

Minutes Formal City Council Meeting May 7, 2009

Minutes of the Formal Council Meeting of Thursday, May 7, 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.

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

1. Council's Executive Session – April 23, 2009
2. Council's Formal Meeting – April 23, 2009 [20090507clrkck02.pdf](#)
3. Council's Special Budget Session – April 16, 2009 [20090507clrkck01.pdf](#)
4. Council's Mill and Lake District Committee – April 9, 2009 [20090507mld01.pdf](#)
5. Council's Technology, Economic & Community Development Committee – March 13, 2009 [20090507tecd01.pdf](#)
6. Council's Quality of Life Committee – January 22, 2009 [20090507qlc01.pdf](#)

B. Acceptance of Board & Commission Meeting Minutes

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

7. Aviation Commission – March 10 & 13, 2009 [20090507tavco01.pdf](#)
[20090507tavco02.pdf](#)
8. Committee for Youth, Families & Community – March 16, 2009 [20090507cyfc01.pdf](#)
9. Hearing Officer – April 7, 2009 [20090507ho01.pdf](#)

10. Human Relations Commission – March 17, 2009 [20090507hrc01.pdf](#)
11. Mayor's Youth Advisory Commission – March 17 & April 7, 2009 [20090507myac01.pdf](#)
[20090507myac02.pdf](#)
12. Papago Park/Rio Salado Ad Hoc Committee – February 12 & March 10, 2009
[20090507pprs01.pdf](#) [20090507pprs02.pdf](#)
13. Parks and Recreation Board – February 18, 2009 [20090507prb01.pdf](#)
14. Transportation Commission – Multi-Modal Planning & Project Review Committee –
March 11, 2009 [20090507tc01.pdf](#)

4. REPORTS AND ANNOUNCEMENTS

A. Mayor's Announcements

- a. Mayor Hallman announced that in celebration of **Law Day** on May 1, the Tempe Municipal Court sponsored its **7th Annual Law Day Art Contest** for Tempe students in 5th, 6th, 7th, and 8th grades. The American Bar Association declares this year's Law Day theme as "Celebrating Lincoln's Legacy." School children were asked to depict the famous words from Lincoln's Gettysburg Address: "Government of the People, by the People and for the People." Here in Tempe, we have a long tradition of inclusive government, and each year, we work to strengthen that principle of political inclusiveness. He introduced Tempe's Honorable **Judge MaryAnne Majestic**. She was first appointed in 1994 and has served eight terms in service to the community. Judge Majestic presented awards to the following:

Waggoner Elementary

First Place

Zoe Jensen

Teacher: Mrs. Cox

Second Place

Jackie Williams and Chloe LeClaire

Teacher: Ms. O'Neill

Third Place:

Savannah Lenore Johnston

Teacher: Mrs. Vaughn

Aguilar School

First Place

Kelly Stumper

Teacher: Mrs. Ponce

Second Place

Alejandra Molina

Teacher: Mrs. Duran

Third Place

Albert Hernandez

Teacher: Ms. Nelson

- b. Mayor Hallman stated that **Grad Night** has been very successful in Tempe in that there have been no school related fatalities of our new high school graduates since this program began. Grad Nights are fun, safe, drug and alcohol free celebrations for graduating seniors. He introduced **Tempe Police Chief Tom Ryff**, **Scott Liem from the Tempe Diablos**, and **Kate Hanley from the Tempe Community Council** to present checks to the Grad Night Committee Representatives that were able to attend tonight. These individuals have worked nearly year-round to plan these parties.

Corona del Sol High School
Marcos de Niza High School
McClintock High School
Tempe High School

Angie Thornton
Jodi Sornsin
Robin Sweeney
Kim Jones

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 (Item #29 was removed for separate consideration). Second by Councilmember Navarro. Motion passed on a roll call vote 7-0.

A. Miscellaneous Items

15. Authorized the City Manager to extend the existing lease with Centerpoint Plaza Limited Partnership, **Contract #2000-19C**.

DOCUMENT NAME: [20090507dscm01.pdf](#) **CENTRAL BUSINESS DISTRICT (0403-05)**

16. Approved **with conditions** an Amended Subdivision Plat for FARMER GOODWIN TOWNHOMES II, located at 830 South Farmer Avenue.

COMMENTS: (PL060584) (Douglas / Patricia Bruhn and Halle Capital, LLC, Owner, Gammage & Burnham, Manjula Vaz, applicant) located at 830 South Farmer Avenue for an Amended Subdivision Plat on 0.50 net acres in the R-3(PAD), Multi-Family Residential Limited District with a Planned Area Development Overlay. The request includes the following:

SBD09002 – Amended Subdivision Plat consisting of ten (10) lots and one (1) tract.

The following conditions were 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 May 7, 2010. Failure to record the plat by May 7, 2010, which is one (1) year from the date of City Council approval, shall make the approval of the plat null and void.
2. The developer/owner(s) shall provide a continuing care condition, covenant and restriction for all of the project's landscaping required by Ordinance or located in any common area on site. The CC&R's shall be reviewed and in a form satisfactory to the Development Services Manager and City Attorney.

DOCUMENT NAME: [20090507dsjc02.pdf](#) **PLANNED DEVELOPMENT (0406)**

17. Approved **with condition** an Amended Subdivision Plat for EATON UNIVERSITY INDUSTRIAL PARK, located at 207 East Siesta Lane.

COMMENTS: (PL080354) (Realco Properties LLC, Charles Realmonte, property owner, Charles Realmonte, applicant) located at 207 East Siesta Lane in the GID, General Industrial

District. The request includes the following:

SBD08030 – Amended subdivision plat consisting of a line adjustment on a 1.124 net acres.

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 May 7, 2010. Failure to record the plat by May 7, 2010, which is one (1) year from the date of City Council approval, shall make the approval of the plat null and void.

DOCUMENT NAME: [20090507dsic01.pdf](#) **PLANNED DEVELOPMENT (0406)**

18. Approved **with condition** a Final Subdivision Plat for CHURCH ON MILL, located at 1300 South Mill Avenue.

COMMENTS: (PL070066) (First Southern Baptist Church of Tempe, Owner; Don Surface, Surface Engineering Company, Applicant) located at 1300 South Mill Avenue for a final subdivision plat on 3.898 acres in the R-2 Multi-Family Residential District. The request includes the following:

SBD09006 – Final Subdivision Plat consisting of one (1) lot.

The following condition was also approved:

1. The Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Development Services Department on or before May 7, 2010. Failure to record the plat by May 7, 2010, which is one (1) year from the date of City Council approval, shall make the approval of the plat null and void.

DOCUMENT NAME: [20090507dsic03.pdf](#) **PLANNED DEVELOPMENT (0406)**

- *19. Held a public hearing and recommended the approval of a Series 12 restaurant liquor license for Spinato's Pizza Inc., dba Spinato's Pizza, 227 South Smith Avenue, #101.

COMMENTS: Anthony Spinato is the Agent for this application.

DOCUMENT NAME: [20090507LIQ01.pdf](#) **LIQ LIC (0210-02)**

- *20. Held a public hearing and recommended the approval of a Series 10 beer and wine liquor store license for Shreeji Enterprise LLC dba Q-Star Market Tempe, 1125 South Terrace Road.

COMMENTS: Sunish Parikh is the Agent for this application.

DOCUMENT NAME: [20090507LIQ02.pdf](#) **LIQ LIC (0210-02)**

- *21. Held a public hearing and recommended the approval of a Series 10 beer and wine store liquor license for TL Qik Stop Market Inc., dba Valero, 3233 South 48th Street.

COMMENTS: Debbie Nguyen is the Agent for this application.

DOCUMENT NAME: [20090507LIQ03.pdf](#) **LIQ LIC (0210-02)**

- *22. Held a public hearing and recommended the approval of a Series 03 microbrewery liquor license for Sleepy Dog Saloon and Brewery LLC dba Sleepy Dog Saloon and Brewery, 1920 East University Drive.

COMMENTS: Randy Nations is the Agent for this application.

DOCUMENT NAME: [20090507LIQ04.pdf](#) **LIQ LIC (0210-02)**

B. Award of Bids/Contracts

23. Awarded **Contract #2009-85**, a construction manager at risk (CMAR) contract with Pierson

Construction Corporation for construction management and services, and approve a project contingency for the Western Canal Water Transmission Line.

COMMENTS: Total amount for the construction services contract is \$1,682,268.90, and the amount of the project contingency is \$100,000.

DOCUMENT NAME: [20090507PWTG01.pdf](#) **WATERMAIN UPGRADES (0810-04)**
PROJECT NO. 3203181

24. Approved the utilization of a one-year City of Scottsdale contract with Ancon Service Company for the cleaning of the City's sewer system, lift stations and wet wells for the Water Utilities Department.

COMMENTS: (WUD08PB049) Total cost of this contract shall not exceed \$300,000 during the contract period.

DOCUMENT NAME: [20090507fst01.pdf](#) **PURCHASES (1004-01)**

25. Approved the increase of the contract amount with SST Benefits Consulting & Insurance Services, Inc., for financial consulting services related to the City's solicitation for deferred compensation and retiree health administration services.

COMMENTS: (RFP 09-022) Increase the contract in the total amount of \$14,475 – from \$39,900 to \$54,375.

DOCUMENT NAME: [20090507fsmg02.pdf](#) **PURCHASES (1004-01)**

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

- *26. Introduced and held the **first public hearing** to adopt ordinances authorizing the Mayor to execute Power Distribution Easements with Salt River Project Agricultural Improvement and Power District (Job #KJ3-10906 & Job #KJ6-271) for the Energization of the City of Tempe/Valley Metro Rail Employee Parking Lot located at Apache Boulevard and the Price/101 Freeway. **The second public hearing is scheduled for May 14, 2009.**

DOCUMENT NAME: [20090507PWWS04.pdf](#) **SALT RIVER PROJECT (0113-03)**
ORDINANCE NO. 2009.17 and ORDINANCE NO. 2009.22

D. Ordinances and Items for Second Hearing/Final Adoption

- *27. Held the **second public hearing** and approved ORDINANCE NO. 2009.20 amending 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.

DOCUMENT NAME: [20090507pwss01.pdf](#) **TCC CH 29 (0503-29) & CH 19 (0503-19)**

- *28. Held the **second public hearing** and adopted ORDINANCE NO. 2009.19 granting a Power Distribution Easement to SRP for the Pier at Town Lake, located at 11 South Clubview Drive.

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

DOCUMENT NAME: [20090507PWWS03.pdf](#) **EASEMENT (0904-02)**

E. Resolutions

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

Held a Truth in Taxation public hearing and adopted RESOLUTION NO. 2009.32 by roll call vote as required under the state Truth in Taxation statute, indicating the City's intention to adopt a primary property tax levy that, excluding amounts related to new construction, will be greater than last year's primary levy.

Mayor Hallman stated that a roll call vote is required for this item.

Councilmember Arredondo asked for clarification that this roll call vote designates that we are not going to at this point move the property tax up or down.

City Attorney Andrew Ching responded that this is not a vote on a rate, but based on the financial plan currently under consideration, the primary levy will be greater this year than it was last year, thus triggering the Truth in Taxation requirements in the statutes.

Mayor Hallman further clarified that it is because the property valuations have gone up a little bit and leads to generation of this additional amount.

Mr. Ching further clarified that there has been a valuation growth over 2008.

Councilmember Shekerjian asked what this vote actually means. Are we voting to give notice that at the current status we are looking at an increase in what we take in as a levy?

City Manager Charlie Meyer responded that the Arizona law requires a Truth in Taxation hearing with a separate vote if the City is increasing the amount of the primary levy. The City is limited in how much it can increase the primary tax levy to 2% plus the growth in new value. The monetary impact of that is about \$700K that the City would realize for total operational purposes as a matter of that growth. If the Council were not looking to accept that \$700K as an increase just in the gross levy of the primary property taxes, then Council would not be required to go through this process. Because the City is looking to use that \$700K to operate the City for the next year, this hearing and this vote are required. We don't have any choice in any amount higher than that. We would only have the ability to choose an amount less than that \$700K increase, or no increase at all.

Mayor Hallman clarified that there are two ways this gets increased. We can convert from secondary to primary property tax by 2% even if the valuations don't go up. We can move tax dollars from secondary to primary. Currently the total rate is \$1.40 and of that, 51 cents is primary and the balance is secondary. We can move that ratio around even if the valuations have not increased.

Jerry Hart added that setting the rate aside, the controlling factor is the simple fact that our primary levy itself (the year over year growth in our primary levy) has only grown by the 2%. The rate is just a function of what we are allowed to grow each year.

Mayor Hallman clarified that if there were no change in the valuation, we could convert from secondary to primary property tax by changing the percentages and maximizing the amount of primary property tax. The problem with this vote is that we are taking it before we set the rate, and the rate would help determine if our total levy is going up, both primary and

secondary levies together, because the valuation increases. Tonight, however, we can't tell because at this stage, we are simply saying that we are converting as much as we possibly can from the total tax base to create it and treat it as primary property tax. This evening's vote does not determine what the rate will be. This allows us to maximize primary property tax as a proportion of primary and secondary property tax.

Mr. Hart further clarified that this is required by State law to declare the City's intention. The actual vote on the total tax rate does not occur until June 11th.

Mayor Hallman added that that debate doesn't have to take place yet because this merely converts secondary property tax to be characterized as primary property tax which allows it to be spent for operations and maintenance (O&M) as well as capital.

Councilmember Shekerjian clarified that in order for the City to meet its O&M budget the way it is structured with the \$35M deficit, that has been whittled down with a variety of steps, this is part of that plan in terms of being able to meet this year's budget.

Mr. Hart agreed. When staff initially came forward to Council, included in that budget balancing plan was the assumption of the maximization of the primary levy, which is something we have done for the last many years.

Councilmember Navarro asked if it was an accurate assessment in months past about how much we are potentially going to collect or can that assessment vary.

Mr. Hart responded that the levy is actually determined by the County who sets that maximum amount.

Mayor Hallman clarified that this notice assumes the current rate, except that it doesn't really. If the total tax will be \$1.40, and last year it was \$1.40, and last year we had a 50 cent primary property tax and a 90 cent secondary property tax, this year we could set our primary property tax at 54 cents and our secondary would be 86 cents. It doesn't necessarily change the value. This just allows us to convert secondary property tax to primary property tax and maximize it without regard to whether the valuations have gone up.

Councilmember Arredondo moved for approval of Item #29. Second by Councilmember Woods. Mayor Hallman conducted a roll call vote:

Councilmember Arredondo	aye
Councilmember Mitchell	aye
Vice Mayor Ellis	aye
Councilmember Woods	aye
Councilmember Navarro	aye
Councilmember Shekerjian	aye
Mayor Hallman	aye

Motion passed on a roll call vote, 7-0.

DOCUMENT NAME: [20090507fsae01.pdf](#) MISCELLANEOUS TAXES (0210-06)

30. Approved RESOLUTION NO. 2009.18 approving **Contract #2009-86**, a Development

Agreement with Rural Baseline, LLC and Rural Baseline Two, LLC with regard to signage for their development at the southwest corner of Baseline and Rural Road.

DOCUMENT NAME: [20090507cdcm01.pdf](#) **DEVELOPMENT PROJECT (0406)**

31. Approved RESOLUTION NO. 2009.26 authorizing the Mayor to execute **Contract #2009-87**, a five (5) year intergovernmental agreement with the Regional Public Transportation Authority (RPTA) for the purchase and supply of public transit services.

COMMENTS: Cost to Tempe is \$3,452,821 less fare revenue collected. RPTA shall pay City \$16,312,011 less fare revenue collected.

DOCUMENT NAME: [20090507pwgj01.pdf](#) **TRANSPORTATION PLANNING (1101-01)**

32. Adopted RESOLUTION NO. 2009.24 approving the Substantial Amendment to the City's Community Development Block Grant (CDBG) Consolidated FY 2008-2009 Action Plan.

DOCUMENT NAME: [20090507cdch02.pdf](#) **COMMUNITY DEVELOPMENT BLOCK GRANT (0207-26)**

33. Adopted RESOLUTION NO. 2009.36 approving the Community Development Block Grant (CDBG) and HOME Program Action Plan for Fiscal Year 2009-2010.

DOCUMENT NAME: [20090507cdch01.pdf](#) **COMMUNITY DEVELOPMENT BLOCK GRANT (0207-31)**

34. Adopted RESOLUTION NO. 2009.37 ordering the sale of not to exceed \$56,055,000 principal amount of City of Tempe General Obligation Bonds, Series 2009A, and approving related documents.

COMMENTS: The issuance of the not to exceed \$56,055,000 in general obligation bonds is in accordance with the capital improvement program budget as adopted by the City Council. The bonds provide financing for a variety of projects including continuing expansion and/or improvements of the 91st Ave Wastewater Treatment Plant and the Johnny G. Martinez Water Treatment Plant, various water and sewer line improvements, and other improvements. Financing is also provided for police radio, computer-aided dispatch, records management, and field report writing systems; police/courts building renovation and chiller improvements; fire support services facility acquisition; street improvements, museum renovation, and various park improvements.

DOCUMENT NAME: [20090507fsjh01.pdf](#) **BOND SERVICE ADMINISTRATION (0203-01)**

35. Approved RESOLUTION NO. 2009.38 authorizing **Contract #88-30D**, an Amendment to the Agreement/Lease with Klak Tempe, LLC, a Delaware limited liability company, for operation and maintenance of the Rio Salado Golf Course to amend the schedule of payments.

DOCUMENT NAME: [20090507cdnr01.pdf](#) **INDIAN BEND WASH GOLF COURSE (0703-04)**

36. Approved RESOLUTION NO. 2009.25 amending the City Code Appendix A - Schedule of Fees and Charges for Chapter 19, Motor Vehicles and Traffic, by establishing fees for the Traffic Barricade Program.

DOCUMENT NAME: [20090507pwss02.pdf](#) **MISCELLANEOUS FEES (0210-05)**

6. PUBLIC APPEARANCES

UNSCHEDULED PUBLIC APPEARANCES

Steve Sklair, Tempe. He just noted in the Tempe edition of the newspaper at 5:30 p.m. that the City has decided to raise the City portion of the property taxes on the primary rate. This is rubber-stamped every year for the maximum that the State law allows. Maricopa County lists Tempe as the 8th highest primary tax rate out of 25 incorporated cities and towns, and the 4th highest overall including the primary and secondary tax rate. With the voter-approved City bonds and school bond increases, we will soon be taxed into obscurity. The Council's spending has already caused a budget crisis and now Council expects the citizens to give up their hard-earned dollars to cover the incompetence already demonstrated by that excess in spending. When will this end? Why not make budget cuts in services and expenditures? Why should we constantly have to pay higher taxes? We were told last November that the City bonds would create no new taxes. It has created new taxes. Our City government is not being honest. He implored this Council and Mayor to not raise taxes again this year. Last year the budget did not require the full 2%, but it was approved anyway. This year, have some compassion on the Tempe citizens and say enough is enough.

Mayor Hallman clarified that Council is not increasing the taxes by this, but Council will only know what the total tax levy is when it sets the rate. This merely says that of the total amount of tax that will be collected, the maximum amount will be placed on primary property tax. Primary property tax can be used to pay for the general budget, including police and fire services, and secondary can only be used to repay bonds. Until we set the rate, we cannot actually say whether we have increased or reduced taxes. The maximum primary property tax we could set would be 49 cents, and we could reduce the secondary property tax so that the tax bill would actually go down. The primary is merely maximizing the amount we can spend on anything rather than just on paying bonds.

Mr. Sklair stated that the primary is the basis of a citizen's entire tax bill. It covers about 66% that the assessor approves on the valuation. Because of that, you will see an increase in taxes if the primary rate is increased.

Mayor Hallman clarified that Mr. Sklair's view is that Council has now locked itself into the total rate. The reality is that the rate is currently \$1.40. Council could reduce that rate to \$1.35 and still have maximized the primary levy.

Mr. Sklair agreed.

Mayor Hallman clarified that we can't tell tonight whether or not we are increasing or decreasing taxes and it is only the peculiarities of how the primary and secondary levies are set that we have to hold this Truth in Taxation notice. Mr. Sklair is only arguing about whether or not we should reduce our property taxes. Tonight's vote was not about that. We will vote on June 11th to set the rate.

7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

- Vice Mayor Ellis announced that her mother was born on May 12, 1929, in Phoenix, and she will be 80 years old.
- Councilmember Arredondo congratulated the Fire and Police Departments and Care 7 for an excellent job. He also congratulated Mark Richwine and Travis Dray for bringing the high school state playoffs to Tempe Diablo Stadium. He also commended the Tempe Chamber of Commerce and all of those involved for their great job in putting together the discussion on how to serve the schools and students better.

- Councilmember Navarro recognized the passing of Juan Flores, a 25-year groundskeeper for the City.
- Councilmember Woods congratulated former councilmember Barb Carter for receiving the Pied Piper Award from Childsplay.
- Councilmember Shekerjian noted that on May 11, 1979, she married her husband and they will be celebrating their 30th wedding anniversary. She added that www.tempe.gov, under "Hot Topics" has a listing for "Job Hunting Help." This site provides resources for job hunting and is an incredible page. She thanked staff for their efforts.
- Mayor Hallman thanked Catherine Mayorga of the Tempe Chamber of Commerce for her time this week and her help with the meeting

Meeting adjourned at 8:10 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 May 7, 2009, by the Tempe City Council, Tempe, Arizona.

Hugh Hallman, Mayor

ATTEST:

Jan Hort, City Clerk

Dated this _____ day of _____, 2009.