



## Minutes City Council Issue Review Session August 2, 2007

Minutes of the Tempe City Council Issue Review Session held on Thursday, August 2, 2007, 6:00 p.m., in the City Council Chambers, Tempe City Hall, 31 E. Fifth Street, Tempe, Arizona.

### COUNCIL PRESENT:

Mayor Hugh Hallman

Vice Mayor Hut Hutson

Councilmember P. Ben Arredondo

Councilmember Barbara J. Carter

Councilmember Shana Ellis

Councilmember Mark W. Mitchell

Councilmember Onnie Shekerjian

*Mayor Hallman called the meeting to order at 6:20 p.m.*

### Call to the Audience

**Mary Anne Doty, Tempe, re: Item #4, representing Junior Achievement of Arizona.** Junior Achievement is seeking a Gila River Indian Gaming Grant. Junior Achievement currently serves more than 4,000 students in the City of Tempe, of which 600 are part of the program. The organization is going "green" with an environmentally-friendly facility which begins construction in March.

**Kate Glenn, Phoenix, Assistant Principal/Registrar at Tempe High School, re: Item #4.** She has been part of the exploration and implementation committee at Tempe High School for the International Baccalaureate Program. The committee is excited to bring the International Baccalaureate Program to Tempe High. Bringing this program to Tempe will make great things happen with the quality of life and economic development of the downtown area. She brought a letter of support from the Tempe Elementary School District (TD3). The district is looking forward to the program coming to the Tempe Union High School District and is considering developing a program. Coordination and cooperation between the districts has already been established. When completed, the TD3 program will provide a complete academic program from kindergarten through twelfth grade. She encouraged Council to favorably consider their application for a Gila River Indian Gaming Grant.

**Scott Greenhelgh, Mesa, re: Item #4, speaking for Kim Saad, teacher at McClintock High School.** He read a letter from Ms. Saad in support of the International Baccalaureate Program and citing the

importance of the program to prepare youth to be responsible global citizens of the twenty-first century.

**Douglas Taysom, Tempe, re: Item #4**, endorsed the International Baccalaureate Program. This is a phenomenal program for our youth.

**Lisa Roach, Tempe, re: Item #3**. She thanked Council for looking into how code violators are handled. The issue of investors who practice demolition by neglect in our neighborhoods needs to be addressed. They hold the land in greater value than the neighborhood and the community and view neighborhoods as a business rather than a community. They have personal property rights, but the homeowners and residents have the same rights. At what point do community members lose those rights to the rights of the investor?

## **Calendar Dates for October Council Meeting and Summit**

Mayor Hallman summarized that there is a desire to change the Council meeting date from October 18<sup>th</sup> to October 25<sup>th</sup>. He further summarized that it will be necessary to set a meeting date for the Council Summit and he suggested Friday, August 24<sup>th</sup>.

Councilmember Arredondo suggested having the Summit before the Council committees resume regular meetings in September.

Councilmember Shekerjian agreed and suggested having an additional Summit when the new City Manager hires.

Mayor Hallman clarified that the first Summit would be to outline the scope of work for the Council Committees and an additional Summit could be scheduled once the new City Manager is on board.

Councilmember Carter suggested the August 24<sup>th</sup> date at the Tempe Center for the Arts.

Mayor Hallman suggested beginning at 11:30 a.m. He further suggested choosing a date for the additional Summit meeting at the IRS meeting on September 6<sup>th</sup>.

## **CONSENSUS**

Staff was directed to:

- a) change Council Meeting date from October 18, 2007, to October 25, 2007;
- b) set Council Summit for August 24, 2007, from 11:30 a.m. to 5:00 p.m. at the Tempe Center for the Arts; and
- c) agendize a discussion for the September 6, 2007, IRS, to set date for a Summit to include new City Manager.

Follow-up Responsibility: Jan Hort

## Prosecution/Adjudication Recommendations for Repeat Property Violation Offenders

INFORMATIONAL BACKGROUND available in City Clerk's Office.

DISCUSSION – Presenter: City Attorney Andrew Ching

Andrew Ching summarized that Council had directed staff to address properties that repeatedly fall out of compliance with various property-related codes. These properties are the exceptions rather than the rules, but they have a disproportionate impact. The underlying reasons for properties to remain in noncompliance can vary, from willfulness to financial consideration, to mental or physical health issues. Staff desired to provide a broad range of options that could be considered for Council direction:

- City Code Nuisance Abatement
- Coordinated response
- Escalation of enforcement response
- Collateral criminal enforcement
- Legislative changes

Mr. Ching continued that abatement is an effective tool, however, when those properties are cleaned and within a matter of days they fall back into noncompliance, it is frustrating. Staff has decided that when asking for abatement, the code enforcement group can ask for a rolling period of not more than 90 days so that if the property falls out of compliance during that time, they have that existing period of authorization that would allow them to go out, clean the property, and assess the property for the cost.

Councilmember Mitchell asked whether there is a possibility for shortening the time frame.

Mr. Ching responded that the 90 days is for properties that have already shown that they will not be cleaned voluntarily so that the City can clean the property. In terms of a specific recommendation for shortening the time period for compliance, he is concerned that it would bring them into court earlier. Experience has proven that these properties fall into disrepair so habitually that it isn't an issue of a short or long period of time. They just aren't going to do it.

Mayor Hallman clarified that it is important to continue to use that process, but rather than specify the date on which it will be cleaned up, we will have the opportunity to say that if it gets messed up again any time during the 90-day period, we can step back in without having to start the process again from zero.

Mr. Ching clarified that staff feels that was already permissible.

Vice Mayor Hutson asked if the violator violates within 80 days, for example, does it re-start or is his 90 days up in 10 more days?

Mr. Ching responded that it may be a matter of an additional condition with the abatement request. We simply say that the 90 days is interpreted to mean that it can be extended during that time if it's the pleasure of the

Board of Adjustment to allow that kind of condition. He didn't think there is a legal barrier for that.

Concerning coordinated response, in situations where it becomes a critical concern of the neighbors and staff to have a point of contact to coordinate all the different departments with a hand in potentially solving the problem, we need to have someone to get the word out and coordinate a response among the departments.

Mayor Hallman asked where staff was in that process.

Mr. Ching responded that staff would follow Council's direction on that.

Councilmember Shekerjian asked how staff would determine who would actually be the point of contact for a particular situation.

Mr. Ching responded that if it's more of a police issue than it is a code enforcement issue, then police could take the lead. The other approach would be when it reaches the point where there is enough of that type of discussion, the Neighborhood Services Division could step in as the point of contact.

Councilmember Sherkerjian asked if it would be the City Manager who would make that determination.

Mayor Hallman responded that if Council designates the housing group as the point of contact to pull the team together, the team then decides who has the biggest issue and who is going to be in charge of this situation. He would ask staff to determine that and return to Council with a recommendation.

Councilmember Shekerjian commended Mr. Ching for his efforts on this issue. In his document, he noted that 92% of all owners who are contacted regarding a violation take care of the problem. That speaks well of the community. She asked for the actual definition and parameters for a repeat violator.

Mr. Ching responded that of the 8% who do not take care of the problem, this document is directed at even a small part of that 8%. In the last year, there were a total of 881 filings for this type of property code violation. Of those, a total of 5 took the criminal track. Staff feels that the civil citation route is inappropriate, either because of the seriousness of the violation or because they have already received violations.

Councilmember Shekerjian stated that she would like to see something that specifies that at a particular point they are considered to be a habitual offender so that a resident can look at the process and know at what point the acceleration kicks in. This needs to be very clear and not left up to interpretation.

Mayor Hallman clarified that a matrix showing when that system will kick in would be helpful.

Mr. Ching added that in the 1990's in the revisions to the nuisance code, a definition of "habitual offender" was added which said that if someone received three or more citations or they were adjudicated responsible in three or more civil citations within a 24-month period, they were considered a "habitual offender" and then the City could file criminal charges. That was abandoned. Now we have the election at the beginning to go either criminal or civil. While we went away from a hard and fast definition, it gave the code enforcement group the

opportunity to say it didn't matter how many citations someone has, the significance of what is occurring on this property is such that an earlier escalated response is preferred.

Mayor Hallman asked if it would make sense to have the flexibility to go civil or criminal, but at some point it goes criminal. That's where this "habitual offender" definition should get pulled back into the code. It puts people on notice that we have a right to go either way.

Councilmember Shekerjian added that flexibility is important. When residents are in a position where their neighbors are destroying the neighborhood, they are sensitive if there is a medical reason or if social services need to be rendered. Having the flexibility to take that into consideration is an important piece, but at some point, people need to know they aren't going to have to deal with the City anymore. There was a problem house recently, and she was impressed by the effort on behalf of the City. The care and concern each department took in trying to resolve that issue was incredible. What can Council do to provide staff with the tools to cut back on the effort necessary to resolve an issue on a particular property?

Councilmember Mitchell asked if the enforcement goes with the property owner.

Mr. Ching responded that it goes with the property owner. The rental housing code has provisions for both. When there is a lien, it goes against the property.

Concerning escalation of enforcement response, Mr. Ching summarized that the idea to bring back the habitual offender definition would highlight some of the options that exist if we were to file a criminal complaint rather than a civil citation, specifically probationary terms with respect to a rolling timeframe for abatement. There would also be some additional penalties and the City could step in and deal with the issue immediately.

Concerning collateral criminal enforcement, Mr. Ching noted that sometimes the mess we see is the tip of the iceberg. There are situations involving asset forfeiture, such as when drugs are involved, and that's why a coordinated response is necessary. Sometimes homes are used for criminal uses and State statutes can provide additional tools to respond with notice of the property and appropriate action to remove and abate the criminal activity which was the underlying reason for the nuisance activity.

Concerning legislative changes, Mr. Ching stated that the City always has the right, subject to the limitations in State law, to eventually act to enforce a lien and demand payment, potentially through a foreclosure action. It is extreme. It could happen, although the City has never gone that route. Typically, when the City gets repaid for its liens, it is upon the sale of the property. That is an option. If that is something that would be explored, it would have to have a legislative change to accelerate it. Timing is important. Right now the property owner has ten years to pay it off and until that payment occurs, the City could begin looking at foreclosure options as another potential hammer for people who don't want to lose their house.

Councilmember Shekerjian asked for some sort of evaluation tool so that all who are involved in this process have the opportunity to evaluate, possibly on an annual basis, so that we can revise our methods and see what works best.

Mayor Hallman asked staff to outline a time line that triggers a coordinated team effort to provide clearer and

harsher direction and action for a habitual offender. What are the statutory and code timelines for notice of an offense? The timeline should show the maximum and minimum length of the process. In addition, the Rental Housing Task Force was created to enhance the rental housing code, which is part of this issue. The code is well-defined, but the task force made some additional recommendations and Council hasn't seen an outline of the right steps to implement those additional recommendations. That should come back to Council, as well. He suggested the second meeting in September.

Councilmember Shekerjian further suggested that there should be some "cross-walking" between this and what the rental housing task force has recommended. Our expectations are the same for renter or owner in terms of how the place is cared for.

Mayor Hallman added that in terms of investor properties, they are rentals by definition. That's why the Rental Housing Task Force, in particular, applies to what Ms. Roach said earlier. On specific issues regarding enforcement of repeat violators, they can apply to both owners and renters. In a rental property circumstance, do these things apply to the property or to the occupant? Further clarification on that is necessary. If the citation is personal rather than to the property, once that tenant is gone, we still have a property that needs help. We need to make sure we have a clear understanding about when these provisions apply to the property. He believes they all apply to the properties.

Councilmember Shekerjian clarified that she was just asking for consistency.

Mr. Ching added that the Rental Housing Code gives us the ability to look at interior violations and inhabitability issues with respect to renting and that's an additional tool.

Councilmember Carter stated that several months ago, Council was given pictures of the interior of a rental home. None of these seems to relate to anything on the interior. Do we have any right to enforce anything that goes on in the interior?

Mr. Ching responded that, with respect to a rental, if something occurs on the inside of the house, the Rental Housing Code has specific interior rights.

Mayor Hallman added that with owner/occupied property, as long as the resident doesn't make a nuisance, they can do just about anything they want to the inside of their house. Can a third party make a complaint about the interior of the rental if the tenant doesn't?

Mr. Ching responded that it doesn't happen often, but he will report back to Council on that.

#### **CONSENSUS**

**Staff was directed to return to Council at the September 20, 2007, IRS with:**

- a) draft of suggested "habitual offender" definition for the City Code;**
- b) matrix of the time line of the process; and**
- c) further clarification on application to property/owner.**

**Follow-up Responsibility: Andrew Ching**

## **Gila River Indian Gaming Grants**

INFORMATIONAL BACKGROUND available in City Clerk's Office.

DISCUSSION – Community Relations Manager Shelley Hearn; Government Relations Director Amber Wakeman

Mayor Hallman summarized that staff has ranked six City proposals and six third-party proposals for project money. He asked if the list could be separated into the two categories so that City proposals aren't ranked against the third party proposals.

Ms. Hearn agreed that could be done.

Councilmember Arredondo asked that capital improvement projects be designated as well. He thought this was to be for enhancement of on-going programs and not for building of facilities.

Mayor Hallman added that the various Native American communities handle this differently from one to another, and he didn't recall the Gila River Indian Community process since he hasn't seen one of their lists of all of their funded projects. Certainly some of the communities have been capital-intensive.

Councilmember Arredondo added that if we are going use two systems, then they should not be numbered. Allow them to choose and if they have any further questions, they can ask.

Mayor Hallman added that he recalled that the Gila River Indian Community specifically asked us to rank them and that's why staff did that. For those that have not asked us for ranking, we have submitted all of them.

Amber Wakeman responded that staff could separate them in any way Council would like.

Mayor Hallman clarified that to prevent the City projects from competing against the third party projects, the the third-party rankings would be #4, #5, #7, #8, #10, and #11. These are just staff recommendations and Council needs to determine the priorities. He asked for any changes.

Councilmember Arredondo stated that he didn't think it was necessary to change the rankings, because the services projects will no doubt be considered first. He suggested using a footnote to designate the capital projects.

Mayor Hallman agreed.

Vice Mayor Hutson agreed to break it down into City and third party proposals and he supported the priority as given. The Gila River Indian Community will do what they want anyway.

Councilmember Shekerjian added that she is grateful to the Gila River Indian Community for giving the

community the opportunity to ask for grant funds to benefit the community as a whole.

Councilmember Carter expressed her appreciation to the staff members who looked at the grant applications and provided the ranking.

Ms. Wakeman acknowledged the staff members who served on the team: Debbie Bair, Brenda Buren, Shauna Warner, Ken Jones, Carlos de Leon, and Lisa Collins.

#### **CONSENSUS**

Staff was directed to:

- a) Maintain ranking recommended by staff.
- b) Add footnote designating capital projects.
- c) Show breakdown between City projects and third party projects.

Follow-up Responsibility: Shelley Hearn

### **Maryanne Corder Neighborhood Grant Program Funding Recommendations**

INFORMATIONAL BACKGROUND available in City Clerk's Office.

DISCUSSION - Community Relations Manager Shelley Hearn; Neighborhood Services Director Shauna Warner

Mayor Hallman summarized that this program has \$225K for neighborhood grants and staff has taken a long list of requests totaling \$310K and narrowed it to \$224,937 in requests.

Councilmember Arredondo added that he has been assured that everyone's needs that have qualified have been met.

Vice Mayor Hutson commended staff for their hard work.

#### **CONSENSUS**

Acceptable as presented.

Follow-up Responsibility: Shauna Warner

### **Rock 'n' Roll Marathon Benefits**

INFORMATIONAL BACKGROUND available in City Clerk's Office.

DISCUSSION – Community Relations Manager Shelley Hearn; Bruce Skinner, Elite Racing

Bruce Skinner, Tempe, representing Elite Racing, summarized that this will be the fifth P.F. Chang's Rock 'N' Roll Arizona Marathon and Half Marathon and he commended the City of Tempe for their leadership. An economic impact study was recently completed and it shows:

- Last year, 37,000 people participated in the race.



- 59.3% of those people came from out-of-state.
- 6,384 of those people, plus spectators, stayed in Tempe.
- The event generated a total of \$44M in economic impact, with \$10.2M to Tempe.

Mr. Skinner continued that one of the reasons the race was set up was to generate economic impact and they are pleased that the race has done that. A significant part of the race is the benefit to many charities. Last year they worked with three Tempe charities, and there will be at least four charities as part of Team Tempe this year. This means that Tempe will have more charities benefiting from the race than any other city.

Mayor Hallman added that Team Tempe is launching an effort to drive additional participation from Tempe charities into the marathon to use it as an opportunity to raise funds for their charities. The four charities participating in Team Tempe are:

- The Centers for Habilitation/TCH [www.tch-az.com](http://www.tch-az.com)
- Tempe Family YMCA [www.tempeymca.org](http://www.tempeymca.org)
- Tempe Community Foundation [www.tempecommunityfoundation.org](http://www.tempecommunityfoundation.org)
- Association for Supportive Childcare [www.asccaz.org](http://www.asccaz.org)

Shelley Hearn explained that participants can register through the Team Tempe website [www.tempe.gov/tcc](http://www.tempe.gov/tcc) and designate one of the four charities. Participants may also register directly for their preferred charity through the websites listed above. Tempe will receive a direct benefit of \$5 per registration. Each participant will benefit from being part of Team Tempe and anything the City does to promote the race, will benefit the participant as well, i.e. t-shirts, drawings, etc. Money generated by Tempe Community Foundation will be directed to the local charities that support the human services in Tempe.

Mayor Hallman explained that many years ago, the Tempe Community Council (TCC) established an organization that created a foundation specifically to support the charities supported by the TCC. The foundation has agreed to be the conduit to supply the cohesive services to provide these groups with an easy means to raise funds.

Mayor Hallman stated that he participated in the race two years ago and an experimental Team Tempe was formed at that time with the team raising money for the Leukemia/Lymphoma Society in honor of a former City employee. That team raised about \$40K. Last year, they didn't formalize that process and they should have. He has agreed to run the half marathon this time as part of Team Tempe and every employee is invited to be part of the team. This is a great experience and it is life changing. The race will be January 13, 2008, on his 46<sup>th</sup> birthday, and he invited other charities, as well, to participate in this program and to contact Ms. Hearn or Mr. Skinner. This is an excellent opportunity for all charitable organizations to make better use of the Rock 'n' Roll Marathon. The marathon speaks volumes for the leadership of staff, Tempe Convention and Visitors Bureau, and Council. This is a great example of what Tempe is all about.

Councilmember Carter added that when this program was brought to Council by Mr. Murphy five years ago, she was concerned how many dollars would stay in Tempe for Tempe charities. This is exactly what she had in mind.

Councilmember Arredondo stated that Mr. Skinner “walks his talk” because the non-profits he has affected didn’t necessarily have to be housed in Tempe. This has gotten better and better and he thanked Mr. Skinner. Many have benefited.

Mayor Hallman added that last year almost \$6M was raised for charities. They don’t count the Leukemia/Lymphoma Society as a Tempe charity, but last year the marathon raised nearly \$775K for that charity.

Ms. Hearn added that all Tempe charities were invited. So far, these are the ones that have stepped forward to participate.

Councilmember Shekerjian added that she is going to try to walk the half marathon, and would invite others who would consider walking to train as a group.

Mr. Skinner added that many people think this race is for serious runners only. There are approximately 8,000 people who walk the event, so it is for everyone.

Mayor Hallman added that he is seriously considering carrying logos on his back for an appropriately large contribution to Team Tempe.

Ms. Hearn added that Team Tempe is offering a training program and it is an opportunity to network and become part of the team.

#### **NO CONSENSUS – INFORMATION ONLY**

### **Town Lake Boat Permit Fees**

INFORMATIONAL BACKGROUND available in City Clerk’s Office.

Mayor Hallman summarized staff recommendations.

#### **CONSENSUS**

**Acceptable as presented.**

### **Tempe Center for the Arts Opening Schedule**

INFORMATIONAL BACKGROUND available in City Clerk’s Office.

#### **DISCUSSION – Community Services Manager Tom Canasi**

Tom Canasi summarized the events for the grand opening of the Tempe Center for the Arts. The Tempe Center for the Arts is located on the southwest corner of the Town Lake. The Grand Opening weekend will be

September 7, 8 and 9.

- Friday, September 7<sup>th</sup>, Opening Reception – for individuals, community groups, organizations, and arts partners who have been involved making this a reality over the past five to ten years. The event will begin at 6 p.m.
- Saturday, September 8<sup>th</sup>, Gala Reception – as a fundraiser for the newly formed Friends of the Tempe Center for the Arts. The dollars raised will go back into supporting arts organizations in Tempe. This will be a ticketed event with Natalie Cole as featured performer. The event will begin at 5:15 p.m.
- Sunday, September 9<sup>th</sup>, Community Celebration – free and open to the community from 12 noon until 5:00 p.m. There will be free food, activities and free performances by the arts partner organizations.

Expenses for both the Opening Reception and the Gala Reception are underwritten by the Friends of the Tempe Center for the Arts and the Rio Salado Foundation. At the completion of the grand opening weekend, staff will immediately begin operations of the full schedule.

Councilmember Carter thanked Mr. Canasi and his staff for all of their hard work, as well as the Mayor and the Rio Salado Foundation. She encouraged everyone to join the Friends of the Tempe Center for the Arts which has a mission of helping to fund programs for the Arts Center.

#### **NO CONSENSUS – INFORMATION ONLY**

### **Formal Council Agenda Items**

No agenda items were discussed.

### **Future Agenda Items**

Councilmember Shekerjian asked for an update of the wireless internet service.

### **Mayor's Announcements/Manager's Announcements**

None.

*Meeting adjourned at 7:35 p.m.*

---

Jan Hort  
City Clerk