

Minutes Formal City Council Meeting April 17, 2008

Minutes of the Formal Council Meeting of Thursday, April 17, 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 at 7:45 p.m.

1. Councilmember Mitchell gave the invocation.
2. Delaney Shelton, student at Waggoner Elementary, led the audience in the **Pledge of Allegiance**.
3. **MINUTES**

A. Approval of Council Meeting Minutes

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

1. Council's Executive Session – April 3, 2008
2. Council's Issue Review Session – April 3, 2008 [20080417clrkck01.pdf](#)
3. Council's Formal Meeting – April 3, 2008 [20080417clrkck02.pdf](#)
4. Council's Education, Technology & Economic Development Committee – February 5 & March 4, 2008 [20080417ETED01.pdf](#) [20080417ETED02.pdf](#)
5. Ad Hoc Long Range Budget & Finance Planning Committee – March 6 & 27, 2008 [20080417lrbf01.pdf](#) [20080417lrbf02.pdf](#)
6. Housing Authority Governing Board Meeting – April 3, 2008 [20080417clrkck03.pdf](#)
7. Enterprise Zone Commission – April 3, 2008 [20080417clrkck04.pdf](#)

B. Acceptance of Board & Commission Meeting Minutes

Motion by Councilmember Shekerjian to accept the following **COMMITTEE & BOARD MEETING MINUTES**. Second by Vice Mayor Hutson. Motion passed unanimously on a voice

vote.

8. Apache Boulevard Project Area Committee – February 11, 2008 [20080417apac01.pdf](#)
9. Community Special Events Task Force – March 25 & April 8, 2008
[20080417setf01.pdf](#) [20080417setf02.pdf](#)
10. Development Review Commission – January 22, 2008 [20080417drc01.pdf](#)
11. Enhanced Services Commission – March 12, 2008 [20080417esc01.pdf](#)
12. Hearing Officer – February 19, March 4 & 18, 2008 [20080417ho01.pdf](#)
[20080417ho02.pdf](#) [20080417ho03.pdf](#)
13. Neighborhood Advisory Commission – March 5, 2008 [20080417nac01.pdf](#)
14. Rio Salado Advisory Commission – February 26, 2008 [20080417rsac01.pdf](#)
15. Tempe Fire Public Safety Personnel Retirement Board – March 6, 2008
16. Tempe Fire Public Safety Personnel Retirement Board Executive Session –
March 6, 2008
17. Tempe Police Public Safety Personnel Retirement Board – March 6, 2008
18. Tempe Police Public Safety Personnel Retirement Board Executive Session –
March 6, 2008

4. REPORTS AND ANNOUNCEMENTS

A. Mayor's Announcements

- **Mayor Hallman** recognized outstanding participants in the Kid Zone Enrichment Programs. Kid Zone is an award winning elementary school-age enrichment program administered by the City of Tempe in cooperation with the Tempe Elementary and Kyrene School Districts. Kid Zone exemplifies cooperation between the City and school districts at the highest level. **Kelly Alexander**, Director of Community Education and Outreach Services for the Kyrene Elementary School District and **Andrea Colby**, Early Childhood Education Coordinator from the Tempe Elementary School District joined the Mayor for the presentations. The following school partners were honored: **Kacy Curtis**, principal, Ward Traditional Academy; **Edward Goldstein**, 5th grade teacher, Broadmor Elementary School, and **Grace Inouye**, Attendance Clerk at Kyrene de la Mariopsa Elementary School. The Mayor also awarded certificates to students selected in part because of their kind and respectful attitude, good sportsmanship and leadership qualities.
- DELETED
- **Mayor Hallman** read a proclamation designating **April 22, 2008, as Earth Day in Tempe** and presented a certificate to **Councilmember Shana Ellis** for her work in the City's efforts to create a sustainable community. As part of Earth Month, the Public Works Department invited East Valley Institute of Technology graphics design students to submit entries for the children's Earth Day/Recycling coloring and activity book. The purpose of "Reaching the Recyclers of Tomorrow" contest is to enhance awareness, encourage children to recycle and preserve our natural resources. The designs will be incorporated into an Earth Day activity book which will be distributed to schools. Honorees were **Marissa Heater**, **Tara Taylor**, **Cheylyse Wright**, **Wesley Harmon**, **Coni Renten**, Instructor Graphic Design & Production Technologies and **Lu Mikulich**, Arizona Art Supply sponsor.

B. Manager's Announcements

- City Manager Charlie Meyer announced that Valley Metro has indicated they will work with the City in reviewing their fare policy in light of the idea of potential development of a regional free transit pass system. Mayor Hallman added that the item has been put on the Valley Metro Rail agenda for next month.

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 Vice Mayor Hutson to approve the Agenda as amended (Items #21, #22, #29, #35 and #37 were removed for separate consideration). Second by Councilmember Arredondo. Motion passed on a roll call vote 7-0.

A. Miscellaneous Items

19. Approved the Report of Claims Paid to be filed for audit for the month of March 2008.
COMMENTS: A copy of the detailed claims report may be obtained by contacting the City Clerk's Office.
20. Authorized the City Manager to cancel an agreement between Gobility, Inc., and the City of Tempe for use of City property in connection with the operation of a WiFi network
DOCUMENT NAME: [20080417ITDH1.pdf](#) **BACKGROUND MAT'L FOR PURCHASE AGRMTS (1004-01)**
21. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**
Authorized the Mayor to execute **Contract #2008-68**, a Rehabilitation Agreement and License with the Rio Salado Foundation for the rehabilitation of the Eisendrath House.

Mayor Hallman declared a conflict of interest. Vice Mayor Hutson conducted the motion.

Motion by Councilmember Mitchell to approve Item #21. Second by Councilmember Arredondo. Motion passed on a roll call vote, 6-0, with Mayor Hallman abstaining.

DOCUMENT NAME: [20080417cdnc01.pdf](#) **COMMUNITY DEVELOPMENT ADMIN. (0406)**

- 21a. Authorized the negotiation of a professional services contract with MD Construction, Inc., for the design and construction of tenant improvements at 645 W. 24th Street.
COMMENTS: Total cost not to exceed \$200,000.

DOCUMENT NAME: [20080417cdnc02.pdf](#) COMMUNITY DEVELOPMENT
ADMIN. (0406)

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

Approved **with condition** a Final Subdivision Plat for CAMPUS SUITES ON THE RAIL located at 1900 E Apache Boulevard.

COMMENTS: (PL070312) (Gordon Phillips, Campus Suites on the Rail LLC, owner /Brian Hensley, Coe & Van Loo, applicant), on +/- 6.7 net acres within the MU-4 Mixed-Use High Density Zoning District within the Transportation Overlay District, located at 1900 E. Apache Boulevard. The request includes the following:

SBD08004 – Final Subdivision Plat to combine four parcels into one +/-6.7 net acre lot.

The following condition was also approved:

1. The Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Development Services Department **on or before April 17, 2009**. Failure to record the plan within one year of City Council approval shall make the plan null and void.

Councilmember Mitchell declared a conflict of interest.

Motion by Councilmember Arredondo to approve Item #22. Second by Vice Mayor Hutson. Motion passed on a roll call vote, 6-0, with Councilmember Mitchell abstaining.

DOCUMENT NAME: [20080417dsdk01.pdf](#) PLANNED DEVELOPMENT
(0406)

23. Approved **with condition** a Subdivision plat for EDDLEMON SPLIT, located at 1101 East Warner Road.

COMMENTS: (PL080023) (Dr. Vernon Eddlemon, DDS, property owner, Standage and Associates, LTD, applicant), located at 1101 East Warner Road, in the R1-15, Single-Family Residential. The request includes the following:

SBD08002- A subdivision plat, consisting of lot split on 2.242 net acres parcel.

The following condition was also approved:

1. The Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Development Services Department **on or before April 17, 2009**. Failure to record the plan within one year of City Council approval shall make the plan null and void.

DOCUMENT NAME: [20080417dsjc01.pdf](#) PLANNED DEVELOPMENT
(0406)

*24. Held a public hearing and recommended the approval of a Series 12 Restaurant Liquor License for Chez Monieux LLC dba Chez Monieux, 5004 South Price Road.

COMMENTS: Randy Nations is the Agent for this application.

DOCUMENT NAME: [20080417LIQ01.pdf](#) LIQ LIC (0210-02)

B. Award of Bids/Contracts

25. Awarded **Contract #2008-69**, a five-year contract to Leotek Electronics USA Corporation for Traffic Signal LED Modules.
COMMENTS: (IFB 08-132) Total cost for this contract shall not exceed \$900,000.
DOCUMENT NAME: [20080417fsta06.pdf](#) **PURCHASES (1004-01)**
26. Awarded **Contract #2008-70**, a five-year, sole source contract to Hansen Information Technologies for annual software maintenance for the City's Infrastructure Management System.
COMMENTS: (Sole Source #T08-157-01) Total cost for this contract shall not exceed \$400,000 during the contract period.
DOCUMENT NAME: [20080417fsts07.pdf](#) **PURCHASES (1004-01)**
27. Awarded **Contract #2008-71**, two-year contracts with three, one-year renewal options to Andwin Scientific; Idexx Distribution, Inc.; Thermo Fisher Scientific, LLC.; and VWR International, LLC, for the purchase of laboratory supplies used in the analysis of water and wastewater samples for the Water Utilities Department.
COMMENTS: (IFB #08-105) Total cost for this contract shall not exceed \$650,000 during the initial contract period.
DOCUMENT NAME: [20080417fsts08.pdf](#) **PURCHASES (1004-01)**
28. Awarded **Contract #2008-72**, a one-year contract with four, one-year renewal options to Keller Equipment Company, Inc. for maintenance, repair, and purchase of electric motors used in the treatment and delivery of water and wastewater for the Water Utilities Department.
COMMENTS: (IFB #08-061) Total cost for this contract shall not exceed \$500,000 during the initial contract period.
DOCUMENT NAME: [20080417fsts10.pdf](#) **PURCHASES (1004-01)**
29. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**
Approved one-year renewals of contracts with Metropolitan Life Insurance and CIGNA Dental for Dental Plans for all eligible employees and their dependents.
COMMENTS: (T04-089-01 and T04-089-02) Total amount not to exceed \$1,500,000.

Mayor Hallman declared a conflict of interest. Vice Mayor Hutson conducted the vote.

Motion by Councilmember Arredondo to approve Item #29. Second by Councilmember Shekerjian. Motion passed on a roll call vote, 6-0, with Mayor Hallman abstaining.

DOCUMENT NAME: [20080417fsta01.pdf](#) **PURCHASES (1004-01)**

30. Approved a two-year renewal of a contract with Epoch Group, LC, for third party administrator services for the City's three self-funded medical plans.
COMMENTS: (T05-110-01) Total amount not to exceed \$550,000.
DOCUMENT NAME: [20080417fsta02.pdf](#) **PURCHASES (1004-01)**
31. Approved a one-year renewal of a sole source contract with Bentley Systems, Inc. for annual software system support of MicroStation and associated products used by Engineering for the review of geographical information system information.
COMMENTS: (Sole Source 07-123) Total cost shall not exceed \$70,000.
DOCUMENT NAME: [20080417fsts03.pdf](#) **PURCHASES (1004-01)**
32. Approved a one-year renewal of a contract with MP Environmental Services, Inc. for pickup and transportation of solar-dried, de-watered sludge from the South Tempe Water Treatment Plant.
COMMENTS: (T06-132-01) Total amount not to exceed \$105,000.
DOCUMENT NAME: [20080417fsts04.pdf](#) **PURCHASES (1004-01)**
33. Approved a one-year renewal of a contract with Active Network Ltd. (formerly Class Software Solutions) for annual software maintenance for the class system utilized by Parks and Recreation, Community Services, and other Departments.
COMMENTS: (T05-157-01) Total cost shall not exceed \$35,000.
DOCUMENT NAME: [20080417fsts09.pdf](#) **PURCHASES (1004-01)**
34. Approved the utilization of one-year State of Arizona contracts with Staffmark Pacific, LLC, Kelly Services, Randstad NA and Corporate Job Bank for temporary employment services.
COMMENTS: (#EPS070043-3,4,6 and 16) Total cost of this contract shall not exceed \$600,000.
DOCUMENT NAME: [20080417fsta05.pdf](#) **PURCHASES (1004-01)**
- C. Ordinances and Items for Introduction/First Hearing - These items will have two public hearings before final Council action.
- D. Ordinances and Items for Second Hearing/Final Adoption
- *35. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**
Held the second public hearing and approved with conditions a Planned Area Development Overlay for M7 MIXED USE DEVELOPMENT located at 701 South Mill Avenue.
COMMENTS: (PL060681) (Mario Sanchez, Tempe Mill LLC, property owner; Manjula Vaz, Gammage & Burnham, applicant) consisting of a mixed-use development for three buildings, including ground floor commercial, a seventeen story hotel with conference center, two twenty-six story residential towers, and underground parking,

within approximately 1,258,000 s.f. of total building on 1.73 acres, located at 701 South Mill Avenue in the CC, City Center District and in the Transportation Overlay. The request includes the following:

PAD07004 – (Ordinance No. 2008.12) Planned Area Development Overlay to modify development standards to allow a building height increase from 50' to 195' for the hotel building and 306' for two residential buildings; and a reduction in the TOD required parking from 1,618 to 1,129 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 that may now or in the future exist, releasing the City from any potential claims under Arizona's Private Property Rights Protection Act, which shall be submitted to the Development Services Department no later than thirty (30) calendar days after the date of approval (May 17, 2008), or the approval shall be null and void.
2. A building permit shall be obtained on or before April 3, 2010 or the property may 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.
4. Maximum building height extending three hundred twenty feet from the eastern most property line, including all mechanical, screening devices and other structures on the building, shall be 306'-0".
5. Maximum building height along the Mill Avenue frontage, extending twenty feet from the western property line, shall be 53'-0". The maximum building height for the remaining one hundred forty-five feet from the western property line, including all mechanical, screening devices and other structures on the building, shall be 195'-0".
6. Maximum encroachment for structures located underground along 7th Street and Myrtle Avenue shall be 30'-0" from right-of-way or to the existing curb line, whichever is greater. Subject to review and approval by the Public Works Department Manager or designee.
7. An agreement establishing off-site parking for employees of the development, shall be recorded with the City prior to issuance of building permits.

Motion by Vice Mayor Hutson for approval of Item #35. Second by Councilmember Carter. Motion passed on a roll call vote, 7-0.

DOCUMENT NAME: [20080417dsrl01.pdf](#) **PLANNED** **DEVELOPMENT**
(0406)

- *36. Held the **second** public hearing and **approved with conditions** a Planned Area Development Overlay for 800 WEST.

COMMENTS: Request for 800 WEST (PL070513) (Nancy Hawkes, Articulate Urban Homes, LLC, owner and applicant) for a Planned Area Development Overlay and a Development Plan Review for four townhouses on approximately 0.24 net acres, located at 800 West University Drive in the R-4, Multi-Family Residential General District. The request includes the following:

PAD07029 – (Ordinance 2007.86) Planned Area Development Overlay to modify development standards for four residential units on individual lots on an overall +/- 0.24 net acre site, including the following: reduction in minimum individual lot area from 1,740

sf to 1,366 sf, increase in maximum individual lot coverage from 60 % to 64 %, reduction in individual lot setbacks from 20 ft to 0 ft (front), from 10 ft to 0 ft (side) and from 10 ft. to 7 ft. (rear)

The following conditions were also approved:

1. A building permit shall be obtained on or before April 17, 2010, or the zoning of the property may revert to that in place at the time of application, subject to a public hearing.
2. The property owner(s) shall sign a waiver of rights and remedies pursuant to A.R.S. §12-1134 that may now or in the future exist, releasing the City from any potential claims under Arizona's Private Property Rights Protection Act, which shall be submitted to the Development Services Department no later than thirty (30) calendar days after the date of approval (May 17, 2008), or the approval shall be null and void.
3. Provide 8'-0" wide continuous clearance along the west property line for a private sanitary sewer line. Do not locate balcony columns, column or west perimeter wall foundations or trees within this area. Private yard walls may traverse the 8'-0" wide continuous clearance. Second floor balconies may overhang the clearance up to 7'-0" from the west property line.
4. The Planned Area Development Overlay exhibits for 800 West shall be put into proper engineered format and kept on file with the Development Services Department. The Development Standards, including those modified by the Overlay, shall be specifically enumerated on the cover sheet. Obtain Development Services Manager's approval of Planned Area Development Overlay prior to issuance of building permits. This document is not required to be recorded at the County Recorder's Office.

DOCUMENT NAME: [20080417dskko01.pdf](#) PLANNED DEVELOPMENT
(0406)

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

Held the **second** public hearing to obtain citizen comments on the proposed FY 2008-2009 Action Plan for the Community Development Block Grant (CDBG) and Home Programs.

Councilmember Ellis declared a conflict of interest.

Motion by Vice Mayor Hutson for approval of Item #37. Second by Councilmember Carter. Motion passed on a roll call vote, 6-0, with Councilmember Ellis abstaining.

DOCUMENT NAME: [20080417cdlc01.pdf](#) COMMUNITY DEVELOPMENT
BLOCK GRANT (0207-26)

E. Resolutions

38. Approved RESOLUTION NO. 2008.29 authorizing the execution of **Contract #2008-73**, a Memorandum of Understanding with Maricopa County Recorder to allow the City of Tempe the ability to record documents electronically.

DOCUMENT NAME: [20080417PWCH01.pdf](#) MARICOPA COUNTY (0109-29)

6. PUBLIC APPEARANCES

- **Emory Caudill, Queen Creek, re: Artists' civil rights for free speech.** A few hours ago, he received a call from the City Attorney's regarding Tempe City Code Section 24-19 regarding an artist's ability to give away work for donation, but not for sale. In January, he was challenging the City on the constitutionality of that ordinance, which was in fact struck down in federal court. That ordinance clearly limits artists' ability to sell their art. It is well settled that a speaker's rights are not lost merely because compensation is received. A speaker is no less a speaker because he or she is paid to speak. It basically states that America has lost what self-expressive art really is. A "prior restraint" has existed all of this time between January until today when the City Attorney's Office stated they would put a "stand-down" on this ordinance until it can be decided how to preserve artists' rights as free speech. He will drop the claim he intended to bring in federal court.

UNSCHEDULED PUBLIC APPEARANCE

- **Treia Lee, Chandler, student at Corona del Sol High School.** An air quality club has been formed with a mission to raise the required funds for the removal of the carpet in the 85 classrooms of the "E" building during summer break. This is an opportunity to participate in an "adopt a room" campaign drive to raise \$340K by May 9th. The funds raised will be put toward the carpet remove and replacement. The cost per classroom is \$4K, and donations can be made at the Corona bookstore.
- **Valerie Ronhars, Chandler.** She is concerned with the air quality issues at Corona del Sol High School. She supports her daughter, Treia Lee, in her endeavors to raise the necessary money and urged the City to do the same.

7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

- Councilmember Ellis announced that the 2nd annual Tempe Leadership "Conversations in Leadership" will be held on April 25th. Participants will be Congressman Harry Mitchell, William Post, and Lisa Love. Interested attendees may call the Tempe Chamber of Commerce at 967-7891. She also announced that on Saturday, April 26th, the Basha's on Southern and McClintock will be collecting plastic bags. The City recently expanded its recycling program but is still unable to take plastic bags. Many stores throughout the Phoenix metropolitan area collect those bags and she read a list of those stores. City of Phoenix Councilmember Greg Stanton will be at the Basha's at Warner and 48th Street and at Food City at Southern and 48th Street.
- Councilmember Arredondo congratulated the Police and Fire Departments on their award ceremony. This was the first time the two organizations have come together and showed the strength of what their citizens have said about both departments.
- Vice Mayor Hutson thanked Chief Ryff and Chief Jones on an outstanding awards program. He also thanked staff for an outstanding effort with the Ironman event.
- Councilmember Shekerjian stated that the Tempe Youth Wind Symphony took place last night at the Tempe Center for the Arts. There were 75 musicians from middle schools and high schools and they presented a phenomenal concert. "Music Under the Stars" will be Friday night, at 7 p.m., in the Arts Park east of the Arts Center. There will be over 300 musicians taking part. On

- April 26th, the Youth Arts Council will be presenting "Arts Jam" at the Tempe Library from 9 a.m. to 3 p.m. This event features children's art.
- Councilmember Carter announced that the Rotary River Rally will be held this Saturday, as well as Pat's Run.

Meeting adjourned at 8:45 p.m.

I, Jan Hort, the duly-appointed City Clerk of the City of Tempe, Maricopa County, Arizona, do hereby certify the above to be the minutes of the Formal City Council meeting of April 17, 2008, by the Tempe City Council, Tempe, Arizona.

Hugh Hallman, Mayor

ATTEST:

Jan Hort, City Clerk

Dated this _____ day of _____, 2008.