

Minutes Formal City Council Meeting December 11, 2008

Minutes of the Formal Council Meeting of Thursday, December 11, 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 Shana Ellis
Councilmember P Ben Arredondo
Councilmember Mark W. Mitchell
Councilmember Joel Navarro
Councilmember Onnie Shekerjian
Councilmember Corey D. Woods

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

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

1. Council's Executive Session – November 20, 2008
2. Council's Issue Review Session – November 20, 2008 [20081211clrkck01.pdf](#)
3. Council's Formal Meeting – November 20, 2008 [20081211clrkck02.pdf](#)
4. Council's Special Formal Meeting – November 24, 2008 [20081211clrkck04.pdf](#)
5. Housing Authority Governing Board – November 20, 2008 [20081211clrkck03.pdf](#)
6. Council's Education Partnership Committee – November 17, 2008
[20081211ep01.pdf](#)
7. Council's Housing Committee – November 18, 2008 [20081211chc01.pdf](#)
8. Council's Neighborhood Parks Rehabilitation & Maintenance Committee –
November 19, 2008 [20081211nprm01.pdf](#)
9. Council's Sports, Recreation, Arts & Cultural Development Committee –
November 19, 2008 [20081211srac01.pdf](#)
10. Council's Transportation Committee – October 28, 2008 [20081211ctc01.pdf](#)

B. Acceptance of Board & Commission Meeting Minutes

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

11. Apache Boulevard Project Area Committee – October 13, 2008 [20081211apac01.pdf](#)
12. Aviation Commission – October 7, 2008 [20081211tavco01.pdf](#)
13. Board of Adjustment – October 22, 2008 [20081211boa01.pdf](#)
14. Commission on Disability Concerns – October 15, 2008 [20081211cdc01.pdf](#)
15. Committee for Youth, Families and Community – October 20, 2008
[20081211cyfc01.pdf](#)
16. Community Special Events Task Force – November 12 & 18, 2008
[20081211setf01.pdf](#) [20081211setf02.pdf](#)
17. Development Review Commission – October 14, 2008 [20081211drc01.pdf](#)
18. Double Butte Cemetery Advisory Committee – August 20, 2008 [20081211dbc01.pdf](#)
19. Electrical Code Advisory Board – October 23, 2008 [20081211ecab01.pdf](#)
20. Enhanced Services Commission – October 8, 2008 [20081211esc01.pdf](#)
21. Hearing Officer – November 4, 2008 [20081211ho01.pdf](#)
22. Historic Preservation Commission – October 9, 2008 [20081211hpc01.pdf](#)
23. Historical Museum Advisory Board – October 2, 2008 [20081211mab01.pdf](#)
24. Library Advisory Board – October 6 & November 3, 2008 [20081211lab01.pdf](#)
[20081211lab02.pdf](#)
25. Mayor's Youth Advisory Commission – November 4 & 18, 2008 [20081211myac01.pdf](#)
[20081211myac02.pdf](#)
26. Municipal Arts Commission – October 8, 2008 [20081211mac01.pdf](#)
27. Parks & Recreation Board – September 17, 2008 [20081211prb01.pdf](#)
28. Plumbing & Mechanical Code Advisory Board – October 21, 2008
[20081211pmcab01.pdf](#)
- 28a. Rio Salado Advisory Commission – October 28, 2008 [20081211rsac01.pdf](#)
29. Tardeada Advisory Board – September 29, 2008 [20081211tab01.pdf](#)
30. Tardeada Advisory Board – Light Rail Subcommittee – September 8, 2008
[20081211tab02.pdf](#)
31. Transportation Commission – October 14, 2008 [20081211tc01.pdf](#)
32. Transportation Commission Multi-modal Planning & Project Review Committee –
October 8, 2008 [20081211tc02.pdf](#)

4. REPORTS AND ANNOUNCEMENTS

A. Mayor's Announcements

- a. Mayor Hallman recognized the participants in the **Diversity Dialogue Program**. This program is sponsored by the City's Diversity Office and is designed to foster a better understanding of self, others, and our community and discover ways to improve the climate of diversity in Tempe. Over the course of six weeks, the group tackled very challenging issues. Participants in attendance tonight are **Deborah Kearns (facilitator), Florence Boyle (facilitator), Mac McGinn, Wendy Springborn-Pittman, Gregg Smith, Jaime Harvey, Paul Steele, and Noubert Boubeka**.
- b. Mayor Hallman announced that the City of Tempe's Economic Development Team received statewide attention recently when it was awarded the *Arizona Business Magazine's Economic Engine Award*. This team works to attract and retain the best and brightest businesses to the community and they balance those efforts with a deep commitment to sustainable growth and a stellar quality of life for all of our Tempeans. With only five people on the team, they accomplish

more than what most cities do with much larger staff. Among this year's accomplishments are: location of 25 major companies to Tempe, including First Solar, the creation of \$250M in capital investment in the community, agreements for more than \$2B in new development, and special focus on biotechnology facilities, including the Phase II of the ASU Biodesign Institute in the Papago Gateway Center. He introduced **Sheri Wakefield-Saenz** and **Chris Salomone**.

B. Manager's Announcements

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 #36, #40, #50 and #52 were removed for separate consideration). Second by Councilmember Mitchell. Motion passed on a roll call vote 7-0.

A. Miscellaneous Items

33. Approved the Report of Claims Paid to be filed for audit for the months of October and November, 2008.

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

34. Approved **Contract #2008-246**, an Intergovernmental Agreement between the Tempe Union High School District and the City of Tempe for the provision of substance abuse prevention services.

COMMENTS: Services are funded by Arizona State Department of Education – Title IV, State Chemical Abuse and Tempe Community in Schools grants totaling \$65,621.00 for FY July 1, 2008, through June 30, 2009. This is the fourteenth year of this Intergovernmental Agreement.

DOCUMENT NAME: [20081211cskb01.pdf](#) **TEMPE UNION HIGH SCHOOL DISTRICT (0109-14)**

35. Approved **Contract #2008-247**, an Intergovernmental Agreement with the Tempe County Island Fire District for provision of fire protection and emergency medical services.

COMMENTS: The initial agreement period is five years, with the option of three (five year) renewals. The Tempe County Island Fire District would pay \$196,000 for the first year to the Fire Department for operational costs, including payment for the one full time fire inspector position for the first year only. After the first year, costs will be calculated on a percentage share of the Fire Department budget.

DOCUMENT NAME: [20081211FDDB01.pdf](#) **FIRE/PARAMEDIC SERVICE ADM (0605-01)**

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

Held a public hearing and recommended the approval of a Series 12 restaurant liquor license for Creative Foods Management, LLC, dba Paytons Place, 325 West Elliot Road.

COMMENTS: Kenneth LaCivita is the Agent for this application.

Vice Mayor Ellis declared a conflict of interest.

Motion by Councilmember Mitchell to approve Item #36. Second by Councilmember Arredondo. Motion passed on a roll call vote, 6-0, with Vice Mayor Ellis abstaining.

DOCUMENT NAME: [20081211LIQ01.pdf](#) LIQ LIC (0210-02)

B. Award of Bids/Contracts

37. Awarded **Contract #2008-248**, a landscape architectural contract with J2 Engineering and Environmental Design, LLC, for improvements to Scudder Park.

COMMENTS: Total cost for this contract is \$159,988.99.

DOCUMENT NAME: [20081211PWDR04.pdf](#) **SCUDDER PARK (0706-34) PROJECT NO. 6303111**

38. Awarded **Contract #2008-249**, a professional services design contract with Damon S. Williams Associates, LLC, for water quality improvements at the South Tempe Water Treatment Plant (STWTP).

COMMENTS: Total cost for this contract is \$199,691.

DOCUMENT NAME: [20081211PWDR07.pdf](#) **WATER PUMPING STATION - SOUTH TEMPE (0811-10) PROJECT NO. 3203211**

39. Awarded **Contract #2008-250**, a job order contract with Quest Civil Constructors, Inc, **Contract #2008-251**, a job order contract with Hunter Contracting Co., and **Contract #2008-252**, a job order contract with Pierson Construction Corporation for on-call miscellaneous horizontal construction and minor water and wastewater treatment plant improvements.

COMMENTS: The amount of each contract is \$2,000,000 annually and each individual job order is \$1,000,000 or less.

DOCUMENT NAME: [20081211PWDR12.pdf](#) [20081211PWDR12a.pdf](#)
[20081211PWDR12b.pdf](#) [20081211PWDR12c.pdf](#) **ENGINEERING ADMINISTRATION (803-02)**

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

Awarded **Contract #2008-253**, two-year contracts with three, one-year renewal options to Economic Research Associates and Gruen Gruen & Associates for development consultants.

COMMENTS: (RFP #09-036) Total cost for these contracts shall not exceed \$50,000 during the initial two-year contract period.

Mayor Hallman asked for clarification whether, given the staffing in Economic Development, this contract is necessary.

City Manager Charlie Meyer responded that the proposed contract provides the option to do business with these two companies. The way in which these companies would be used is if the City is in the process of negotiating a development agreement with a particular developer and is looking for input into, for example, whether it is a fair investment, and depending upon the kinds of investments that the City might be making, it gives the ability to look into their financial records. In previous experiences, he has been able to ask a developer if that is something they would incorporate into their costs, and oftentimes they are more than happy to do that. It is difficult sometimes for public employees to keep business information confidential under public records law. By using a consultant, the consultant can keep it confidential and then just provide the City with the results of their assessment.

Motion by Councilmember Woods to approve Item #40. Second by Councilmember Shekerjian. Motion passed on a roll call vote, 7-0.

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| | DOCUMENT NAME: | 20081211fslg03.pdf | PURCHASES (1004-01) |
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41. Approved **Contract #2008-254**, a three-year sole source contract with Environmental Systems Research Institute, Inc., which provides licensing and annual support for computer-based mapping software that is used city-wide with the Enterprise Geographic Information System.
COMMENTS: (Sole Source #09-065) Total cost for this contract shall not exceed \$110,000 annually during the contract period.
DOCUMENT NAME: [20081211fsts08.pdf](#) **PURCHASES (1004-01)**
42. Approved **Contract #2008-137B**, Job Order No. 2 with Caliente Construction, Inc., and approved a project contingency for improvements to supervisory control and data acquisition (SCADA) systems at various remote telemetry units.
COMMENTS: Total amount for Job Order No. 2 is \$679,664 and the project contingency is \$35,000.
DOCUMENT NAME: [20081211PWDR06.pdf](#) **WATER MANAGEMENT ADMINISTRATION (0811-13) PROJECT NO. 3202031**
43. Approved a one-year renewal of contracts with 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: (T08-048-01 thru T08-048-03) Total amount not to exceed \$70,000.
DOCUMENT NAME: [20081211fslg01.pdf](#) **PURCHASES (1004-01)**
44. Approved a one-year renewal of a contract with NEC Unified Solutions, Inc. for the purchase of CISCO telephone networking and Voice over IP equipment and services that are used by various departments throughout the City.
COMMENTS: (T07-040-01) Total amount not to exceed \$1,250,000.
DOCUMENT NAME: [20081211fsts10.pdf](#) **PURCHASES (1004-01)**
45. Approved the utilization of a nineteen-month contract with three, one-year renewal options with Global Traffic Technologies, LLC, for optically controlled traffic control equipment.
COMMENTS: (Contract #2008133) Total cost of this contract shall not exceed \$150,000 during the initial contract period.
DOCUMENT NAME: [20081211fslg02.pdf](#) **PURCHASES (1004-01)**

46. Approved the utilization of a State of Arizona contract with Jones Lang LaSalle America, Inc. (formerly known as The Staubach Company) for brokerage services associated with the purchase or lease of property for use by the Fire Department.

COMMENTS: (EPS050045) Total value of this contract is estimated at \$250,000 and will be paid by property seller. The firm's utilization represents no direct cost to the City.

DOCUMENT NAME: [20081211fsta05.pdf](#) **PURCHASES (1004-01)**

47. Approved the utilization of a one-year State of Arizona contract with Grainger for industrial supplies and equipment used by various City departments.

COMMENTS: (Contract #EPS060050) Total cost of this contract shall not exceed \$300,000.

DOCUMENT NAME: [20051211fsta07.pdf](#) **PURCHASES (1004-01)**

48. Approved the utilization of an eleven-month U.S. Communities contract with Motorola, Inc. for the purchase and repair of 800 MHz digital radio subscriber equipment for the Fire Department, Police Department and other City departments.

COMMENTS: (US Communities 02702) Total cost of this contract shall not exceed \$500,000 during the contract period.

DOCUMENT NAME: [20081211fsts09.pdf](#) **PURCHASES (1004-01)**

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

- *49. Introduced and held the **first public hearing** to adopt an ordinance granting an electrical "Utility Easement" located at West Lakeside Drive and Rio Salado Parkway to Arizona Public Service by the City of Tempe. **The second public hearing is scheduled for January 08, 2009.**

DOCUMENT NAME: [20081211PWCH11.pdf](#) **GRANT OF EASEMENT (0904)**
ORDINANCE NO. 2008.71

D. Ordinances and Items for Second Hearing/Final Adoption

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

Held the **second public hearing** and **approved with conditions** an Amended Planned Area Development Overlay for UNIVERSITY SQUARE, located at 110 E. University Drive.

COMMENTS: (PL080280) (Scott Turkington-Vice President, University Square Investors, L.L.C., owner; Stephen Anderson, Gammage and Burnham, P.L.C., applicant) for a 15 story, +/- 1,100,000 s.f. building featuring a 328 unit hotel and including a convention center, restaurant and retail space with on-site structured parking on +/- 3.18 net acres. The site is located at 110 East University Drive in the CC, City Center District with a P.A.D., Planned Area Development Overlay and within the T.O.D., Transportation Overlay District. The request includes the following:

PAD08017 -- (Ordinance No. 2008.58) Amended Planned Area Development Overlay to allow a maximum 300'-0" tall building with a revised site plan and volumetric configuration in the CC, City Center District and within the T.O.D., Transportation Overlay District.

The following conditions were also approved:

1. A building permit shall be obtained on or before December 11, 2011, or the Amended Planned Area Development Overlay 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 form. By signing the form, Owner(s) voluntarily waive(s) any right to claim compensation for diminution in property value under A.R.S. §12-1134 that may now or in the future exist, as a result of the City's approval of this application, including any conditions, stipulations and/or modifications imposed as a condition of approval. The signed form shall be submitted to the Development Services Department no later than January 12, 2009, or the Amended Planned Area Development Overlay approval shall be null and void.
3. The proposal as presented requires a vacant site.
 - a. If the applicant chooses to proceed with a project that involves building around any existing site structures, the applicant acknowledges that it will be necessary to develop a revised site plan with supporting drawings and process these documents through the City's standard review procedures.
 - b. Coordinate with Cultural Resources (Liz Lagman 480-350-5163) the removal of the existing, artist designed bus stop shelter #378 on University drive and the re-installation of this bus shelter at a downtown location prior to demolition of the University Arches building. Pay cost of relocation and re-installation of existing shelter.
4. If the building permit has not been obtained before the expiration of the Federal Aviation Administration's approval of the extension of the original 370'-0" University Square proposal (August 8, 2009), obtain a new approval of height and position from the F.A.A. that reflects the 300'-0" current proposal. Additionally, provide approval of the height and position of the current proposal from the City of Phoenix Aviation Department. Submit this documentation prior to issuance of building permit.
5. The requested maximum height of 300'-0" shall apply to architectural appurtenances such as antennae or communications equipment. The maximum height of the building itself, including the highest portion of any roof or parapet and also including elevator and stair penthouses, shall be 285'-0" as indicated by the proposal.
6. The Planned Area Development for University Square 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.
7. A Final Subdivision Plat for University Square is required to unify the various parcels of Block 14 into one parcel. Include a 5'-0" right of way dedication to the University Drive half-street as part of the plat. Do not provide cut-offs at corners of property. Within 30 days of plat submittal, provide a current Title Report. In advance of the plat, separately process removal of unneeded easements through the City of Tempe Engineering/Land Services Division and record the abandonment(s) as a separate instrument.
8. Process the Final Subdivision Plat request through the Planning Division for approval by City Council. Follow redlines provided by Development Services Department and Engineering/Land Services Divisions staff, place the plat in proper engineered format with appropriate signature blanks. When document is ready, record the subdivision plat with the Maricopa County Recorder's Office through the Development Services Department. Complete recordation on or before December 11, 2010, or the City Council approval of the plat will become null and void.
9. A Traffic Impact Analysis, dated September 22, 2008, has been submitted for review by the Traffic Engineering Division. The developer shall undertake with the traffic consultant to review the comments from Traffic Engineering, revise the Analysis and provide a final Traffic Impact Analysis prior to any submittal for a building permit.
10. The developer must receive approval of the final Traffic Impact Analysis from the Traffic Engineering Division prior to issuance of a building permit.

APPLICANT PRESENTATION

Stephen Anderson, Attorney for the applicant, waived his presentation until after the public hearing.

PUBLIC HEARING

Warren Opstad, Gilbert, AZ, member of First Congregational Church of Tempe, read a letter into the record which stated that the First Congregational Church is not opposed to the development, but hopes that the project will serve to highlight the church's presence in the community. Access to the church premises is the key to their success. Being located at the corner of 7th Street and Myrtle leaves them vulnerable to any disruption of traffic flow in the immediate area. The 117-year old, historic site is home to other religious organizations: Church Without Walls and the Marshallese Church. There are also twelve other groups that call this building their home, ranging from Tumble Woods, an outreach program to homeless youth, childcare for working parents in the area, to AA groups which meet nearly every morning and evening during the week. He urged Council to recognize the valuable service the First Congregational Church provides to the community and he requested that both 7th Street and Forest Street be open to normal traffic and to require developer and contractors not to clog these streets with construction material. This would not only allow the church to continue to serve the community, but also the Mosque and House of Tricks to do the same.

Mayor Hallman noted that in the first iteration of this project, a construction company was hired to examine how to stage the entire project on site and not impact flows. Staff has been keenly aware that the project needs to be staged properly to minimize impact on University and the immediate surrounding streets.

APPLICANT PRESENTATION

Mr. Anderson stated that he appreciated Mr. Opstad's concern, whose sentiments are the key sentiments that he heard from the first community meeting on the project and construction staging is a paramount concern. It is something that would not normally be addressed at this stage of the process, but this has been a consistent message, not only from the religious neighbors, but from House of Tricks, as well. He noted that Scott Turkington is present tonight. He is the project manager for the University Square project and he has been working closely with the neighbors since that neighborhood meeting. He is very well aware of the construction staging concern and his desire is to keep those streets open as much as possible and keep the construction of this project as least disruptive as possible. Mr. Turkington will be available for any comments or questions.

Motion by Councilmember Woods for the approval of Item #50. Second by Councilmember Navarro. Motion passed on a roll call vote, 7-0.

DOCUMENT NAME: [20081211dskko02.pdf](#) PLANNED DEVELOPMENT (0406)

- *51. Held the **second public hearing** and **approved with conditions** a General Plan Amendment and Zoning Map Amendment for AED OFFICE BUILDING, located at 603 West Southern Avenue.

COMMENTS: (PL080165) (Chris Sosnowski, property owner and applicant) consisting of a new one story office building within approximately 2,900 square feet of building on 0.25 acres, located at 603 West Southern Avenue in the R1-6, Single-Family Residential District. The request includes the following:

GEP08005 – (Resolution No. 2008.93) General Plan Projected Land Use Amendment from "Residential" to "Commercial".

ZON08009 – (Ordinance No. 2008.61) Zoning Map Amendment from (R1-6, Single-Family Residential District) to (CSS, Commercial Shopping and Services District).

The following conditions were also approved.

1. A building permit shall be obtained on or before December 11, 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, as a result of the City's approval of this request, 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 January 12, 2009, or the General Plan Amendment and Zoning Map Amendment approval shall be null and void.

DOCUMENT NAME: [20081211dsr01.pdf](#) PLANNED DEVELOPMENT (0406)

*52.

THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.

Held the **second public hearing** and **approved with conditions** two Zoning Map Amendments and a Planned Area Development Overlay for THE APARTMENTS AT UNIVERSITY AND LINDON, located at 708 South Lindon Lane.

COMMENTS: (PL080241) (Larry R. Norris, Charles H. Cook Christian Training School, property owner; Charles Huellmantel, Huellmantel & Affiliates, applicant) consisting of a 348 unit apartment community including 421,932 s.f. building area on +/- 14.62 net acres, located at 708 S. Lindon Lane in the R-3, Multi-Family Residential Limited District and the R1-6, Single-Family Residential District. The request includes the following:

ZON08008 -- (Ordinance No. 2008.57) Zoning Map Amendment from R1-6, Single-Family Residential District to R-3R, Multi-Family Residential Restricted District on +/- 2.18 net acres adjacent to Lindon Lane.

ZON08010 -- (Ordinance No. 2008.57) Zoning Map Amendment from R-3, Multi-Family Residential Limited District to R-4, Multi-Family Residential General District on +/- 12.44 net acres.

PAD08014 -- (Ordinance No. 2008.57) Planned Area Development Overlay on +/- 14.62 net acres to modify development standards including a vehicle parking quantity reduction from 722 to 670 spaces, a maximum building height increase from 30'-0" to 40'-0" for building 'A' in the R-3R District, and a front yard setback reduction from 20'-0" to 10'-0" to allow a tall front yard fence in the R-3R District.

The following conditions were also approved:

1. This approval is based on conformance to drawings submitted for the requests for two Zoning Map Amendments, Planned Area Development Overlay and Development Plan Review, except where amended by the conditions of approval indicated below and by governing Code and Ordinance Standards. These drawings include the following:
 - a. Existing Tree Site Survey: NP1.0 and NP1.1 dated 10/1/08
 - b. Site Plans and Project Data: SP1a dated 10/03/08 and SP1b dated 10/02/08
 - c. Civil Grading and Drainage Plans: CGD1 of 2 and CGD2 of 2 dated 10/05/08
 - d. Landscape Plans: PL1.0, PL1.1, PL1.2, PL1.3, PL1.4, PL1.5, PL1.6, PL1.7, PL1.8, PL1.9, and PL1.10, all dated 10/01/08
 - e. Unit Building Plans, Elevations and Sections: 3A-a, 3A-b, 3A-c, 3AP-a, 3AP-b, 3B-a, 3B-b, 3B-c, 3BP-a, 3BP-b, 3BP-c, 3C-a, 3C-b, 3C-c, GU1-a, GU1-b, GU1-c and GU2-a, all dated 10/02/08
 - f. Leasing/Maintenance/Exercise Amenity Building Plans and Elevations: A7.1 and A7.13 dated 08/08/08
 - g. University and Lindon Apartment Community Materials (paint chip) Sample Board, dated received 08/27/08
2. A building permit shall be obtained on or before December 11, 2011 or the zoning districts of the property may revert to that in place at the time of application, subject to a public hearing.
3. The property owner(s) shall sign a waiver of rights and remedies form. By signing the form,

Owner(s) voluntarily waive(s) any right to claim compensation for diminution in property value under A.R.S. §12-1134 that may now or in the future exist, as a result of the City's approval of this application, including any conditions, stipulations and/or modifications imposed as a condition of approval. The signed form shall be submitted to the Development Services Department no later than January 12, 2009, or the Amended Planned Area Development Overlay approval shall be null and void.

4. Regarding vehicular parking, do one of the following two conditions:
 - a. Provide the required 670 parking spaces indicated by the P.A.D. request on-site.
 - b. Provide parking for the Apartments at University and Lindon as indicated by ZDC Table 4-603(E): Ratios for Off-Street Parking. Utilize a minimum of 52 existing adjacent off-site office parking spaces as part of the parking total by means of a shared parking agreement between the apartments and the offices. To complete this condition, process a Shared Parking Agreement request through the D.S.D. Planning Division and record the Shared Parking Agreement at the Maricopa County Recorder's office prior to issuance of building permit.
5. The requested height increase of 40'-0" for the R-3R applies to building "A" alone. The other buildings in the R-3R District shall maintain a maximum building height of 30'-0". The front yard setback for building "A" shall be no less than 46'-0".
6. The 10'-0" front yard setback shall apply to an 8'-0" tall barrier fence. The building front yard setback shall be maintained at minimum 20'-0", except open structures attached to the buildings may have a minimum setback of 15'-0".
7. Incorporate 33 of the 54 salvageable existing site trees, plus two additional site trees as noted, in the landscape plan. These trees are identified on the Existing Tree Inventory (sheets NP1.0 and NP1.1, dated 10/01/08) prepared by Donald Roger Campbell, landscape architect.
 - a. Retain five existing "native/protected" trees in place or salvage and relocate existing trees as follows: #94 and #109 (Arizona Willow), #26 and #132 (Mesquite) and #134 (Palo Verde). The position of these trees appears to be compatible with the site plan as currently proposed. If trees remain in place, have land surveyor pinpoint the locations and planting natural grades of these trees. Adjust the site, landscape and grading and drainage plans as needed to accommodate these trees.
 - b. Salvage and transplant the following six "native/protected" trees on site: #59, 62, and 63 (Mesquite), #31, 65 and 136 (Palo Verde).
 - c. Salvage and transplant the following twelve palms on site: #20, 23, 28, 29, 30, 87, 93, 98, 99, 118, 123 and 130 (Fan Palm).
 - d. Provide twelve canopy trees of 54" box or minimum 5" caliper size at installation as replacements for the following existing trees: #11 (Australian Bottle) #52 (Ash), #72 (Aleppo Pine), #75 (African Sumac), #68 and #81 (Evergreen Elm) and #25, 49, 77, 78, 79 and 83 (Eucalyptus). Include at least three of these trees between building "A" and Lindon Lane to reinforce the landscape buffer between this tall building and the neighborhood. The replacement trees are not required to match the species of trees being replaced.
8. The Planned Area Development Overlay for the Apartments at University and Lindon shall be put into proper engineering format with appropriate signature blanks and kept on file with the City of Tempe's Development Services Department prior to issuance of building permits.
9. Dedication of public right of way shall be processed by separate instrument through Engineering-Land Services and shall be recorded prior to issuance of building permits.
10. A Traffic Impact Analysis, dated September 26, 2008, has been submitted for review by the City of Tempe Traffic Engineering Division. The developer shall undertake with the traffic consultant to review the comments from Traffic Engineering, revise the Analysis and provide a final Traffic Impact Analysis prior to any submittal for a building permit.
11. The developer must receive approval of the final Traffic Impact Analysis from the Traffic Engineering Division prior to issuance of a building permit.

12. If required by the Traffic Engineering Department, provide payment for installation of a traffic signal at the University/Lindon intersection prior to Certificate of Occupancy.

APPLICANT PRESENTATION

Charles Huellmantel on behalf of the applicant, Tempe, waived presentation until after the public hearing.

PUBLIC HEARING

Bill Butler, Tempe, Ex-Co Chair of Riverside Sunset Neighborhood Association. The project still appears to be a good project for the Lindon Park neighborhood. The project, however, might pose traffic problems for the Riverside Sunset portion of 5th Street. With 348 rentals and the possibility of 696 cars on site, off-site parking and a drastic increase in the trips promoted by the City itself to Mill Avenue, ASU, Sun Devil Stadium, Town Lake, etc., will occur. If only half of the cars make the trip each day, that will still be 696 trips, counting both east and west travel. Event days will increase that count. In 5, 10 or 20 years, he believes the City will “eminent domain” the front 10 feet of everyone’s property to widen 5th Street to four lanes. He asked that the traffic study by the applicant to held open until build-out, plus 6 months or a year to see what the costs will be for a \$100 sign or device to restrict through traffic across Priest. The applicant has volunteered a traffic light at Lindon and University, but should not do less for 5th Street. He did not make up a story that Mr. Kevin Ransil, Mark Taylor VP, had agreed to hold the issue open until build-out. He talked on the phone with him and did come to that understanding. He noted that the applicant has requested a “tall fence.” He would request specifics on how tall the fence will be.

APPLICANT PRESENTATION

Mr. Huellmantel appreciated the positive things Mr. Butler stated about the project. Applicant has spent a lot of time working with staff to create a product that works both for the applicant and the neighborhood. Concerning the fence, the applicant worked with staff to create an 8-foot view fence. A view fence provides for both the additional feeling of the neighborhood, but it also adds additional security to be able to see what happens on the other side of the fence. Concerning traffic, he apologized for any threat to Mr. Butler’s integrity. There is a difference of opinion. Mark Taylor is not in a position, as developers are not, to hold out the traffic study for any period of time. The developer needs to know what the expenses are on a project and that can’t happen without knowing the traffic study. The developer has worked extensively with staff and from that, they know a traffic light is not necessary on Lindon and University, both the City and the developer believe that even though it is roughly a \$200K expense, the developer will provide that. They will provide that because their entrances are closer to University than they are to Fifth Street, and if the traffic light is provided, it will encourage drivers to take the fastest route to downtown. They hope all 348 people go downtown regularly. That probably won’t happen, but if it does, they will probably take the fastest route which will be out onto Lindon to University where there will be a traffic light, and down University to Mill. Also, the traffic-calming on Fifth Street has been extraordinarily successful.

Mayor Hallman added that a Hardy to Farmer piece and the Priest to Hardy piece showed a large increase in traffic over the years. The traffic-calming reduced it from 10,000 to a more stable 4,000 to 4,500. The approximately \$2M spent on the traffic-calming measures beginning in 1999 had a significant impact.

Mr. Huellmantel summarized a timeline showing that when the issue was first raised, the City immediately came out with barricades to reconfigure the street. There was an immediate change to volume, and the City determined that it was a worthwhile function. The barricades were removed and the City began to invest in the community by designing a project to rebuild the street. The end result is significantly reduced traffic volume on Fifth Street. The purpose of the project was to make people less likely to travel down Fifth Street.

Mayor Hallman added that as long as he is involved in the City, he will join Mr. Butler at the barricades fighting any expansion or widening of Fifth Street. He added that Mr. Butler is an extraordinarily honest man and he shares his concerns. He did visit the site, however, and looking at the whole neighborhood, he felt very few people would want to drive down Fifth Street as a means to get to downtown rather than come out onto Lindon. It would make very little sense for someone to decide to travel a mile and a half through 25 mph streets and the traffic-calming rather than go to a light and travel on University. He asked for the value of this project.

Mr. Huellmantel responded that it is approximately \$40M.

Mayor Hallman stated that it doesn't make sense to hold open a traffic study, but asked if his client would be willing to agree to put \$25K on the line so if the City believes that traffic impacts were resulting from this project between Priest and Mill and Fifth Street, that the money could go to a traffic-calming project to benefit the neighborhood.

Mr. Huellmantel had an initial concern that they would want to have some say as to whether or not the problem actually came from their site.

Mayor Hallman clarified that it would be a fair discussion, but ultimately the developer would leave the decision to Council and if conclude that the neighbors screaming about this are correct, that we would have to spend significantly more dollars, but that your client would participate in that project? He then withdrew his request and instead asked for any further questions from Council.

Councilmember Shekerjian added that when she has seen problems develop which are backed by data, both this Council and staff are extraordinarily responsive, so if there ends up being a problem, this developer will hear from Council. She didn't think there would be a problem, given the data. She doesn't use Fifth Street because of the traffic-calming and that was the point of those devices. She also has great respect for Mr. Butler and his service to the community.

Motion by Councilmember Arredondo for the approval of Item #52. Second by Councilmember Mitchell. Motion passed on a roll call vote, 7-0.

Mayor Hallman added that if there is a problem, the project would already have been completed so there would be no way to go back to the developer. He added that this has been done with other developers when there was a concern about traffic-calming. For example, the Centerpoint Condominiums gave \$100K for a traffic study and committed \$400K for traffic-calming. The same is true with Mosaic and others. It is not improper for Council to do that. He withdrew the recommendation because the likelihood is small in this case.

DOCUMENT NAME: [20081211dskko03.pdf](#) **PLANNED DEVELOPMENT (0406)**

- *53. Held the **second public hearing** and adopted ORDINANCE NO. 2008.69 to abandon several existing Public Utility Easements located at 110 East University Drive.

DOCUMENT NAME: [20081211PWCH10.pdf](#) **ABANDONMENT (0901)**

- *54. Held the **second public hearing** and adopted ORDINANCE NO. 2008.59 abandoning an existing Storm Drainage Easement located at 1200 E. Rio Salado Parkway.

DOCUMENT NAME: [20081211PWCH09.pdf](#) **ABANDONMENT (0901)**

- *55. Held the **second public hearing** and adopted ORDINANCE NO. 2008.67 granting **Contract**

#2008-256, an easement to Pier at Town Lake, L.L.C., on a portion of City owned property along Clubview Drive within the Pier at Town Lake Project.

DOCUMENT NAME: [20081211PWCH08.pdf](#) **EASEMENTS (0904)**

- *56. Held the **second public hearing** and adopted ORDINANCE NO. 2008.72 amending the Tempe City Code, Chapter 8, relating to Buildings and Building Regulations, by amending the Tempe Administrative Code, and adopting the 2006 International Building Code, the 2006 International Residential Code, the 2006 International Existing Building Code, the 2006 International Mechanical Code, the 2006 International Plumbing Code, the 2006 International Fuel Gas Code, the 2008 National Electrical Code, the 2006 International Energy Conservation Code, and amendments thereto.

DOCUMENT NAME: [20081211dssf01.pdf](#) **TCC CH 8 – BUILDINGS AND BUILDING REGULATIONS (0503-08)**

E. Resolutions

57. Approved RESOLUTION NO. 2008.104 authorizing the Mayor to execute **Contract #2007-116A**, a First Amendment to Development Agreement with UNIVERSITY SQUARE INVESTORS, LLC regarding the University Square development at University Drive and Forest Avenue.

COMMENTS: The First Amendment to the Development Agreement would provide for a Government Property Lease Excise Tax abatement in exchange for Parking.

DOCUMENT NAME: [20081211cdcm01.pdf](#) **COMM DEV/REDEVELOPMENT ADM (0403-01)**

58. Approved RESOLUTION NO. 2008.108 authorizing the Mayor to enter into **Contract #2008-255**, an agreement with the Arizona Criminal Justice Commission (ACJC) Oversight Council on Driving or Operating Under the Influence Abatement to accept grant funding.

COMMENTS: Grant funding in the amount of \$15,800.00.

DOCUMENT NAME: [20081211pdsj01.pdf](#) **POLICE DEPARTMENT ADMINISTRATION (0606-02)**

59. DELETED

60. Approved RESOLUTION NO. 2008.109 accepting Urban Area Security Initiative (UASI) homeland security grant funding from the Arizona Department of Homeland Security.

COMMENTS: The award totals \$197,333.

DOCUMENT NAME: [20081211pdsam01.pdf](#) **POLICE DEPARTMENT ADMINISTRATION (0606-02)**

6. **PUBLIC APPEARANCES** – None.

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

- Vice Mayor Ellis stated that Council had received a wonderful letter from a resident who recently lost his wallet while in Tempe and a City employee found it in a crosswalk on Kyrene and Warner. This

employee gave it to his supervisor, the supervisor contacted the gentleman, and the gentleman came to pick it up, finding nothing missing from the wallet. There was \$150 in cash and all the credit cards.

James Whittle of the Public Works Department needs to be commended for being honest. One of the best parts of the story is that the gentleman who lost the wallet was trying to give a reward to Mr. Whittle and his supervisor, and the employee suggested that he use the money to buy gifts for some less fortunate children. This gentleman did and donated \$150 to an Angel Tree donation program and now five to six children will receive Christmas presents. This is due to the generosity of this gentleman and the honesty of one of our employees. She also wished Councilmember Woods a happy 30th birthday.

- Councilmember Navarro stated that over the last week, the Fantasy of Lights parade was held and he was impressed with the turnout and enthusiasm. He also added that his daughter is the 8-year-old Girl State Champ in the Punt, Pass and Kick contest.
- Councilmember Arredondo asked the City Manager to thank Mark Richwine for his efforts in moving activities from the McClintock Pool to Clark Park Pool. Also, he saw Councilmember Navarro's daughter compete in the contest and she did an excellent job.
- Councilmember Mitchell congratulated the Public Works employee for his aid to the resident who lost his wallet. We are very fortunate that we have employees who are very honest. Also, the Thanksgiving Soccer Tournament in the community was a phenomenal success. The program has been continuing for 29 years. He also congratulated City staff for the successful Fantasy of Lights parade. The turnout was great. He also congratulated Councilmember Woods on being thirty.
- Councilmember Woods stated that he has had a chance to speak to students at McClintock High School and Mountain Pointe. From the time he was 7 or 8 years old, he was interested in politics, and those classrooms were so responsive and interested in public service. There are more people who at some point will be here. We have a positive and bright group of young people coming up.
- Councilmember Shekerjian stated that we have much to be thankful for in this community. She had the opportunity to go the Interfaith Team Thanksgiving Service which encompassed a variety of different faiths which came together to express thankfulness. Even though these are difficult times economically, the reality is that we are so very fortunate on so many levels. It was a great opportunity. She extended her thanks to her Council colleagues. The longer she has the opportunity to serve with these people, the prouder she is that she lives in Tempe. This Council is part of her blessings.
- Mayor Hallman wished Councilmember Woods a welcome call to being thirty and over. He wished everyone a safe and happy holiday. In the last four months, this Council has had to do very difficult work and he is grateful for their leadership and willingness to do that very difficult work. It is easy in good times to spend money, but it is very difficult in these times to figure out how to balance a budget, given the challenges we face. Council is committed to doing the best we can for our employees who serve our residents and to preserve their jobs with the best wages and benefits we possibly can. He is grateful and thankful for the members of this staff.

Meeting adjourned at 8:35 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 December 11, 2008, by the Tempe City Council, Tempe, Arizona.

Hugh Hallman, Mayor

ATTEST:

Jan Hort, City Clerk

Dated this _____ day of _____, 2008.