels combined and subdivided into two new lots (Lot A and Lot B) for the development of +/-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 MU-4 Mixed-Use Zoning District. The request includes the following:

SBD08006 – Final Subdivision Plat combine nine lots totaling 3.34 acres into two lots: Lot A (west lot) is 1.82 ac and Lot B (east lot) is 1.51 ac.

The following conditions were also approved:

1. The Subdivision Plat (Condominium Plat) for APACHE ASL TRAILS 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 March 20, 2009**. Failure to record the plan within one year of City Council approval shall make the plan null and void.

DOCUMENT NAME: [20080320dsdk03.pdf](#) **PLANNED DEVELOPMENT**
(0406)

B. Award of Bids/Contracts

41. Approved **Contract #2008-50**, a professional services design contract with Fucello Architects for Johnny G. Martinez Water Treatment Plant (JGMWTP) Chemical Building Remodel.

COMMENTS: Professional services design contract in an amount not to exceed \$83,371 with Fucello Architects, subject to execution of the final written contract.

DOCUMENT NAME: [20080320PWDR03.pdf](#) **JOHNNY G. MARTINEZ WATER TREATMENT PLANT (0811-03) PROJECT NO. 3208031**

42. Approved **Contract #2008-51**, a professional services design contract with Engberg Anderson, Inc., for the Tempe Public Library Renovation.

COMMENTS: Professional services design contract in an amount not to exceed \$830,140 with Engberg Anderson, Inc., subject to execution of the final written contract.

DOCUMENT NAME: [20080320PWDR05.pdf](#) **LIBRARY – 3500 S RURAL RD (0902-12) PROJECT NO. 6702491**

43. Awarded **Contract #2008-52**, a two-year contract with three, one-year renewal options to Freedom Marketing Corporation for door hanger printing and distribution services.

COMMENTS: (IFB #08-104) Total cost for this contract shall not exceed \$40,000 during the initial contract period.

DOCUMENT NAME: [20080320fslg04.pdf](#) **PURCHASES (1004-01)**

44. Awarded **Contract #2008-53**, a ten-month, sole source contract to Thermo Fisher Scientific for RadEye personal radiation dosimeter, radiation detection and identification instruments, accessories and warranties for the Tempe Fire Department and four (4) other Valley fire departments funded through a federal grant.

COMMENTS: (Sole Source #T08-096-01) Total cost for this contract shall not exceed \$833,000 during the contract period.

DOCUMENT NAME: [20080320fslg05.pdf](#) **PURCHASES (1004-01)**

45. Awarded **Contract #2008-54**, a one-year contract with two, one-year renewal options to Sun Valley Vending for citywide food and beverage vending machine service.
COMMENTS: (IFB 08-091) This contract is estimated to generate \$300,000. There will be no cost to the City of Tempe.
DOCUMENT NAME: [20080320fst10.pdf](#) **PURCHASES (1004-01)**
46. Awarded **Contract #2008-55**, a one-year contract to HH Construction for rehabilitation work on the Petersen House Museum.
COMMENTS: (IFB 08-122) Total cost for this contract shall not exceed \$150,000.
DOCUMENT NAME: [20080320fst19.pdf](#) **PURCHASES (1004-01)**
47. Awarded **Contract #2008-56**, one-year contracts with four, one-year renewal options to Gardener's World, Mountain States Wholesale Nursery, and Western Tree Company, Inc., for the supply and delivery of trees, shrubs, ground cover and flowers.
COMMENTS: (IFB #08-048) Total cost for this contract shall not exceed \$60,000 during the initial contract period.
DOCUMENT NAME: [20080320fslg06.pdf](#) **PURCHASES (1004-01)**
48. Approved **Contract #2005-79M**, a construction Job Order with Sun Eagle Corporation and a construction change order contingency for Financial Services Department Office Security Enhancements.
COMMENTS: Approved a job order in the amount of \$33,901.58 with Sun Eagle Corporation, subject to execution of the final written contract, and approved a construction change order contingency of \$5,000.
DOCUMENT NAME: [20080320PWDR04.pdf](#) **CITY FACILITY MAINTENANCE - UPGRADE (1001) PROJECT NO. 6700243**
49. Awarded **Contract 2008-57**, a Construction Manager at Risk Construction Services contract to Pierson Construction Corporation and approved a construction change order contingency for Well No. 6 Raw Water Pipeline.
COMMENTS: Construction Manager at Risk Construction Services contract with Pierson Construction Corporation for a guaranteed maximum price (GMP) of \$2,710,187.70, subject to execution of the final written documents, and a construction change order contingency of \$50,000.
DOCUMENT NAME: [20080320PWDR07.pdf](#) **WELLS - CONSTRUCTION/MAINTENANCE (0811-01) PROJECT NO. 3202701**
50. Approved **Contract #2006-132A**, an addendum to a construction management contract with 3D/International, Inc., and approved an increase to the construction change order contingency for the Tempe Transportation Center.
COMMENTS: Construction management contract addendum in the amount of \$94,180 with 3D/International, Inc., subject to execution of the final written addendum,

and construction change order contingency increase of \$120,756. The original contract amount of \$322,133, plus approval of this addendum will increase the contract amount to \$416,313. The original change order contingency amount of \$1,290,000, plus approval of this request will increase the contingency amount to \$1,410,756.

DOCUMENT NAME: [20080320PWDR06.pdf](#) **TEMPE TRANSIT CENTER (1106-06) PROJECT NO. 60-976762**

51. Approved a one-year renewal of contracts with Aquatic Consulting and Testing, Inc., Legend Technical Services, Inc., MWH Laboratories, and Tranwest Geochem, Inc., for laboratory services for potable water quality testing, wastewater testing and soil testing services.

COMMENTS: (T06-135-01, 02, 03, and 04) Total amount not to exceed \$500,000.

DOCUMENT NAME: [20080320fst01.pdf](#) **PURCHASES (1004-01)**

52. Approved a one-year renewal of a contract with Sungard Availability Services for the City's Business Continuity and Disaster Recovery Program.

COMMENTS: (T06-122-01) Total amount not to exceed \$80,000.

DOCUMENT NAME: [20080320fst02.pdf](#) **PURCHASES (1004-01)**

53. Approved a one-year renewal of a contract with Basic Chemical Solutions, LLC, for the purchase of sodium hydroxide used in the odor control system and for neutralizing cleaning chemicals at the Kyrene Reclamation Plant.

COMMENTS: (T06-142-01) Total amount not to exceed \$150,000.

DOCUMENT NAME: [20080320fst03.pdf](#) **PURCHASES (1004-01)**

54. Approved a one-year renewal of a contract with United Fire Equipment Company for the purchase of department uniform clothing.

COMMENTS: (T07-128-01) Total amount not to exceed \$90,000.

DOCUMENT NAME: [20080320fslq07.pdf](#) **PURCHASES (1004-01)**

55. Approved a one-year renewal of a contract with Arizona Tents & Events LLC (formerly Classic Events and Parties) for tent rental and special event supplies.

COMMENTS: (T06-114-01) Total amount not to exceed \$55,000.

DOCUMENT NAME: [20080320fslq08.pdf](#) **PURCHASES (1004-01)**

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

Approved a one-year renewal of contracts with Reliastar Life Insurance Company (formerly ING Employee Benefits) for Basic and Voluntary Life Insurance and CIGNA Group Insurance for Basic, Voluntary and Travel AD&D Insurance for all eligible City employees

COMMENTS: (T05-062-01 and T05-062-02) Total amount not to exceed \$450,000

Mayor Hallman asked for the item to be removed for separation consideration to declare a conflict of interest.

Vice Mayor Hutson conducted the meeting;

Motion by Councilmember Arredondo to approve Item #56. Second by Councilmember Mitchell. Motion passed on a roll call vote, 6-0, with Mayor Hallman abstaining.

DOCUMENT NAME: [20080320fsta09.pdf](#) **PURCHASES (1004-01)**

57. Approved a one-year renewal of a contract with Vision Service Plan for a vision plan for all eligible City employees and dependents.

COMMENTS: (T05-063-01) Total amount not to exceed \$300,000.

DOCUMENT NAME: [20080320fsta11.pdf](#) **PURCHASES (1004-01)**

58. Approved a one-year renewal of a contract with East Valley Tribune/AZ Interactive for design, layout, printing and distribution of Tempe Leisure Opportunity Brochure.

COMMENTS: (T07-122-01) Total amount not to exceed \$80,000

DOCUMENT NAME: [20080320fsta12.pdf](#) **PURCHASES (1004-01)**

59. Approved a one-year renewal of contracts with Fluoresco Lighting and DECA Southwest for area security lighting maintenance services.

COMMENTS: (T06-133-01 and T06-133-02) Total amount not to exceed \$150,000.

DOCUMENT NAME: [20080320fsta15.pdf](#) **PURCHASES (1004-01)**

60. Approved a one-year renewal of contracts with Southern Truck Equipment, Inc., Drake Truck and Trailer, and Auto Safety House for vehicle bodies.

COMMENTS: (T06-155-01, 02 & 03) Total amount not to exceed \$160,000

DOCUMENT NAME: [20080320fsta16.pdf](#) **PURCHASES (1004-01)**

61. Approved a one-year renewal of a contract with Empire Machinery for an asphalt compactor with trailer.

COMMENTS: (T06-141-01) Total amount not to exceed \$65,000.

DOCUMENT NAME: [20080320fsta18.pdf](#) **PURCHASES (1004-01)**

62. Approved the utilization of a State of Arizona contract with Waxie Sanitary Supply for janitorial supplies and equipment.

COMMENTS: (SCC060003-A1-1) Total cost of this contract shall not exceed \$200,000.

DOCUMENT NAME: [20080320fsta13.pdf](#) **PURCHASES (1004-01)**

63. Approved the utilization of a one-year State of Arizona contract with Courtesy Chevrolet, Midway Chevrolet and Five Star Ford for the purchase of nine (9) vehicles to be used by the Police and Fire Departments.

COMMENTS: (SCC070002-1, 4 & 5) Total cost of this contract shall not exceed

\$230,000.

DOCUMENT NAME: [20080320fst17.pdf](#) PURCHASES (1004-01)

64. Approved the utilization of State of Arizona contracts with Laser Technology, Inc., and Kustom Signals, Inc., for speed detection devices for use by the Police Department.

COMMENTS: (SCC070011-3 and -5) Total cost of this contract shall not exceed \$39,000.

DOCUMENT NAME: [20080320fst14.pdf](#) PURCHASES (1004-01)

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

- *65. Introduced and held the **first** public hearing to abandon a Public Utility Easement at 802 S. Mill Avenue. **The second public hearing is scheduled for April 3, 2008.**

DOCUMENT NAME: [20080320PWCH02.pdf](#) ABANDONMENT (0901)

ORDINANCE NO. 2008.11

- *66. Introduced and held the **first** public hearing to adopt an ordinance to amend language relating to the requirements for placement of overhead utility lines underground. **The second public hearing is scheduled for April 3, 2008.**

DOCUMENT NAME: [20080320PWWS08.pdf](#) PLANNING AND DEVELOPMENT (0503-25) ORDINANCE NO. 2008.13

- *67. Introduced and held the **first** public hearing to amend Chapter 13A of the Tempe City Code, relating to Environmental Programs and Standards by adding new Section 13A-7 relating to Fireplace Use Restrictions; adding new Article II relating to Outdoor Fires; adding new Article III relating to Dust Control; and **establishing the existence of an emergency. The second public hearing is scheduled for April 3, 2008.**

DOCUMENT NAME: [20080320cacc03.pdf](#) TCC 13A – ENVIRONMENTAL PROGRAMS & STANDARDS ORDINANCE NO. 2008.14

D. Ordinances and Items for Second Hearing/Final Adoption

- *68. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**

Held the **second** public hearing and approved **with conditions** a Planned Area Development Overlay for **ALL SAINTS NEWMAN CENTER STUDENT HOUSING** located at 230 East University Drive.

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.

The following conditions were also approved:

1. The project shall provide a dedicated source of parking, that is either located on the lot it serves or on a lot that is contiguous to or separated by a public alley, with no less than fifty (50) parking spaces, for the purpose of use by staff and management of the Newman Center and related student housing facility. The applicant shall submit to Development Services, prior to issuance of building permits, a recorded parking covenant and agreement that is assigned to the current and future property owners located at 230 E. University Drive. Such agreements shall be legally binding to both parties. The parking spaces dedicated and recorded for use by the Newman Center may not be counted toward required parking for any other use or future development. (Modified by Development Services 3/20/08).
2. The development shall be limited to no more than the total amount of bedrooms provided in the plans (432 bedrooms).
3. The developer shall provide to the City verifiable evidence of all parking agreements, including a parking affidavit, to be kept on file with Development Services.
4. The project shall provide three (3) vehicle spaces adjacent to the site that are utilized for a "shared car program", providing general use on a per rental agreement of the vehicles available to the residents.
5. The maximum building height, including all mechanical, screening devices and other structures on the building, shall be two hundred seventy (270) feet. (Modified by Commission)
6. Prior to the issuance of a building permit, a conservation easement shall be placed on the Old St. Mary's Catholic Church structure, subject to Historic Preservation staff review.
7. A building permit shall be obtained and substantial construction commenced on or before March 20, 2010 or the property shall revert to the underlying zoning designation, subject to a formal public hearing.
8. A Condominium Plat (Horizontal Regime) shall not consist of separating boundaries of individual units for the purpose of individual sales without an amendment to the Planned Area Development Overlay, including but not limited to review of parking.
9. If multiple owners, a continuing care condition, covenant and restriction shall be provided. The CC&R's shall be reviewed and in a form satisfactory to the Development Services Manager and City Attorney.
10. 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 Overlay approval shall be null and void.
11. The Planned Area Development Overlay shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Development Services Department prior to issuance of building permits.
12. **Developer agrees within 180 days to consummate a development agreement for consideration by the City Council that will comprehensively address the terms and flexibility of 140 parking spaces identified in the application. (added by City Council)**

APPLICANT PRESENTATION

Charles Huellmantel, on behalf of the Applicant, asked all supporters present to stand. He further stated that

he would make a presentation after the public hearing.

PUBLIC HEARING

Bill Butler, Tempe, asked that Council consider the welfare of the neighborhoods west of the railroad tracks. He is concerned about the lack of parking provided in the proposal. He is asked to believe that residents will not have access to vehicles. When the off site parking leases are broken or bought out in the years to come, 530 students without 147 cars is not a reality. He has no problem with the redevelopment of this property, but has a big problem with their success depending on dumping their cars onto the northwest Tempe streets. Under the current ordinance, they can park on the streets for 72 hours, move the vehicle 3 feet and continue to park for another 72 hours. If they choose not to pay \$850 to ASU for a parking permit or to pay the leased private lot, they will park on the northwest Tempe streets and ride the free buses to the Newman Center and ASU. There is also a question of where guests of the tenants will park.

Jonathan Thums, Tempe, has always supported the Newman Center and its mission. There is a parking problem in downtown Tempe. If Council chooses to approve the Newman Center PAD as it is currently configured or as the staff has recommended changes, the problem will only get worse. ASU cannot contract to give the Center long-term parking. The lease with Keller is undefined at this time and does not represent a long-term solution for adequate parking. Other developers will want the same deal. No one will pay for parking if they can hand it off on ASU and the taxpayers. Potentially, there could be more towers similar to the Newman tower for all of the other religious groups, and when they wouldn't get their approval, high-powered civil rights attorneys will show up. The first question will be who on Council is Catholic, and why didn't they recuse themselves on the Newman Center vote. We as a City cannot afford to tarnish our reputation as a city that treats everyone equally. If the Newman Center is approved, any other student housing tower will also need to be approved. After seven or eight towers with no parking, there will be 3,000 to 4,000 parking spaces that aren't there. He urged Council to consider the transportation study which is the justification for no parking. If Mesa doesn't fund the light rail, that end of the line dies. They are nearly bankrupt. Something will drop and it may be expensive transit. Once Phoenix understands that light rail will empty out their downtown rather than bring people into the Phoenix downtown area, they will figure out a way to back out of the intergovernmental agreement. Every city will consider reducing bus service during a cash crunch. If ASU can't fill up their new dorms, they will mandate that their freshmen and sophomores live on campus. Without these students as tenants, the private developers of student housing will go bankrupt. ASU is already demanding that students who go to the downtown campus use the downtown dorms. ASU will not dedicate 500 spaces for this project. Many students need to work and need their cars. If we don't embrace the car as part of our City's future, we will fail. Downtown Tempe will die for lack of parking.

Darrin Price, Tempe, has a concern about granting special exemptions to a private development. How can private landlords compete with this type of development when student dormitories are not required by law to adhere to regulations under the Arizona Landlord Tenant Act and also parking requirements by the City of Tempe? As a manager of an apartment complex, can he assume he can apply for special exemption and knock out his parking, put up some extra housing and designate it as student housing? If this project is approved, 550 students are taken out of the public sector and put into the private sector for one particular organization and they will not be paying rent to 550 landlords or 550 house owners. Students, even if they are temporary residents, are citizens as well. They should be out in the City, living, working and playing with the

rest of us rather than relying on dormitories. That insulates them from the City environment. By giving exemptions to a private development, it will be difficult for others to compete.

APPLICANT PRESENTATION

Charles Huellmantel summarized that the project is on the edge of campus and they want to save the existing St. Mary's chapel which has been there for over one hundred years. They want to build a new chapel and build a dormitory for students who go to ASU. That location is merely blocks from light rail and even closer to the bus system and the Orbit system. A roomful of persons who support the project are in attendance tonight. Almost every one of them walked to the meeting. The idea that we are going to live in a future that depends on what happens in Mesa and that every sect will have their own building and every building will have the same benefits and drawbacks, is not a world the supporters believe in. They believe in this particular site and in this project. This location and the student-oriented use, surrounded by significant public investment in multi-modal transportation, is why this works. He did not understand why Mr. Price speaks about his project being the same as this project. His location is not near light rail and not near the bus stops, and although it is near Orbit, it is very different than this project which is designed specifically for students and designed in a way to prevent students from driving. We are trying to take the students out of the neighborhoods and put them on campus. A goal of this City is to have neighborhoods be neighborhoods and campus be campus. It is a great thing to have 500 students who are essentially captive to the downtown be in the downtown. It helps foster the downtown businesses and the dream of providing public transportation that people will actually use.

Mayor Hallman asked Mr. Huellmantel to address Mr. Thums' concern that by approving this for a Catholic-associated facility we are creating a civil rights violation.

Mr. Huellmantel responded that he felt Mr. Thums wishes they would apologize for being Catholic. In fact, their argument has nothing to do with the fact that they are Catholic. We do want to build a new chapel, and we do want to build student housing. Because of its location and use, if they weren't Catholic and they were trying to build this same project, they would expect Council would look at it the same way. Hundreds of millions of dollars have been spent on public transportation in this community. We are finally designing projects that use it; this is a good thing.

Mayor Hallman asked if he could identify another parcel that might be similarly situated.

Mr. Huellmantel responded that he might be able to, but he wasn't going to, because this is the parcel for this project.

Mayor Hallman added that if his concern was that he might set the City up for a civil rights violation, he would want to think about that. He has thought about that and is having a hard time coming up with another parcel. There is one immediately to the west, except that developer has already been required to supply parking, not only for that facility, but an additional 160 parking spaces. Council has taken steps to backfill parking because of the prior decade's failure to build parking. In the past, in-lieu payments had been accepted where projects were being built. Instead of making them build the parking for their own projects, we were accepting \$7500 payments in lieu of having a project build parking. That's how the parking situation got to where it is today. We let projects get built without parking to satisfy their own use. Not only have we reversed that process and

required every project to build enough parking to satisfy its need, but additional public parking so we can solve the problem that was created. He asked how Mr. Huellmantel will assure this community that the 147 parking spaces he will put under contract are, as a term of this deal, available for this facility. If they are not available, they will be placed at whatever cost it takes or there will be consequences with respect to those who might otherwise have cars. In addition, the balance of the facility will be restricted in such a way that the City has a right (contract or deed restriction) to enforce the obligation by the developer and the underlying owner that those students won't have cars.

Mr. Huellmantel responded that many of those present tonight live west of the railroad tracks. He has worked extensively with staff to determine the number of parking spaces for this project. They are providing significantly more spaces than it needs. Those 147 spaces are in two lots. The two lots are split into 75 spaces and 72 spaces. The 72 spaces are immediately adjacent to the site and those are reserved for the project's exclusive use, as are the 75 spaces about a block and a half away. They are doing everything they can to change the way people live. Their goal is to take students out of cars and to keep them on campus and in the downtown. This is a campus of 51,000 students and we are talking about roughly 500 that don't have cars. They don't believe that every student has a car and they don't think that it is good for the environment, the community, or their project for every student to have a car. It is better to have people living, working and walking in the downtown. In terms of whether or not they are prepared to make sure that the people who are students and have vehicles have spaces, they are prepared to do that. They are prepared to make part of the lease a requirement that a student who has a vehicle has a space. If they don't have a space, they are prepared to add a term to that lease that terminates their ability to rent a room in their project.

Mayor Hallman asked for clarification that by saying that the students who have cars will have a nobligation to have a space, did he mean within this 147 spaces.

Mr. Huellmantel agreed, with the exception that any student has a right to attempt to get a space from the University.

Mayor Hallman clarified that his concern was not that the University would then supply the parking space, but he was concerned that those students not end up seeking to satisfy their demand for a parking space by utilizing the other public parking the City is trying to build. It doesn't do a lot of good to have 360 students who suddenly decide to have cars, then going to the other lots already available to the public, and buying leases on spaces and using those up. Certainly, they would be free to do that, but it would exacerbate our problem. He asked if he was willing to restrict students in this project either to the 147 parking spaces or ASU parking spaces.

Mr. Huellmantel stated that he would agree to either of those options.

Mayor Hallman suggested that be included in a development and disposition agreement. He asked Chris Anaradian if that is how this project is being handled.

Chris Anaradian responded that it is not at this point. All of the requirements of the City have been articulated through a condition form. A condition could be crafted and that would save time on processing.

Mayor Hallman clarified that he just wanted to make sure there is an enforceable document after the project is completed. The City will have rights to enforcement so that if there are students who violate this and the project developer/owner doesn't enforce the terms of their lease, the City has a means by which to enforce that lease.

Mr. Anaradian suggested that these would best be addressed in a development agreement and not in zoning conditions.

Mayor Hallman suggested putting in a stipulation that we begin the efforts to put together a development and disposition agreement that would allow us to get these kinds of conditions so that the community knows we are very serious about continuing to solve the parking problem downtown, while concurrently getting more students out of single family, owner/occupied buildings in our neighborhoods. This would return those neighborhoods to occupancy by families that support the broader community and allow students to have a place to live that provides the kind of support they want. These can be done concurrently so that we don't slow down the project.

Mr. Anaradian stated that if Council is comfortable with staff working concurrently, the time frame for design, plan review and permitting is more than adequate to get an agreement like that crafted before issuance of a building permit.

Mayor Hallman asked Mr. Huellmantel if that is something we can do.

Mr. Huellmantel agreed. The terms of that development agreement then comes back to this Council and Council has to approve the terms of that agreement.

Mayor Hallman agreed that a stipulation can be added that it is a reasonable agreement. Did Mr. Huellmantel have a concern about the timeline and did he have suggestions on a way to document this so that we know we are going to end up protecting the community from having a developer say that, although the leases require it, they will waive it.

Mr. Huellmantel responded that it would seem to be something workable. He is concerned about how that will be tracked back to a particular student but they have significant interest in having this project succeed and for it to be successful, they need students to not have vehicles. So, we would pursue that on a dual track.

Mayor Hallman clarified that the goal would be to come up with a way by which the community can be assured that the offer of having leases that specify no cars can be enforced and that the City will have a means to protect the community's interest if the developer decides not to enforce it someday. With respect to doing a special deed for specific denomination, one has to recognize that there is a commitment here that this is a development that we are trying to deal with, and it is a very carefully crafted and tailored development for a specific purpose, use and site. In terms of Mr. Thums' concerns, he understands and respects his analysis, but he comes out a different way. It does have to do whether or not this is distinguishable, and in this instance, it is easily distinguishable. Looking around the entire University, he can't come up with another site that gets anywhere close to this one, a site that is essentially completely surrounded by University property, that is working to develop a dormitory facility, that has the limitations of a dorm so it makes it much more difficult to flip it into the private market sector as apartments, and with all of the public transportation connections that are

developed immediately adjacent to this site. It is ironic that someone said that the problem is that students need their cars to travel to their jobs in the downtown. He would expect some who occupy these dormitories will fill those jobs and that is the goal. We are putting students into the downtown in a place where they can be of greater assistance to the community and to the University and exert and receive the best opportunities from the University in their education. That is certainly part of the partnership the City has developed with ASU. Four years ago a campaign was launched with the University to build new student housing and by this fall, 6600 students will be housed in new dormitory facilities. That gets students out of the neighborhoods.

Councilmember Shekerjian added that this is a very innovative project and in looking at the statistics in terms of success in college, students have a greater chance of being successful if they are connected to a smaller community. She sees a community of students being created. It encourages students to use public transportation, and it gets the students out of the neighborhoods which is something that many residents have indicated they would like to see happen.

Mayor Hallman continued that, in terms of the development agreement, could we also make sure we include provisions, not just with respect to the lease issue, but also to make sure the parking spaces that the developer has secured are done in a way that they are for the life of the project. He reminded Mr. Thums that by having a lease in place, even an item in condemnation has to be paid off, and if a developer came through to try to get the property, he would be buying it subject to the lease for parking and he would have to supply sufficient funds to this project to supply additional parking.

Mr. Anaradian added that he has discussed this with counsel for the Applicant, and in the conditions noted in the report, there is language similar to that regarding the adjacent lot where the 50 visitor spaces are specified. Staff would not initially support without further discussion the idea that the other spaces down the road be held with the same longevity. They are in agreement that those spaces potentially in out years may go away and that may be a good thing for the project and a good thing for downtown.

Mayor Hallman added that he thought the City should be in a position to waive the obligation rather than to be in a position to figure out that we made a mistake and in the out years discover that the parking is still required. He was not asking that the applicant agree to a 50-year lease to that specific parking but that there is an obligation to supply that parking. Because we're using a contract, the City of Tempe will at some point have the right to waive because we have reached the point where people are living, working, and playing in Tempe, including through this dormitory and the parking obligations can be reduced. He wanted to be sure we are in a position to never be caught short. Language can be included in the agreement that when the demand of this dormitory no longer requires those additional 75 spaces, that obligation will be waived based on the fact that the developer/owner is now adding another 75 units that will not allow parking.

Mr. Huellmantel agreed that he has spent a great deal of time working with staff. Part of their philosophy is based on the fact that today, light rail doesn't exist. By the time the project operates, light rail will run, and every year that it runs, they hope that it will be more successful. The adjacent lot has a very long term lease in place and they would agree to incorporate that into a development agreement. On the other lot, it is a 10-year lease and he would hesitate putting that into a development agreement.

Mayor Hallman clarified that before that lease is given up, they will have to impose a restriction on the 75 units that otherwise would have had cars associated with them. That decision can be made at any time. What that does for the City is make sure that those additional 75 units will not have cars allowed. This would provide an opportunity for an even shorter period of time to get rid of it.

Mr. Anaradian added that flexibility can be built into a development agreement. The genius is in the details. The only remaining concern is what incentive would they have to complete the development agreement other than good faith? He would like to condition it that we need the DDA completed within 180 days, for example.

Mr. Huellmantel agreed that they would be willing to restrict the number of units allowed to have cars. The City is not in a position to extend the lease on additional parking.

Mayor Hallman agreed. He was simply proposing that if it's not this lease, it could be someplace else if you reach the point where 75 students do want cars.

Councilmember Carter added that this project meets her vision for students at ASU. It also meets her vision for getting ASU students out of our single family neighborhoods and on to campus

Mr. Anaradian summarized the following stipulation be added:

“Developer agrees within 180 days to consummate a development agreement for consideration by the City Council that will comprehensively address the terms and flexibility of 140 parking spaces identified in the application.”

Motion by Councilmember Shekerjian to approve Item #68 with the addition of the stipulation as stated by Mr. Anaradian. Second by Councilmember Carter. Motion passed on a roll call vote, 7-0.

DOCUMENT NAME: [20080320dsrl02.pdf](#) **PLANNED** **DEVELOPMENT**
(0406)

- *69. Held the **second** public hearing and approved **with conditions** a General Plan Amendment, Zoning Map Amendment, and Planned Area Development Overlay for **501 WEST FIRST** located at 501 West 1st Street.
- 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.

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 General Plan Amendment, Zoning Map Amendment and Planned Area Development Overlay approval shall be null and void.
2. A building permit shall be obtained and substantial construction commenced on or before March 20, 2010 or the property shall revert to the previous zoning designation, subject to a formal public hearing.
3. The Planned Area Development Overlay shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Development Services Department prior to issuance of building permits.

DOCUMENT NAME: [20080320dsrl03.pdf](#) **PLANNED DEVELOPMENT**
(0406)

- *70. Held the **second** public hearing and approved **with conditions** a General Plan Density Map Amendment, Zoning Map Amendment and Planned Area Development Overlay for **APACHE ASL TRAILS** located at 2428 E. Apache Boulevard.

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.

The following conditions were also approved:

1. A building permit shall be obtained and substantial construction commenced on or before March 20, 2009 or the property shall revert to a previous zoning designation – subject to a formal public hearing.
2. 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 General Plan and Zoning Map Amendment approvals shall be null and void.
3. An Encroachment Permit must be obtained from the Engineering Department prior to submittal of construction documents for building permit. The limitations of this encroachment include:

- a. a maximum projection of eight (8) feet for any upper level balconies or decorative architectural features of the building,
 - b. a minimum clear distance of twenty-four (24) feet between the sidewalk level and any overhead structure, and
 - c. any other requirements described by the encroachment permit or the building code.
4. The Planned Area Development for Apache ASL Trails 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.
 5. An amended Subdivision Plat is required for this development and shall be recorded prior to issuance of building permits.
 6. A Condominium Plat (Horizontal Regime) is required for this development and shall be recorded prior to an occupancy permit.
 7. The Subdivision Plat and Condominium Plat for Apache ASL Trails shall be put into proper engineered format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Development Services Department on or before March 20, 2009. Failure to record the plan within one year of City Council approval shall make the plan null and void.
 8. Provide 8'-0" wide public sidewalk along arterial roadways, or as required by Traffic Engineering Design Criteria and Standard Details.
 9. Provide upgraded paving at each driveway apron consisting of unit paving. Extend unit paving in the driveway from the back of the accessible public sidewalk bypass to 20'-0" on site and from curb to curb at the drive edges.

DOCUMENT NAME: [20080320dsdk01.pdf](#) **PLANNED DEVELOPMENT**
(0406)

- *71. Held the **second** public hearing and adopted ORDINANCE NO. 2008.04 abandoning a water and sewer line easement located at 352 South Farmer Avenue.

DOCUMENT NAME: [20080320PWCH01.pdf](#) **ABANDONMENT (0901)**

E. Resolutions

72. Approved RESOLUTION NO. 2008.24 renewing **Contract #2007-51A**, the Intergovernmental Agreement between the City of Tempe and the Tempe Union High School District No. 213 detailing the agreed respective responsibilities of the School Resource Officer Program.

DOCUMENT NAME: [20080320pdstj01.pdf](#) **POLICE DEPARTMENT**
ADMINISTRATION (0606-02)

73. Approved RESOLUTION NO. 2008.21 approving and authorizing the Mayor to sign **Contract #2008-58**, the Arizona Water and Wastewater Agency Response Network (AZWARN) Agreement providing for mutual aid in water utility emergencies.

DOCUMENT NAME: [20080320cacc01.pdf](#) **WATER MANAGEMENT**
ADMINISTRATION (0811-13)

74. Approved RESOLUTION NO. 2008.23 approving and authorizing the Mayor to sign **Contract #2008-59**, an Agreement between the City and Signature Place Condominium

Association for landscape maintenance at the corner of Kyrene Road and Grove Parkway,

COMMENTS: This agreement establishes a public-private partnership to improve landscape maintenance within City rights-of-way at a cost to the City of approximately \$1,020 per year.

DOCUMENT NAME: [20080320cacc02.pdf](#) **STREET LANDSCAPE MAINT (0809-06)**

75. Approved RESOLUTION 2008.15 revising the City of Tempe's Neighborhood Traffic Management Program Manual.

DOCUMENT NAME: [20080320pwcdl01.pdf](#) **TRANSPORTATION PLANNING (1101-01)**

76. Approved RESOLUTION NO. 2008.22 amending the current Memorandum of Understanding between SEIU Local 5 and the City of Tempe.

DOCUMENT NAME: [20080320IAKJ01.pdf](#) **PUBLIC WORKS – MEET & CONFER (0303-08-03)**

6. PUBLIC APPEARANCES

SCHEDULED PUBLIC APPEARANCE

- Francis Scanlon, Tempe, re: Maintenance Procedure for Parks – did not speak.
- Sean Garvey, Tempe, re: contamination of Well #6. Mr. Garvey stated that he owns property next to Well #6. He spoke with Don Hawkes about a year ago and was told there was consideration to build an air stripper system to clean out the contamination. His property is currently for sale and he feels he could save the City about \$1.7M. He is only asking \$975,000 for his property.

Mayor Hallman suggested that he talk with Don Hawkes.

7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

- Councilmember Shekerjian stated that on Monday, March 17th, she had the opportunity to be at the Tempe Center for the Arts (TCA) when the Tempe Wind Symphony had their first practice. This is a musical group of about 75 Tempe students, consisting of middle school students chosen by their band directors to practice with high school student mentors. Their concert will be April 16th at 7 p.m. at the TCA. She thanked Tom Canasi and all of those who have exhibited a "can-do" attitude in bringing this event together.
- Councilmember Ellis announced that the Kiwanis Easter Egg Hunt will be held on Saturday, March 22nd, at Kiwanis Park at 10:30 a.m. This is for children ten years of age and younger. A giant Easter basket can be won by registering at www.kcot.org.
- Councilmember Mitchell, as a McClintock High School alumnus, recognized McClintock's Speech and Debate Team for winning the 4-A State Championship the second year in a row.

- Councilmember Arredondo commended staff for their fantastic job in maintaining the field during spring training. The all-time attendance record could be broken this year for spring training. It means a lot to economic development. Also, the job fair held today at the TCA was outstanding.
- Mayor Hallman congratulated Councilmember Mitchell on his re-election.

Meeting adjourned at 9:05 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 March 20, 2008, by the Tempe City Council, Tempe, Arizona.

Hugh Hallman, Mayor

ATTEST:

Jan Hort, City Clerk

Dated this _____ day of _____, 2008.