

Minutes Formal City Council Meeting February 19, 2009

Minutes of the Formal Council Meeting of Thursday, February 19, 2009, 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 7:32 p.m.

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

1. Council's Executive Session – February 5, 2009
2. Council's Issue Review Session – February 5, 2009 [20090219clrkck03.pdf](#)
3. Council's Formal Meeting – February 5, 2009 [20090219clrkck02.pdf](#)
4. Joint Council/DTC Dinner – January 29, 2009 [20090219clrkck01.pdf](#)
5. Council's Education Partnerships Committee – January 26, 2009 [20090219epc01.pdf](#)
6. Council's Housing Committee – January 27, 2009 [20090219hc01.pdf](#)
- 6a. Council's Sports, Recreation, Arts & Cultural Development Committee –
December 10, 2008 [20090219srac01.pdf](#)
7. Council's Technology, Economic & Community Development Committee –
December 2, 2008, and January 13, 2009 [20090219tecd01.pdf](#) [20090219tecd02.pdf](#)
8. Council's Transportation Committee – January 27, 2009 [20090219ctc01.pdf](#)

B. Acceptance of Board & Commission Meeting Minutes

Motion by Councilmember Shekerjian to accept the following **COMMITTEE & BOARD MEETING**

MINUTES. Second by Councilmember Woods. Motion passed unanimously on a voice vote.

9. Community Special Events Task Force – January 27 & February 3, 2009
[20090219setf01.pdf](#) [20090219setf02.pdf](#)
10. Golf Committee – December 3, 2008 [20090219st01.pdf](#)
11. Hearing Officer – January 20, 2009 [20090219ho01.pdf](#)
12. Library Advisory Board – January 5, 2009 [20090219lab01.pdf](#)
13. Mayor's Youth Advisory Commission – January 20, 2009 [20090219myac01.pdf](#)
14. Municipal Arts Commission – December 10, 2008 [20090219mac01.pdf](#)
15. Papago Park/Rio Salado Ad Hoc Committee – November 20, 2008 [20090219pprs01.pdf](#)
16. Tempe Fire Public Safety Personnel Retirement Board – January 8, 2009
17. Tempe Police Public Safety Personnel Retirement Board – Executive Session –
January 8, 2009
18. Tempe Police Public Safety Personnel Retirement Board – January 8, 2009

4. REPORTS AND ANNOUNCEMENTS

A. Mayor's Announcements

- a. Mayor Hallman read a proclamation declaring February 27 and 28, 2009, as **"Empty Bowls Poverty Awareness Weekend"** in Tempe, Arizona. The Empty Bowls event will be held from 11 a.m. to 2 p.m. on Friday, February 27th, at the Sixth Street Park south of City Hall and on Saturday, February 28th, at the Tempe Public Library. Proceeds will benefit the Tempe Community Action Agency food pantry and the United Food Bank. **Donna Rodgers**, United Food Bank; **Dan Abbott**, Tempe Empty Bowls volunteer committee chair; and **Stephen Sparks**, Tempe Community Action Agency received the proclamation.
- b. Mayor Hallman announced that 2009 is **Team Tempe's** second year as a city-wide initiative to raise funds and awareness for some of the vital programs and services in the community. This year, as part of the PF Changs' Rock 'n Roll Marathon, the Team had 220 runners and walkers compete in the half or full marathon. The Team's efforts, combined with the generous support of local businesses honored tonight, raised over \$213K to support youth, education, and social services in the community. The dollars contributed are still being counted, and so far \$150,250 has come from the sponsors who supplied additional support. He recognized the corporations who provided generous support:
 - Two **Gold Sponsors**, contributing \$25K each: **Wolff Development**, represented by Peter Wolff; and **Suncor**, represented by Bill Woodward, Director of Corporate Communications.
 - Two **Silver Sponsors**, contributing \$10K each: **aloft Tempe Hotel** and **Blue Cross Blue Shield**.
 - Seven **Bronze Sponsors**: **Insight Bowl**, represented by John Junker and Anthony Aguilar; **Arizona Mills**, represented by Todd Olson; **DMB**, represented by Karrin Kunasek Taylor; **Gray Development**, represented by Brian Jordan; **Salt River Project**, represented by Meg Wuebbels Leal; **Western Refining**, represented by Matt Yoder; and **Stacy and Witbeck**, represented by John Zehner.

Mayor Hallman added that representatives of seven of the eight charities are present from **Tempe Family YMCA**, **Center for Habilitation**, **Tempe Preparatory Academy**, **Tempe Community Foundation**, **Tempe Community Action Agency**, **Tempe High School JAG Program**, and **Marcos de Niza JAG Program**. **CARE, Inc.**, was unable to send a representative.

- c. Mayor Hallman asked **John Junker**, President and CEO of the Fiesta/Insight Bowl; **Anthony Aquilar**, City liaison for the Insight Bowl and Insight/Fiesta Bowl Block Party, to join him. He expressed, on behalf of Tempe residents, visitors, visiting teams, and City staff, his thanks for their great work to make these events a success. We had a great football game with record attendance, a fantastic block party, and an outstanding Destination Tempe, the light rail grand opening event. It was due in large part to the efforts of these two gentlemen. John Junker thanked the City and councilmembers for the partnership with the Insight Bowl, the fastest growing bowl game in the country.
- d. Mayor Hallman gave a special thanks to several staff members who were helpful with the aloft opening: **Michelle Konnath**, **Kay Savard**, **Buck Rogers** and all **members of the Special Events Committee**.

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 Woods to approve the Agenda as amended (Items #27, #29, #35 and #41 were removed for separate consideration). Second by Vice Mayor Ellis. 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 January, 2009.
COMMENTS: A copy of the detailed claims report may be obtained by contacting the City Clerk's Office.
- 20. Approved and authorized the Mayor to execute **Contract #2003-207D**, the fourth amendment to Agreement #2003-207 between the Downtown Tempe Community and the City of Tempe for the 2009 Spring Festival of the Arts.
DOCUMENT NAME: [20090219prtd01.pdf](#) **DOWNTOWN TEMPE COMMUNITY, INC. (0109-30)**
- 21. Approved **Contract #2009-33**, a Subgrantee Agreement between the State of Arizona, Governor's Office for Children, and the City of Tempe for provision of the Empowering Teens and Parents Program.
COMMENTS: Juvenile Accountability Block Grant award to the City of Tempe of \$19,198 in federal funds from October 1, 2008 through September 20, 2010. This is the tenth consecutive fiscal year the City has been awarded this grant.
DOCUMENT NAME: [20090219cskb01.pdf](#) **COMMUNITY SERVICE ADM (0701-01)**
- 22. Approved **with condition** an Amended Subdivision/Condominium Plat for NORTH SHORE

CONDOMINIUMS located at 945 East Playa Del Norte.

COMMENTS: (PL070219) (Tempe Town Lake Townhomes, LP, property owner; D.N.A. Inc, applicant) consisting of an existing five-story residential development on 2.6 acres, located at 945 East Playa Del Norte in the MU-4, Mixed-Use High Density District with a PAD. The request includes the following:

SBD08040 – Amended Subdivision/Condominium Plat combining two (2) lots into one (1) lot and one hundred thirty-four (134) units.

The following condition was also approved:

1. The Condominium 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 30, 2009. Failure to record the plan shall make the plan null and void.

DOCUMENT NAME: [20090219dsrl01.pdf](#) **PLANNED DEVELOPMENT (0406)**

23. Approved **with condition** a Final Subdivision Plat for TEMPE ONE located at 1717 West 16th Street.

COMMENTS: (PL080371) (Tempe One Investors, Gabriela Cianni, property owner, A.J. Wadsworth, Superior Surveying Services, Inc, applicant), located at 1717 West 16th Street in the GID, General Industrial District. The request includes the following:

SBD08035 - Final Subdivision Plat combining nine (9) lots into one (1).

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 February 19, 2010. Failure to record the plan within one (1) year of City Council approval shall make the plan null and void.

DOCUMENT NAME: [20090219dsjc02.pdf](#) **PLANNED DEVELOPMENT (0406)**

24. Approved **with condition** a Final Subdivision Plat for 1435 SOUTH PRICE ROAD PARKING FACILITY located at 1435 South Price Road.

COMMENTS: (PL070484) (City of Tempe owner, by Kenneth L. Olmstead, Kimberly J. Boyd, Premier Engineering Corporation, applicant), located at 1435 South Price Road in the GID, General Industrial District. The request includes the following:

SBD08021- A final subdivision plat combining five (5) parcels into a one (1).

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 February 19, 2010. Failure to record the plan within one (1) year of City Council approval shall make the plan null and void.

DOCUMENT NAME: [20090219dsjc01.pdf](#) **PLANNED DEVELOPMENT (0406)**

- *25. DELETED

B. Award of Bids/Contracts

26. Awarded **Contract #2009-34**, a two-year contract with three, one-year renewal options to West Coast Equipment for street sweeper brooms.

COMMENTS: (IFB 09-074) Total value of this contract will not exceed \$200,000 during

the initial two-year contract period.

DOCUMENT NAME: [20090219fsta02.pdf](#)

PURCHASES (1004-01)

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

Approved a one-year renewal of contracts with Matrix Resources, Inc. and Network Secure, LLC, for the purchase of information technology consulting services used by the Information Technology Department to support numerous software applications throughout the City, including Kid Zone, GIS, Utility Billing, and public safety computer aided dispatching.

COMMENTS: (T07-087-02 and 04) Total amount not to exceed \$1,000,000.

Councilmember Shekerjian asked how long the City has been contracting this to an outside entity and the justification for contracting this service out.

Gene Obis responded that during the 2001 reduction in staff, the IT staff was cut by approximately 13%. A solid knowledge base was lost and they didn't have the staff to do a lot of the tasks required. Consultants are used in IT and in other departments to supplement expertise that may not be available. Consultants are also brought on board if they specialize in an area that we need to take advantage of in terms of program development modifications. During the course of the last year, IT used consultants, for example, for the Tempe Municipal Court in developing a new court management system. Consultants helped with Kid Zone applications and with a new asset management application. They have helped with the Criminal Justice integration, and basic programming support for the Public Works Department because we don't have a programmer in that department. In the next year, we will be bringing up a new computer-aided dispatch system for the Police Department, a new records system for the Police Department, a new utility billing system for the water component of Customer Service, and a major upgrade of the City's sales tax system. We do not have the expertise on staff to handle the volume of work that is related to the size of these projects, so we do rely on consultants.

Councilmember Shekerjian asked for some history of the expense in the past.

Mr. Obis responded that last year the expense was approximately \$470,890. With the new utility billing system, we are estimating about \$450,000 in addition.

Motion by Councilmember Shekerjian for approval of Item #27. Second by Councilmember Navarro. Motion passed on a roll call vote, 7-0.

DOCUMENT NAME: [20090219fsta03.pdf](#)

PURCHASES (1004-01)

28. Awarded **Contract #2009-35**, two-year contracts with three one-year options to Wastequip – Arizona; Action Container Solutions; Steelform, Inc.; Rotinics Manufacturing, Inc.; Plastic Recovery Technologies (PRT); Rehrig Pacific Company; Michael Brothers, Inc. and OTTO for refuse containers to be used by the solid waste division section of Public Works.

COMMENTS: (RFP 09-075) Total amount not to exceed \$300,000 during the initial two-year contract period.

DOCUMENT NAME: [20090219fsta05.pdf](#)

PURCHASES (1004-01)

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

Awarded **Contract #2009-36**, a professional services contract with Kimley-Horn and Associates, Inc., for a feasibility study of First Street improvements between Farmer Avenue and Ash

Avenue.

COMMENTS: Total cost for this contract is \$93,219.

Councilmember Arredondo asked where this money comes from.

Glenn Kephart responded that this project was added to their Capital Improvement Program last year and the money would come from the Transportation Fund to look at those potential realignments.

Motion by Councilmember Woods for approval of Item #29. Second by Councilmember Arredondo. Motion passed on a roll call vote, 7-0.

DOCUMENT NAME: [20090219PWTG01.pdf](#) **TRAFFIC STUDIES (0112-11)**
PROJECT NO. 6909141

30. Approved the following addenda: **Contract #2007-23B** with Quality Testing, L.L.C.; **Contract #2007-24B** with Ricker Atkinson McBee Morman & Associates, Inc.; and **Contract #2007-25B** with Ninyo & Moore Geotechnical Consultants, Inc., for twelve-month extensions of the contract terms to perform materials testing and related services.

COMMENTS: Total cost for each addendum is \$50,000, which will increase the original amount of each contract from \$350,000 to \$400,000.

DOCUMENT NAME: [20090219PWTG02.pdf](#) **ENGINEERING ADMINISTRATION (803-02)**

31. Approved a one-year renewal of a contract with Liberty Mutual for voluntary group auto, homeowners and personal umbrella insurance for eligible City employees.

COMMENTS: (T05-064-01) There is no cost to the City. Employees currently pay approximately \$350,000 annually for these services.

DOCUMENT NAME: [20090219fst01.pdf](#) **PURCHASES (1004-01)**

32. Approved a one-year renewal of a contract with Water Movers, Inc., for the rental of pumps and supply of fuel to bypass pump nuisance water from upstream of Tempe Town Lake and the transfer of \$350,000 from Project No. 65-01749 (Plaza Between the Bridges) to ensure that adequate funds are made available during this renewal period.

COMMENTS: (T07-127-01) Total amount not to exceed \$350,000.

DOCUMENT NAME: [20090219fslq04.pdf](#) **PURCHASES (1004-01)**

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

- *33. Introduced and held the **first public hearing** to obtain citizen input regarding how funds could be allocated for the Community Development Block Grant (CDBG) and Home Programs for the 2009-2010 Annual Plan. The **second public hearing** is scheduled for April 23, 2009.

DOCUMENT NAME: [20090219cdlc01.pdf](#) **COMMUNITY DEVELOPMENT BLOCK GRANT (0207-31)**

- *34. Introduced and held the **first public hearing** to amend Chapter 14 of the Tempe City Code

relating to Fire Prevention and Protection by adopting the 2006 Edition of the International Fire Code with amendments thereto. **The second public hearing is scheduled for March 5, 2009.**

DOCUMENT NAME: [20090219cacc01.pdf](#) TCC CH 14 (0503-14) ORDINANCE NO. 2009.04

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

Introduced and held the **first public hearing** to amend Chapter 28 of the Tempe City Code relating to Solid Waste by amending Sections 28-1, 28-11 and 28-12; and adding new Section 28-2 relating to Property Maintenance. **The second public hearing is scheduled for March 5, 2009.**

PUBLIC HEARING

Russ Williams, Tempe, stated that his concern is on the amendment of Section 28-2 relating to Property Maintenance. He recently sent an email regarding enforcement of weed abatement which he feels was improperly handled. Code Enforcement got ahead of itself and wanted to cite all the residents on his street for weeds the week after it rained. His concern is with the application of the authority of Code Enforcement and the ability to afford to enforce this appropriately if people are going to be cited on the first instance. There should be a better way of informing the public and getting the information out about what is necessary and what the rules are.

Mayor Hallman clarified that in this instance, those were not citations but rather the initial warning notices. The citation means the person has to pay a fine. Given his email, why is he asking the City to provide notice when that is exactly what happened?

Mr. Williams clarified that the notice spoke about the fines and penalties. In most cases, the people had already complied and the expense of sending out letters was premature. There was a rain at the end of January and the first week of February had warm weather. Within a week, everyone had weeds. Rather than spending the money to send letters to residents to point out the obvious, maybe a public relations campaign to outline the options and resources would be helpful. It could be similar to what was done with the roof rat problem.

Mayor Hallman added that a significant amount of time and effort has been spent to educate the public about what the enhancement code requires and the notices we provide are to make sure people understanding. If we don't give notice to those people whose weeds are already demonstrating a problem, the time period we would wait to see if they are going to act is such that many times the weeds would end up going to seed and causing a much greater problem. He suggested that Code Enforcement staff meet with Mr. Williams to discuss possibly changing the verbiage so that it doesn't look quite so nasty. The difficulty is the balance between the people who want to voluntarily comply and are upset that they got a notice and those who, no matter what our notice says, don't comply and we end up going through a huge court process and spending thousands of dollars to address these problems.

Mr. Williams agreed, but he felt this was premature. His neighborhood was singled out when every neighborhood in the City has the same problem.

Mayor Hallman added that it might have more to do with the timing of the particular code inspector's route, but he appreciated the advice and he has passed along his email to the Code Enforcement Office. We are trying to reach a good balance.

*****FIRST PUBLIC HEARING ONLY, NO COUNCIL ACTION TAKEN. THE SECOND PUBLIC HEARING IS**

CURRENTLY SCHEDULED FOR MARCH 5, 2009.

DOCUMENT NAME: [20090219cacc03.pdf](#) **TCC CH 28 - SOLID WASTE (0503-28)**
ORDINANCE NO. 2009.10

- *36. Introduced and held the **first public hearing** to adopt an ordinance abandoning a portion of an existing Recovery Well Easement located on Lots 4 and 4A, "PLAYA DEL NORTE." The **second public hearing is scheduled for March 5, 2009.**

DOCUMENT NAME: [20090219PWW07.pdf](#) **ABANDONMENT (0901) ORDINANCE**
NO. 2009.07

D. Ordinances and Items for Second Hearing/Final Adoption

- *37. Held the **second** public hearing and approved **with conditions** an Amended Planned Area Development Overlay for RIVERSIDE OFFICE PLAZA PHASE III, located at 1275 West Rio Salado Parkway.

COMMENTS: (PL080263) (Richard J. Lund, HOF Biltmore Rio Salado II LLC and City of Tempe, property owners; Stephen C. Earl, Earl, Curley & Lagarde, P.C., applicant) for a three story office of +/-83,330 s.f. building area on +/-4.19 net acres and a five story hotel of +/-84,274 s.f. building area on +/-2.78 net acres. The entire site is +/-6.97 net acres and is located at 1275 West Rio Salado Parkway. The site is within the General Industrial District, has a Planned Area Development Overlay and is within the Rio Salado Overlay District. The request includes the following:

PAD08021 – (Ordinance No. 2008.73) Amended Planned Area Development Overlay to allow a maximum 77'-0" tall hotel and a maximum 52'-0" tall office in the General Industrial District.

The following conditions were also approved:

1. This approval is based on conformance to drawings submitted for the requests for an Amended Planned Area Development Overlay, Use Permit 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. Planned Area Development Title Sheet 1, dated 12/04/08
 - b. Architectural Site Plan and Project data: A1.1, dated 12/09/08
 - c. Civil Grading and Drainage Plans: C-1 of 3, C-2 of 3 and C-3 of 3, dated 12/04/08
 - d. Landscape Plan: LA-01, dated 12/07/08
 - e. Office Plans and Exterior Elevations: A2.1, A2.2, A2.3, A2.4, A4.1, A4-1c, A4.2 and A4.2c, all dated 10/21/08
 - f. Hotel Plans and Exterior Elevations: A2.5, A2.6, A2.7, A2.8, A2.9, A2.10, A4.3, A4.3c, A4.4 and A4.4c, all dated 12/09/08
 - g. Hotel and Office Building Sections A4.5 and Site Section A4.6; both dated 10/21/08
 - h. Security Light Photometric and Schedules: DR1, DR2 and DR3 (unsealed) plot date 12/09/08
 - i. Materials Sample Board (unsealed) date 09/04/08
2. A building permit shall be obtained and substantial construction commenced on or before January 13, 2013 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.
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 March 23, 2009 or the Amended Planned Area Development Overlay approval shall be null and void.

4. The Amended Planned Area Development for Riverside Office Plaza Phase III shall be put into proper engineered format (sample is available from the Development Services Department), sealed by an Arizona registered architect or registered professional engineer, fitted with appropriate signature blanks and kept on file with the City of Tempe's Development Services Department. Complete the process prior to the issuance of building permits.
5. Maximum height of the hotel, as measured from the top of curb adjacent to the center of the front-yard of the site, to the highest portion of the roof or parapet of the hotel shall not exceed 77'-0".
6. Maximum height of the office building, as measured from the top of curb adjacent to the center of the front-yard of the site, to the highest portion of the roof or parapet of the office building shall not exceed 52'-0".
7. The increased height exception stipulated in ZDC Sec. 4-205(A) shall be waived for the hotel and office buildings.
8. Where a temporary site structure that exceeds the height of the building is utilized, such as a construction crane, submit height coordinate(s) for the structure to the Federal Aviation Administration (FAA 7460 form) and the City of Phoenix Aviation Department (Airside Operations staff) for review. Obtain and submit written approvals from each agency to the City of Tempe prior to issuance of a building permit.
9. Prepare a Subdivision Plat for Riverside Office Phase III to unify the existing parcels, make right of way dedications to public right of way if required by the C.O.T. Public Works Engineering Division, create property line between hotel and office and create cross access and cross drainage easements as required. Complete process for approval and purchase of property parcels so there is a unified ownership prior to submittal of Subdivision Plat. Within 30 days of plat submittal to C.O.T. Development Services Planning Division, provide a current Title Report. In advance of completion of the Subdivision Plat, separately process removal of unneeded easements through the C.O.T. Engineering/Land Services Division and record the abandonment(s) with Maricopa County Recorder's Office as a separate instrument.
10. Process the Final Subdivision Plat request through the Planning Division for approval by City Council. Following redlines provided by Development Services Department and Engineering/Land Services Division 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 of the plat prior to issuance of building permit or by February 19, 2011 (two years from date of City Council approval), whichever comes first. Failure to record the plat within this window of time will make the City Council approval of the plat null and void.
11. Fulfill this condition for a Continuing Care Condition, Covenant and Restriction (CCR) for any feature held in common between the hotel and office property, otherwise this condition is not required. Provide CC&R's for features of this development that are held in common, including (but not limited to) the public art feature or site landscape and irrigation. The CC&R's shall be reviewed by and configured in a form satisfactory to the Development Services Manager and City Attorney. The CC&R's shall be signed and recorded with the Maricopa County Recorder's Office through the City of Tempe's Development Services Department prior to a Certificate of Occupancy for either the hotel or office, whichever comes first.
12. Provide a final Traffic Impact Analysis to C.O.T. Public Works Transit Studies Division prior to submittal for building permit either for the hotel or the office building, whichever is first. Approval of the Traffic Impact Analysis from the Public Works Transit Studies Division is required prior to issuance of a building permit.

DOCUMENT NAME:

[20090219dskko01.pdf](#)

PLANNED DEVELOPMENT (0406)

- *38. Held the **second** public hearing and adopted ORDINANCE NO. 2009.05 abandoning an existing Sewer Line Easement and two Driveway Easements located at 3339 and 3345 South Rural Road.

DOCUMENT NAME: [20090219PWCH04.pdf](#) ABANDONMENT (0901)

- *39. Held the **second** public hearing and adopted ORDINANCE NO. 2009.06 abandoning portions of an existing Water line Easement located at Tempe Marketplace at 2090 East Rio Salado Parkway.

DOCUMENT NAME: [20090219PWCH05.pdf](#) ABANDONMENT (0901)

E. Resolutions

40. Approved RESOLUTION NO. 2009.13 approving the Housing Improvement Program Procedures Manual.

DOCUMENT NAME: [20090219cdch01.pdf](#) COMMUNITY DEVELOPMENT (0403-01)

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

Approved RESOLUTION NO. 2009.11 authorizing the development of plan documents governing new City of Tempe retiree health benefits to become effective July 1, 2009.

Mayor Hallman clarified that Council will take action tonight, subject to the Council's decision that the efforts to create the plan documents are subject to the Council's continuing efforts to reach a balanced budget, but also to be as fair as possible to our employees. As a result, Council has indicated that it is highly likely that it will work to adjust the percentages that are set forth in discussions regarding OPEB and the amount of percentage the City will protect employees from increases on healthcare.

Charlie Meyer added that the area of focus from the Council's previous discussions tonight has been on the cap limits in terms of the City's contribution for Group 1 (retirees). The elements of the plan are elements that staff believes they can move ahead with and prepare the plan documents. That portion of it is really internal to our own financial operation, so staff would be able to move ahead.

Motion by Councilmember Arredondo to approve Item #41 with the stipulation that Council may modify the percentages with respect to the coverage the City will provide. Second by Councilmember Mitchell. Motion passed on roll call vote, 7-0.

DOCUMENT NAME: [20090219hrb01.pdf](#) HEALTH INSURANCE (0303-03-01)

42. Approved RESOLUTION NO. 2009.14 authorizing the Mayor to sign Contract #2009-37, the White Mountain Apache Water Rights Quantification Agreement and Contract #2009-37A, Lease Agreement, and Contract #2009-37B, Waiver and Release of Claims, on behalf of the City of Tempe.

DOCUMENT NAME: [20090219cacc02.pdf](#) WATER RIGHTS (0811-11)

6. PUBLIC APPEARANCES

SCHEDULED PUBLIC APPEARANCE

- **McKell Kenney, Tempe, re: Policy of allowing letters of noise authorization for early morning/evening construction work.** She represents many of the Estate La Colina residents and asks that Council consider the hardship the neighborhood already has with the ongoing construction. The 368,000 sq. ft., 1100 car Edward Jones parking garage is next to their homes and is on state land at the ASU Research Park and because of that, she understands the City can't do much about it. The City does have the power to require Edward Jones and McCarthy Construction to follow the Tempe City Code for hours of construction noise. The neighbors ask that permits not be granted for early morning concrete pours at 2 a.m. and 5 a.m. The residents already pay a price for the construction during normal City Code hours without making it any worse for them. They have lived through years and years of construction at the Edward Jones site with landscaping noise and dust between construction phases. To say that it is just one time or one week doesn't make up for their loss of sleep on those nights. To go to a hotel requires them to take their families out of their homes on a work and school night. Please allow them to stay in their homes and get a full night's sleep. She presented a list of neighbors who were not able to attend tonight and read messages she has received.

Mayor Hallman stated that the permit process is handled through the Neighborhood Office. He asked Shauna Warner for an update.

Shauna Warner stated that their understanding is that for Phase II, these pours will end in March, and they are, therefore, seeking five more dates. Starting April 15th, they would not need to request an early start and the City Code allows them to start at 5 a.m. Staff is not aware of any future phases.

Chris Salomone stated that McCarthy Construction has indicated that in the future they will cooperate with the City. They are in the middle of this project currently and staff's expectation is that this situation won't be repeated.

Mayor Hallman asked what the City can do for the residents now.

Mr. Salomone responded that McCarthy Construction has offered to provide hotel rooms for two more 2 a.m. pours on February 26th and March 5th, and the other four (March 12th, 19th and 26th) would be 5 a.m. starts.

Mayor Hallman stated that given the time of year and how cool it is, why do they need to do this at 5 a.m. as opposed to 6 a.m.?

Ms. Warner responded that McCarthy Construction stated in their letter requesting the early start time that it was critical in order to ensure prompt delivery of multiple concrete trucks every five to six minutes in order to avoid cold joints which compromises the quality of the concrete. The early start also helps ensure the concrete trucks are not obstructed by morning rush hour traffic.

Councilmember Arredondo suggested the possibility of doing those types of things on a Saturday instead. Mayor Hallman summarized that the proposal would be that they would end up paying the overtime and cost associated with moving it to a weekend, but that way the neighbors get an opportunity to go to a hotel when it is not quite as inconvenient.

Councilmember Arredondo added that the neighbors have done their part. This is about the half way mark

so it is just a compromise.

Mayor Hallman noted that the next pour is February 26th and they may have some difficulty in reaching a compromise by that date, but he directed that it is Council's opinion that it is appropriate that McCarthy Construction and Edward Jones would have to pick up the slack. He asked staff to report back to Council in a Friday packet.

Ms. Kenney asked if there was already a permit for the pour next week.

Mayor Hallman responded that the Code sets the standard and Council can't really change it for one specific group.

Ms. Warner added that they have been issuing the permits on a weekly basis. They just began Phase II and this was their second early morning pour. Because the location is different from Phase I, staff was waiting to hear from the residents if it was as noisy. Staff will follow up with McCarthy Construction.

Mayor Hallman also asked staff to follow up with each of the residents and ask for their thoughts.

7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

- Mayor Hallman wished his father a "Happy Birthday."

Meeting adjourned at 8:25 p.m.

I, Jan Hort, the duly-appointed City Clerk of the City of Tempe, Maricopa County, Arizona, do hereby certify the above to be the minutes of the Formal City Council meeting of February 19, 2009, by the Tempe City Council, Tempe, Arizona.

Hugh Hallman, Mayor

ATTEST:

Jan Hort, City Clerk

Dated this _____ day of _____, 2009.

