

## Minutes Formal City Council Meeting April 23, 2009

Minutes of the Formal Council Meeting of Thursday, April 23, 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 Woods 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 Navarro to approve the following **COUNCIL MEETING MINUTES**. Second by Councilmember Woods. Motion passed unanimously on a voice vote.

1. Council's Executive Session – April 9, 2009
2. Council's Issue Review Session – April 9, 2009 [20090423clrkck02.pdf](#)
3. Council's Formal Meeting – April 9, 2009 [20090423clrkck03.pdf](#)
4. Housing Authority Governing Board Meeting – April 9, 2009 [20090423clrkck01.pdf](#)

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

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

5. Enhanced Services Commission - March 11, 2009 [20090423esc01.pdf](#)
6. Golf Committee – February 4, 2009 [20090423gc01.pdf](#)
7. Hearing Officer – March 17, 2009 [20090423ho01.pdf](#)
8. Historic Preservation Commission – March 18, 2009 [20090423hpc01.pdf](#)
9. Historical Museum Advisory Board – March 5, 2009 [20090423csjc01.pdf](#)
10. Library Advisory Board – March 2, 2009 [20090432lab01.pdf](#)
11. Neighborhood Advisory Commission – March 4, 2009 [20090423nac01.pdf](#)

12. Special Events Task Force – April 7, 2009 [20090423setf01.pdf](#)
13. Tempe Police Public Safety Personnel Retirement Board – Executive Session – March 5, 2009
14. Tempe Police Public Safety Personnel Retirement Board – March 5, 2009

#### 4. REPORTS AND ANNOUNCEMENTS

##### A. Mayor's Announcements

- a. Mayor Hallman stated that this community represents true neighbors and partners and together we demonstrate our commitment to a sustainable and wonderful community. One of the ways we share that commitment is through presentation of a Bike Hero Award for the past two years. This year **Sue Babcock-Fassett** has been involved with a multitude of community cycling events over the years, educating the public about bicycle laws, mechanics and safety aspects of group cycling. She commutes to work daily on her bike, and for these reasons has been chosen as **Tempe's 2009 Bike Hero**.
- b. Mayor Hallman stated that the City of Tempe has been focusing on economic, environmental and cultural sustainability and a big part of that picture is our great public transportation system from neighborhood circulators to the light rail. Tempe works hard to achieve superior service for its residents and businesses and holds itself accountable for the highest standards in municipal financial management. Tempe works with some of the nation's finest contractors. Among those who work in the City of Tempe are the folks at Sundt/Stacy & Witbeck Joint Ventures who have been committed partners and friends to Tempe. They recently received a prestigious national award, the **McGraw Hill Construction's first annual 2008 Best of the Best Award for Best Transportation Project of the Year, Southwest Contractor**, for their work on the METRO Light Rail Line Section Five. This work subsequently went on to win the ENR (Engineering News-Record) Transportation Project of the Year, and was quoted by the judging committee as "A unanimous winner, it was superior in each and every criteria." This national award seriously validates our dedication to quality, safe and accessible transportation for our community. Tempe is leading the Greater Phoenix Metropolitan Area in quality urban development built around the light rail line. Town Lake and the Mill Avenue District now are some of the most desirable real estate not only in Arizona, but in the world. This week, the Tribune reported that ridership on the light rail is some 35% above the projections. Our Public Works Light Rail Transit team members are consummate professionals who love their work and gave the past 10 years to building the light rail project and they have done a phenomenal job. He introduced partners from Sundt/Stacy & Witbeck, **John Zehner**, **Mike Howard**, **Matt O'Connell**, **Ron Carreon** and **Chris Halpen**, as well as Public Works Manager **Glenn Kephart**, and Light Rail Project Manager, **Jyme Sue McLaren** as representatives of the Tempe employees involved in the construction of Tempe's portion of light rail.
- c. Mayor Hallman announced that the City Council honors several outstanding children in our community and the adults who help provide quality care and education for those children through **Tempe's Kid Zone Enrichment Programs**. Kid Zone is an award winning elementary school-age after-school enrichment program administered by the City of Tempe in cooperation with the Tempe Elementary and Kyrene School Districts. He introduced **Kelly Alexander**, Director of Community Education and Outreach Services for the Kyrene Elementary School District, and **Andrea Colby**, Early Childhood Education Coordinator from Tempe Elementary School District. The dedicated school partners we honor tonight are individuals who demonstrate cooperation,

mutual respect and knowledge of the importance of quality after-school enrichment. They understand that significant learning still takes place after the school bell rings. He introduced **Marty Hansen**, PE Teacher, Hudson Elementary School; **JoAnn Mayback**, Cafeteria Manager, Kyrene de la Mariposa Elementary School, and **Abel Sanchez**, Custodian, Evans Elementary School. Special recognition for “Kid Zone Family and Community Advocate Awards” is given this year to **David Diokno**, Principal of Scales Technology Academy, and **Mark Martinez**, Principal of Rover Elementary School. They were selected not only for their outstanding support of the program, but for their efforts to bring before and after school programming to students and families who previously had no access to such services. The students honored tonight represent over 1,900 children enrolled in Kid Zone. They were selected by the Zone staff from each school because of their kind and respectful attitude to other children and staff; their initiative and enthusiastic participation; and their display of cooperation, good sportsmanship, responsibility and leadership. The following students were recognized:

Xingyu “Aimee” Cheng	Broadmor
Emma Ison	Broadmor
Dylan Hurlimann	Broadmor
Miguel Mendoza	Scales
Naat’anii Castillo	Bustoz
Megan Dominguez	Fuller
Austin Fredrick-Cornutt	Fuller
Taran McCusker	Fuller
Antonio Gipson	Curry
Adriane Simon	Curry
Ivan Borrayo	Holdeman
Jada Ruff	Holdeman
Jordan Brandon	Manitas
Kendra Conard	Manitas
Izabella Nino	Manitas
Lesley Vargas	Wood
Alexandrea McLachlan	Aguilar
Gloria Anderson	Mariposa
Macey Whitfield	Mariposa
Kendall Wilhelm	Mariposa
Megan McMenimen	Arredondo
Holly Harrell	Rover
Tristan Millar-Maddox	Rover
Alyssa Mottola	Rover
Leo Bond	Meyer
Bianca White	Meyer
Malik Jones	Ninos
Alyssa Ray	Ninos
Alexia Schieffer	Carminati
Victoria Reid	Norte
Megan Alexander	Norte
Terryn McDonald	Norte
Alejandra Martinez	Evans
Natalie Kimble	Waggoner
Jennifer Rice	Waggoner

Lauren Tice  
James Brooks  
Caroline Burget  
David Duran  
Timur Karamanov

Waggoner  
Hudson  
Ward  
Ward  
Ward

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 Vice Mayor Ellis to approve the Agenda as amended (Items #33 and #39 were removed for separate consideration). Second by Councilmember Shekerjian. Motion passed on a roll call vote 7-0.**

A. Miscellaneous Items

15. Approved the Report of Claims Paid to be filed for audit for the month of March, 2009.  
**COMMENTS:** A copy of the detailed claims report may be obtained by contacting the City Clerk's Office.
16. Approved the annual software maintenance and support expenditure with the Oracle Corporation for the City's PeopleSoft Financials and Human Resources applications, as well as other eApplications that are used by all departments throughout the City.  
**COMMENTS:** (Sole Source #T97-012-01) Total cost shall not exceed \$376,200.  
**DOCUMENT NAME:** [20090423fst10.pdf](#) **PURCHASES (1004-01)**
17. Approved annual database support and infrastructure management expenditure with the Oracle Corporation for many of the City's enterprise and department-level business applications, including Financial Services, Human Resources, Police, Water Utilities and other City departments.  
**COMMENTS:** (Sole Source #T07-182) Total cost shall not exceed \$205,300.  
**DOCUMENT NAME:** [20090423fst13.pdf](#) **PURCHASES (1004-01)**
18. Authorized the utilization of available General Fund contingency appropriations and fund balance to cover the costs associated with the City of Tempe vs. Singer settlement.  
**COMMENTS:** Total amount of funding requested is \$2,050,000.  
**DOCUMENT NAME:** [20090423fsjh01.pdf](#) **LITIGATION SETTLEMENTS (0501-04)**
19. Approved **with condition** a Final Subdivision Plat for BDP TEMPE located at 830 South Mill Avenue.  
**COMMENTS:** Request by BDP TEMPE (PL080257) (Todd A. Sergi, Bear Down Partners LLC,

owner; Todd A. Sergi, Byxbee Development Partners LLC, applicant) for a final subdivision plat on 0.462 net acres located at 830 South Mill Avenue in the CC, City Center District, including the following:

**SBD09004** – Final Subdivision Plat to combine the property parcels into one lot and make public right of way dedication.

The following condition was also approved:

1. Place the final subdivision plat into proper engineered format with appropriate signature blanks. Record the final subdivision plat with the Maricopa County Recorder's Office through the Tempe Development Services Department on or before one year from date of City Council approval (April 23, 2010). Failure to record the plat by one year from date of City Council approval shall make the approval of the final subdivision plat null and void.

**DOCUMENT NAME:** [20090423dskko01.pdf](#) **PLANNED DEVELOPMENT (0406)**

- \*20. Held a public hearing and recommended the approval of a Series 12 restaurant liquor license for Atlantis Dining Group LLC dba My Big Fat Greek Restaurant, 227 East Baseline Road, J-7.

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

**DOCUMENT NAME:** [20090423LIQ01.pdf](#) **LIQ LIC (0210-02)**

- \*21. Held a public hearing and recommended the approval of a Series 6 bar liquor license for Taco Stand LLC dba San Felipe's Cantina, 2000 East Rio Salado Parkway, G-4.

**COMMENTS:** Randy Nations is the Agent for this application.

**DOCUMENT NAME:** [20090423LIQ02.pdf](#) **LIQ LIC (0210-02)**

- \*22. Held a public hearing and recommended the approval of a Series 7 beer and wine bar liquor license for Delhi Palace LLC dba Delhi Palace, 933 East University Drive, #103-104.

**COMMENTS:** Gurnam Ram is the Agent for this application.

**DOCUMENT NAME:** [20090423LIQ03.pdf](#) **LIQ LIC (0210-02)**

- \*23. Held a public hearing and recommended the approval of a Series 9 liquor store license for CVS EGL Broadway Tempe AZ, LLC dba CVS Pharmacy #00033, 1750 East Broadway Road.

**COMMENTS:** Jason Morris is the Agent for this application.

**DOCUMENT NAME:** [20090423LIQ04.pdf](#) **LIQ LIC (0210-02)**

**B. Award of Bids/Contracts**

24. Awarded **Contract #2009-70**, a two-year contract with three, one-year renewal options to Pro Em for special events equipment rental and services.

**COMMENTS:** (RFP #09-086) Total cost for this contract shall not exceed \$160,000 during the initial two-year contract period.

**DOCUMENT NAME:** [20090423fslg01.pdf](#) **PURCHASES (1004-01)**

25. Awarded **Contract #2009-71**, a professional services contract with Malcolm Pirnie, Inc., for the water and wastewater rate study update.

**COMMENTS:** Total cost for this contract is \$58,504.

**DOCUMENT NAME:** [20090423PWTG01.pdf](#) **WASTEWATER MANAGEMENT ADMIN**

**(0812-01) PROJECT NO. 3203391**

26. Approved **Contract #2009-72**, a two-year sole source contract with three, one-year renewal options with Physio-Control, Inc. for the purchase of paramedic heart monitor/defibrillators.  
**COMMENTS:** (Sole Source #T09-083-01) Total cost for this contract shall not exceed \$125,000 during the contract period.  
**DOCUMENT NAME:** [20090423fslg06.pdf](#) **PURCHASES (1004-01)**
27. Approved **Contract #2009-137E**, Job Order No. 5 with Caliente Construction, Inc., and a project contingency for tenant improvements at 20 E. Sixth Street (525 Building) third floor Tax and License office.  
**COMMENTS:** Total amount of Job Order No. 5 is \$113,265 and the project contingency is \$5,663.  
**DOCUMENT NAME:** [20090423PWTG02.pdf](#) **MUNICIPAL BUILDINGS (1001-17) PROJECT NO. 6703371**
- 27a. Approved **Contract #2008-143A**, an addendum to a design services contract with Dick & Fritsche Design Group, Inc., for Tempe main Police Station and ITD renovations.  
**COMMENTS:** Total amount for this contract addendum is \$270,708.  
**DOCUMENT NAME:** [20090423PWTG03.pdf](#) **POLICE-COURTS BUILDING 230 E 5TH ST (0902-16) PROJECT NO. 5503071**
28. Approved a one-year renewal of contracts with Aquatic Consulting and Testing, Inc., Legend Technical Services, Inc., MWH Laboratories and Tranwest Geochem, Inc., for the purchase of laboratory services for potable water quality testing, wastewater testing and soil testing services for the Water Utilities Department.  
**COMMENTS:** (T06-135-01, 02, 03, and 04) Total amount not to exceed \$550,000.  
**DOCUMENT NAME:** [20090423fsts07.pdf](#) **PURCHASES (1004-01)**
29. Approved a one-year renewal of a contract with Salt River Project for the maintenance and operation of the Tempe Town Lake dams, control systems, seepage wells and make-up water delivery system.  
**COMMENTS:** (T05-034-01) Total expenditures for this contract shall not exceed \$600,000.  
**DOCUMENT NAME:** [20090423fsts09.pdf](#) **PURCHASES (1004-01)**
30. Approved a one-year renewal of a contract with Aetna Inc. (formerly Contact Behavioral Health Services) for an employee assistance program for all eligible City employees.  
**COMMENTS:** (T05-061-01) Total amount not to exceed \$50,000.  
**DOCUMENT NAME:** [20090423fsta01.pdf](#) **PURCHASES (1004-01)**
31. Approved a six-month renewal of a contract with Great West Life/Benefits Corporation for deferred compensation administration services.  
**COMMENTS:** (T00-001-01) Total amount not to exceed \$50,000.  
**DOCUMENT NAME:** [20090423fsta02.pdf](#) **PURCHASES (1004-01)**
32. Approved a one-year renewal of a contract with Southwest Partitions and Office Interiors for the

purchase of remanufactured Haworth systems furniture, free standing furniture and related support services for use by City departments on an as-needed basis.

COMMENTS: (T08-171-01) Total amount not to exceed \$250,000.

DOCUMENT NAME: [20090423fslg05.pdf](#) PURCHASES (1004-01)

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

Approved the increase of the contract amount with Redflex Traffic Systems, Inc. for the City's photo enforcement program.

Councilmember Shekerjian stated that her understanding regarding the contract is that they get so many dollars per ticket and that there is no money coming out of the City's general fund to pay this company.

Mr. Hart agreed.

Councilmember Shekerjian asked for an explanation why there is a dollar amount listed and the reason why there is a cap associated with this dollar amount.

Mr. Hart responded that it has been the City's past practice that any contract that comes before Council has an indication of a dollar amount regardless of whether or not the contract extension is going to be from City funds or from an alternative funding source. In this case, the expenditures under this contract are not being paid out of City funds but paid from the traffic citation fine revenue the City collects.

Councilmember Shekerjian clarified that it is strictly an information piece. Since the City is being used as a "pass-through" and there are no tax dollars being spent, she asked if there is any reason to set a maximum for this contract other than just as information.

Mr. Hart clarified that there is nothing in the Procurement Ordinance that requires this to be done, but as a matter of procurement practice, staff likes to provide to Council information on what the anticipated expenditures are on any contract that the Council has been asked to take action on.

Councilmember Shekerjian clarified that if Council voted "no" on this contract, we would not be able to meet our contractual obligations to this company and we would stop the flow of money as a pass-through.

Mr. Hart agreed.

Mayor Hallman suggested when we are paying essentially for piecework and the company provides a service, that the contract could be set that way and simply note it on the agenda so that Council doesn't have to guess at what the contract amount is because we know what it is based on.

City Manager Charlie Meyer added that several years ago an incident occurred where a contract was awarded on a unit price basis like this one, and the City ended up acquiring quite a bit more than was originally expected. When it came back to Council with some issues on that contract, there was concern as to how the amount got as high as it did. It was at that point that staff initiated this "excess of caution" policy to put a dollar cap on all the contracts. If it were the desire of the Council not to do this, staff could simply implement that.

Mayor Hallman clarified that the issue that was raised previously was that it was actually coming out of City funds, unlike

this instance where we are acting as a pass-through where someone is paying an amount and we are in turn paying it back. No general funds or tax dollars are being used. This is taking the fine and using that as the means by which we are paying the contractor to provide this service.

Mr. Meyer added that he was not certain that if the Council didn't choose to raise this dollar limit, that it would in any way invalidate the Redflex contract. The contract was awarded based on unit price for a three-year time period, with an estimate and a cap put in place. The cap has been practiced, but it is not required. Therefore, he wasn't sure that if Council decided not to raise the cap that it would invalidate the contract. It may send direction to staff but it wouldn't necessarily invalidate the contract.

Mayor Hallman noted that at the last Issue Review Session, this policy issue of how we are dealing with speed limits was the fundamental policy question staff will return on. It isn't reflected in this issue tonight.

Councilmember Shekerjian added that she loves the idea of transparency and this is great for information. If we are completely a pass-through where no tax dollars and no money comes from the general fund, to have that information is important and the transparency is important. If we all voted "no" it wouldn't invalidate the contract. To her, it is an information-only piece. Because it asks for approval to increase the contract amount, it is confusing to the public. In the future, she suggested it be noted as "information only" rather than "approval to increase the contract amount."

Mayor Hallman added that he has heard some about the amount of fines that are paid to the City. What the public needs to understand is what goes to the state and that has nothing to do with civic traffic enforcement in Tempe. Whether an officer is writing a ticket or whether it is photo-radar. Fines are quite high, but as an example, on a ticket for \$171.00, \$26.57 is the base fine, \$10 goes to the City of Tempe for enhancement for the Police Department, the contractor is paid a fee of \$35.50 to run the system. There is also a \$10 surcharge that goes into the Court system. The rest goes to the state. Of that ticket, the Criminal Justice Enhancement Fund goes to the state treasurer's fund, which is 47% of a fine: Medical Service Enhancement Fund (a state treasurer administered fund) for 13% or \$10.67, the Clean Elections Fund gets \$8.21, the Fill-in-the-Gap Fund gets \$5.74, the DNA testing fund gets \$5.74, and a Probation Fee of \$20 goes to the state. A huge pile of money goes to the State for doing nothing.

**Motion by Councilmember Arredondo for approval of Item #33. Second by Councilmember Navarro. Motion passed on a roll call vote, 7-0.**

**COMMENTS:** (T07-045-01) Total amount of the increase is \$2,937,000 – from \$1,272,000 to \$4,209,000. There is no cost to the City.

**DOCUMENT NAME:** [20090423fsta03.pdf](#) **PURCHASES (1004-01)**

34. Approved the utilization of one-year State of Arizona contracts with Staffmark Pacific, LLC., Kelly Services, Randstad NA, Corporate Job Bank and AppleOne Employment Services for temporary employment services.

**COMMENTS:** (EPS070043) Total cost of these contracts shall not exceed \$200,000.

**DOCUMENT NAME:** [20090423fsta04.pdf](#) **PURCHASES (1004-01)**

35. Approved the utilization of one-year State of Arizona contracts with Environmental Response, Inc., and PSC Industrial Outsourcing, Inc., for emergency and routine response to situations involving hazardous substances and/or pollutants for the Water Utilities and other City departments.



**COMMENTS:** (#SCC060013-4-A2 and A3) Total amount not to exceed \$1,000,000.

**DOCUMENT NAME:** [20090423fst08.pdf](#) **PURCHASES (1004-01)**

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

- \*36. Introduced and held the **first public hearing** to amend Chapter 29 of the Tempe City Code, relating to Streets and Sidewalks by amending Section 29-4, and Chapter 19 of the Tempe City Code relating to Motor Vehicles and Traffic by adding new Article XV relating to Traffic Barricade Program. **The second public hearing is scheduled for May 7, 2009.**

**DOCUMENT NAME:** [20090423pwss01.pdf](#) **TCC CH 29 (0503-29) & CH 19 (0503-31)**  
**ORDINANCE NO. 2009.20**

- \*37. Introduced and held the **first public hearing** to adopt an ordinance granting a Power Distribution Easement to SRP for the Pier at Town Lake, located at 11 South Clubview Drive. **The second public hearing is scheduled for May 7, 2009.**

**COMMENTS:** The City of Tempe desires to grant the Power Distribution Easement to SRP for Tract A, parcel number 132-32-014.

**DOCUMENT NAME:** [20090423PWWS05.pdf](#) **EASEMENT (0904-02) ORDINANCE NO. 2009.19**

D. Ordinances and Items for Second Hearing/Final Adoption

- \*38. Held the **second 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.

**DOCUMENT NAME:** [20090423cdlc01.pdf](#) **COMMUNITY DEVELOPMENT BLOCK GRANT (0207-31)**

- \*39. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**

Held the **second public hearing** and approved a General Plan Land Use Map Amendment, Zoning Map Amendment, and Planned Area Development Overlay for LEMON MIXED USE DEVELOPMENT, located at 919, 1011, and 1019 East Lemon Street.

**COMMENTS:** (PL080449) (Rick Kafka, Colgate Tempe 268, LLC, property owner; Manjula Vaz, Gammage & Burnham, applicant) consisting of three (3) mixed use buildings of commercial and residential totaling approximately 694,000 s.f. of total building, including 478 units and approx. 16,000 s.f. of commercial area on approx. 5.73 acres, located at 919, 1011, and 1019 East Lemon Street, in the R-4, Multi-Family Residential District and CSS, Commercial Shopping and Services District and in the TOD, Transportation Overlay District (corridor). This request includes the following:

**GEP09001 (Resolution No. 2009.15)** – General Plan Land Use Map Amendment from "Residential" to "Mixed-Use."

**ZON09001 (Ordinance No. 2009.14)** – Zoning Map Amendment from R-4, Multi-Family General District and CSS, Commercial Shopping and Services District in the TOD, Transportation Overlay District to MU-4, Mixed-Use High Density District in the TOD (corridor).

**PAD09001 (Ordinance No. 2009.14)** – A Planned Area Development Overlay to modify

development standards to allow for a modification in the minimum TOD parking requirements from 1,425 spaces to 1,034 spaces; a proposed density of 83.4 dwelling units per acre; a maximum building height of 180'-0"; maximum lot coverage 70%; minimum landscape area 30%; and minimum building setbacks 0' front, 15' sides, 30' rear and maximum 20' setback.

The following conditions were also approved:

1. A building permit submitted on or before April 23, 2012, 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 form. By signing the form, the Owners voluntarily waive any right to claim compensation for diminution of property value under A.R.S. §12-113 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 May 22, 2009, or the General Plan Amendment, Zoning Map Amendment and Planned Area Development Overlay approval shall be null and void.
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. A Preliminary and Final Subdivision Plat is required to combine all existing parcels, including any right-of-way, into one (1) lot for this development which shall be recorded prior to issuance of Phase I building permits. Otherwise an Amended Planned Area Development Overlay for this project is required by the original decision-making body.
5. The maximum allowed height for the building shall not exceed one hundred eighty (180) feet, including any mechanical equipment or screening.
6. The maximum allowed density for the site shall not exceed four hundred seventy-eight (478) units and no more than one thousand six hundred thirty-two (1,632) bedrooms, for all phases of the site.
7. The minimum overall parking for the site shall provide at least 1,034 parking spaces based on a modified residential bedroom parking ratio, including guest parking, of (0.61) parking spaces per bedroom.
8. All three buildings shall be located within the maximum building setback of twenty (20) feet, as defined by the Zoning and Development Code. The location of the buildings shall be based on any future dedication of right-of-way, as determined prior to the building permit application.

#### APPLICANT PRESENTATION

**Manjula Vaz**, Tempe, on behalf of the Colgate group. She introduced **Paul Basha**, Traffic Engineer, and **Jason Plosza**, RSP Architects. This request is for a mixed-use development for student housing with a General Plan Land Use Map Amendment from "Residential" to "Mixed-Use", rezoning from R-4 to CSS MU-4, and a PAD. The site itself is between Apache, east of Rural, approximately 5.73 net acres, about a quarter mile away from two light rail stops. They took into account both the City's philosophy and what they heard from the City in terms of desiring intensity and density along the Light Rail. They have varied the sky line heights and put height away from Apache across from ASU. Terrace serves as a buffer. This area has always been apartments filled with students. This seems to be a good place for height and density. The site itself involves 478 apartment units over three phases, approximately 1,632 beds, 10,000 sq. ft. of retail, 300 sq. ft. of restaurant. The first phase has 169 units, approximately 574 beds. The second phase has 155 units and the third phase has 154 units.

Ms. Vaz summarized that the property lines follow the current apartment complex, so at build-out (first phase) there would be two 13-story buildings and four 16-story buildings. The area along Lemon is the pedestrian zone so space has been created between the buildings and a lot of open area and landscape. There would be a couple of "teaser" retail spaces for the retail area fronting Lemon. There are parking garages. Currently, about 30% of those residents use cars, so when this

is developed in three to five years with light rail and public transportation modes, there can be a lower parking ratio. The View, which is currently leasing with 97% leased, has a parking ratio is .36. We hope to see a similar type of leasing pattern, and .61 should be realistic. Phase 1 is the middle portion and will be built first and two existing apartment buildings will stay intact.

Councilmember Woods stated that he has heard concerns from residents regarding parking.

Ms. Vaz responded that given the fact that residents will hopefully be using alternative methods of transportation, enough parking will be provided. Since the project will be developed in phases, however, if they find that in the first phase there is not enough parking, they can expand the parking in the second and third phase to accommodate any overflow.

#### PUBLIC HEARING

**Charles Buss, Tempe**, stated that he is the chair person for the University Heights Neighborhood Association which is the neighborhood that extends from McClintock to Dorsey. A major concern is parking. A lot of students are parking on the edge of the neighborhood and he is concerned about the potential impact with quadrupling the number of people living on this site. Another concern is the lack of affordable student housing already which has doubled the student rentals in the neighborhood. The rents for this project are extremely high. The students currently living on this site will be displaced and some will look for neighborhood homes to rent.

Mayor Hallman asked for the amount of rent that will be charged.

Mr. Buss responded that he has been hearing about \$500 to \$800 per person. Houses in the neighborhood rent from \$900 to \$1200. Most of the homes are three-bedroom.

Mayor Hallman noted that the City is planning to seek full enforcement of the 3 unrelated party rule. So, a \$1200 house would cost \$400 per student.

Mr. Buss added that his biggest concern is the proposed height of the project. When he served on the Apache Redevelopment Committee, they were told that developments near the neighborhood would be capped at around eight stories, and portions of this project are twice that height. He was also under the impression that there would be three buildings, and now it appears there are six buildings. The View project that is being built now is very visible from his neighborhood and it is only ten stories. This project would be 70% to 80% higher.

**Phil Amorosi, Tempe**, stated that he supports the project, but he is against the variances in the PAD. He went to the top floor of the Grigio Metro, which is six stories high at the corner of McClintock and Apache, and he looked west toward Rural where this building would go. He could see the skyline as pretty flat and The View is the only thing that slightly sticks up at ten stories. This proposal is to build a tower that is over 50% higher than the sixteen stories. Sixteen stories alter the landscape. Developers always ask for the maximum, they are not looking at the overall vision of the city. He suggested bringing them into the Transportation Overlay District (TOD), see how they can design the project to work within those parameters. If it isn't as high and as dense, then their parking percentage will rise and they won't have to ask for a variance on that. The TOD is relatively new and let's let it work for awhile. If this PAD height variance this far from downtown is approved, then what is next? The Development Review Commission agreed that they are asking for too much and recommended denial of the TOD. It is up to the Council to tell the citizens what their vision is. The 2030 plan set out one set of guidelines. If Council's vision is going to include sixteen, twenty, twenty-five stories this far from downtown, then a new vision plan needs to be developed so the citizens knows where Council is going.

**Bob Stafford, Tempe**, President of the Apache Boulevard Project Area Committee (APAC), and has a business on Apache Boulevard. The businesses are in unanimous support of this project. When he bought his business in 1981, Apache Boulevard was an undesirable area. He believed in Tempe and in the Boulevard. In the early 1990's, they asked for the Council's support to help clean up Apache Boulevard. Through redevelopment and working with the City, APAC was formed and they supported redevelopment for Apache Boulevard. He never dreamed that light rail would come down the Boulevard. Lemon calls for redevelopment. He noted the change in the area that is now Marketplace and how successful it is. ASU needs 20,000 beds and this a good way to provide those beds. It shows with The View not even completed, and yet it has 97% leased already. This can be a successful project. He has heard that there are other developers to the north that are interested.

#### APPLICANTS PRESENTATION

Ms. Vaz added that their rents average \$700 per bed, which is consistent with others, and less than ASU dorms. There are 200 apartments currently on the site and they rent from \$620 to \$1000 per unit.

Mayor Hallman asked for the cost to construct this project.

**Rick Kafka**, Colgate Tempe 268, LLC, responded that the approximate cost for Phase 1 is \$52.5M. Phase 1 includes 574 beds, with 169 units.

Mayor Hallman stated that the hope is that those who are helping to build a number of units have an opportunity to move students out of housing and also help us attend to one of the issues raised which is the City's affordable housing program. The City has in almost all of the downtown development efforts asked that the developers to contribute to a housing fund and the typical cost has been \$500 per unit. He asked if that is something his group would be willing to participate in.

Mr. Kafka responded that it would be something they would evaluate.

Mayor Hallman added that it has typically been done on for-sale units, and he understood there are differences in financing and return on rental property, but the goal on Phase 1 would be to pay into an affordable housing fund approximately \$85K to assist the City in working to provide affordable housing, both rental and non-rental.

Mr. Kafka responded that they would be willing to look at that. Their economic model is a bit different than a for-sale product, but they would evaluate how that could be done.

Councilmember Arredondo added that Council is a seven-member group and he didn't think this is the proper place to ask these kinds of questions. This should have been done before it got to Council and he would not support changing any of the financial options at this time.

Councilmember Woods added that he is passionate about the issue of affordable housing and it is something we are obviously looking to do more of in the City.

Mayor Hallman added that it has definitely been the protocols with respect to projects in the downtown. Even though this is not a for-sale project, it is still a profit-making model and one could look at spreading the same cost over a period of time to make that work, and he is raising the issue for consistency given how we have handled this in the past.

**Motion by Councilmember Arredondo for approval of Item #39. Second by Councilmember Navarro. Motion passed on a roll call vote, 7-0.**

DOCUMENT NAME: [20090423dsrl01.pdf](#) [20090423dsrl01a.pdf](#) PLANNED  
DEVELOPMENT (0406)

E. Resolutions

40. Approved RESOLUTION NO. 2009.30 to accept grant funding from the Arizona Governor's Office of Highway Safety for Collision Reconstruction and Damage Analysis and Energy Methods training classes.  
COMMENTS: The award totals \$13,000.  
DOCUMENT NAME: [20090423pdsj02.pdf](#) POLICE DEPARTMENT  
ADMINISTRATION (0606-02)
41. Approved RESOLUTION NO. 2009.23 to enter into **Contract #2009-54**, an Intergovernmental Agreement between Maricopa County and the City of Tempe for heavy equipment and driver awareness training services for eligible employees.  
COMMENTS: Total expenditure shall not exceed \$55,000 per fiscal year.  
DOCUMENT NAME: [20090423fst12.pdf](#) MARICOPA COUNTY (0109-29)
42. Approved RESOLUTION NO. 2009.29 authorizing the Mayor to execute **Contract #2008-223A**, an Amended Intergovernmental Agreement between the City of Tempe and Salt River Pima-Maricopa Indian Community ("SRPMIC") for the disbursement of a portion of its gaming proceeds for services which benefit the public and authorizing the Mayor to execute **Contract #2009-73**, a Funding Agreement with Native Nations Institute.  
DOCUMENT NAME: [20090423graw01.pdf](#) STATE LEGISLATURE (0107-06)
43. Approved RESOLUTION NO. 2009.28 to enter into **Contract #2009-76**, a Memorandum of Understanding (MOU) with Maricopa County to accept funding from the Justice Assistance Grant (JAG) program.  
COMMENTS: Funding in the amount of \$510,423.  
DOCUMENT NAME: [20090423pdsj01.pdf](#) POLICE DEPARTMENT  
ADMINISTRATION (0606-02)
44. Approved RESOLUTION NO. 2009.27 authorizing the Mayor to execute **Contract #2009-77**, a Right of Way License Agreement with Salt River Project agricultural Improvement and Power District for the use of the street easement over the Western Canal at Baseline Road.  
DOCUMENT NAME: [20090423PWWS04.pdf](#) SALT RIVER PROJECT (0113-03)
45. Approved RESOLUTION 2009.31 authorizing completion of the purchase of the property and building at 1425 S. Clark Drive, Tempe, for use as a Fire Department Support Services Facility pursuant to a Purchase and Sale Agreement (C2009-65) executed by the City Manager.  
COMMENTS: The purchase price of the building is \$3,080,000.  
DOCUMENT NAME: [20090423fdjg01.pdf](#) REAL PROPERTY ACQUISITION (0902-21-02)

6. PUBLIC APPEARANCES

#### **SCHEDULED PUBLIC APPEARANCE**

- **Leslie Miller, Tempe, re: crosswalk on 48<sup>th</sup> Street.** Through her desire to help the environment and her pocketbook has found her riding public transportation to work every day. She works at ASU and the cost to park in the covered structure near her office is about \$800 per year. ASU subsidizes the transit system by giving public transportation passes for \$260 per year. She lives close to a bus route that takes her to the Tempe Transit Center and there are several options to get her to her office. She appreciated all of Council's help in getting these programs up and running. Bus route #92 goes north on 48<sup>th</sup> Street in the mornings. It stops on Minton and 48<sup>th</sup> Street which is one block north of Baseline on the Tempe side of the street. That street is the border between Phoenix and Tempe. Fellow riders come from Canal Gardens which has over 700 homes. In the afternoon, the southbound bus stops on the west of 48<sup>th</sup> Street. We have to cross 48<sup>th</sup> Street to get to the Minton entry to her neighborhood. A few weeks ago, she and several fellow riders were stopped after reaching the Minton side by a Tempe police officer and told they would be ticketed for jay-walking. He listened to them about where the bus stops are presently and how the neighborhood has very limited access. He told us to contact Tempe and suggest a crosswalk. She started to contact those she felt could help. She wrote Councilmember Arredondo, but hasn't heard back. She also contacted Shelly Seyler, Tempe Traffic Engineer, and she told her it was the Phoenix Transit responsibility. She contacted Phoenix and she said that it was Tempe's responsibility. She was told it depends on the number of people who they document use the bus and cross there and then it might be considered, but she wasn't given a number that would be acceptable. She was told a study would be done and when it was complete, it would be unlikely to be taken seriously because it is more dangerous for pedestrians to put in a new crosswalk as people have been driving on 48<sup>th</sup> Street for a long time and changes just can't be made to the public's awareness. Traffic changes occur in every city as they grow, however. She looked up the definition of "jay-walking" and it says that jay-walking is an informal term used to refer to illegal or reckless pedestrian crossing of a roadway. She is not guilty of that. Her working title at ASU is the Health and Safety Officer of the Biodesign Institute and she sets a personal standard for not breaking the law. ASU regulations require a driver to yield the right of way to a pedestrian crossing the road when the pedestrian crosses at a marked crosswalk. Unmarked crosswalks generally exist as the logical extension of sidewalks at intersections with approximately right angles. Most other State codes do not prohibit a pedestrian from crossing a roadway between intersections, but stipulate that pedestrians not in a marked crosswalk must yield the right-of-way to approaching drivers. Some supporters of jay-walking argue that on certain streets, jay-walking can be safer than crossing properly at an intersection. When a pedestrian crosses at an intersection, there are three or more different directions of traffic, including right turns on red and left turns on green. In the middle of the block, cars are only traveling in two directions. Tempe has provided substantial public transportation and the idea of a jay-walking ticket doesn't thrill her to take back that \$800 she is saving. She is asking for consideration of a crosswalk on Minton at 48<sup>th</sup> Street.

Mayor Hallman responded that it is a serious issue to add crosswalks mid-block because pedestrians think the white lines provide them some protection. He wondered if there might be a better solution such as moving the bus stops where there are appropriate crossings. He suggested referring this to staff in Streets and Transit and figure out the logistics to determine whose responsibility it would be and whether there are other ways to solve this issue without putting unwary pedestrians at risk.

#### **UNSCHEDULED PUBLIC APPEARANCE**

- **Kolby Granville, Tempe**, regarding Item #39. He clarified that earlier the Mayor mentioned that no more than three unrelated people may live in a single family dwelling. That draws on the logic that the current housing is \$1000 for a two-bedroom house, and what is being built is \$700 per bed and that doesn't appear to be that much of a difference. If you look at the rental prices, a 3-bedroom would be \$400 per bed. It makes sense in the math, but there is one part that wasn't mentioned. The "no more than three unrelated people rule" only applies to single family dwellings. When you do the math of \$1,000 two-bedroom house, it isn't \$500 per person, it is \$250 per person because it is typically four international students sharing a two-bedroom. The math is actually a \$250 bed that is now going away and being replaced by a \$700 bed. The logic could then simply be the new building that is being built could have the same circumstance. More people could be crammed in and then that \$700 bed becomes a \$350 bed. They are not selling the location by room, they are selling it by bed, similar to the way a dormitory bed is rented. You can't double up in the new location the way you could double up in the old location. Instead, we have a \$250 bed going to a \$400 spot in a house, or you could go to what is being built which is a \$700 bed. The math wasn't made clear in the presentation. He appreciated the Mayor's attempts to bring at least a token amount of money to the table for inexpensive housing.

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

- Councilmember Woods announced that a Tempe teen, Precious Wilson, was named State Youth of the Year during the 9<sup>th</sup> Annual Alliance of Boys and Girls Clubs Legislative Breakfast. Candidates each received an educational scholarship from the Tostitos Fiesta Bowl. Ms. Wilson also received an additional \$1,000 from *Reader's Digest*. When she won the East Valley Title for Boys and Girls Club Youth of the Year, she had received a \$20,000 scholarship from the Victoria Lund Foundation. She is a Marcos de Niza high school senior and has been a member of the Ladmo Branch for nine years. She will represent Arizona in the regional competition in July and if she wins, she will advance to the National Youth of the Year competition in Washington, D.C. in September.
- Councilmember Arredondo congratulated the City Manager on his memo regarding Tom Canasi and the appointment of Kathy Berzins as interim manager. Both have served the City well and Kid Zone is a fine example of what they do. Very soon the President of the United States will be here and he suggested that the Mayor deliver a proclamation. He also thanked Bob Stafford for all the work he has done on Apache Boulevard.
- Vice Mayor Ellis noted that this past Saturday, most of Council attended the Neighbor of the Year awards. These awards reflect the passion for improving and maintaining the highest quality of life in Tempe's neighborhoods. Mark Lymer, Bob and Dee Haver, and Gary and Pam Schrack. Also, Linda Knutson received the Chuck Malpede Neighbor of the Year Award. Yesterday was Earth Day and a celebration was held at the Town Lake. She reminded Tempe residents that they can recycle any plastics designated #1 through #7, as well as paper. Plastic grocery bags can be returned to any grocery store for recycling. Congratulations to Harkins for getting the world premiere of "Wolverine" on Monday. It would be nice if as many people would vote in an election as voted for Tempe to get the premiere.
- Councilmember Shekerjian added that at the Earth Day celebration, a \$1000 scholarship was given as a result of the fees collected to participate in the race. One of the staff members who

participated actually placed second in the 5K in his age class. Although Chris Salomone was unable to receive his award at the celebration, she presented the medal to him. Ages spanned from 70's down to kids in strollers. She added her congratulations on the Wolverine premiere.

*Meeting adjourned at 9:02 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 23, 2009, by the Tempe City Council, Tempe, Arizona.

\_\_\_\_\_  
Hugh Hallman, Mayor

ATTEST:

\_\_\_\_\_  
Jan Hort, City Clerk

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2009.