



Minutes Formal City Council Meeting May 20, 2010

Minutes of the Formal Council Meeting of Thursday, May 20, 2010, 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
Councilmember P Ben Arredondo
Councilmember Joel Navarro
Councilmember Corey D. Woods

Vice Mayor Shana Ellis
Councilmember Mark W. Mitchell
Councilmember Onnie Shekerjian

Mayor Hallman called the meeting to order.

1. Councilmember Mitchell gave the invocation.
2. Mayor Hallman led the audience in the **Pledge of Allegiance**.
3. **MINUTES**

A. Approval of Council Meeting Minutes

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

1. [Council Formal Meeting - May 6, 2010](#)
2. [Council Issue Review Session - May 6, 2010](#)
3. Council Executive Session - May 6, 2010
4. [Council Calendar Meeting - May 6, 2010](#)
5. [Council Special Meeting - May 6, 2010](#)
6. [Council Housing Committee - March 23, April 9 & 20, 2010](#)
7. [Council Quality of Life - November 19, 2009](#)
8. [Mill and Lake District Committee - December 10, 2009](#)
9. [Council Transportation Committee - May 4, 2010](#)

B. Acceptance of Board & Commission Meeting Minutes

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

1. [Multi-modal Planning & Project Review Transportation Commission Subcommittee - January 13 & February 10, 2010](#)
2. [Accountability and Governance Transportation Commission Subcommittee - January 27](#)

3. [& March 22, 2010](#)
4. [Library Advisory Board - February 1 & April 5, 2010](#)
5. [Mayor's Youth Advisory Commission - February 16 & April 20, 2010](#)
6. [Ad Hoc Transit Fund Committee - February 25 & March 25, 2010](#)
7. [Tempe Police Public Safety Personnel Retirement Board - March 4, 2010](#)
8. [Tempe Police Public Safety Personnel Retirement Board Executive Session - March 4, 2010](#)
9. [Transportation Commission - March 9, 2010](#)
10. [Tempe Aviation Commission - March 9, 2010](#)
11. [Board of Adjustment - March 24, 2010](#)
12. [Public Involvement/Marketing Transportation Commission Subcommittee - April 5, 2010](#)
13. [Neighborhood Advisory Commission - April 7, 2010](#)
14. [Housing Trust Fund Advisory Board - April 12, 2010](#)
15. [Development Review Commission - April 13, 2010](#)
16. [Hearing Officer - April 20, 2010](#)
17. [Special Events Task Force - May 4, 2010](#)
18. [Committee for Youth, Families and Community - April 13, 2010](#)
19. [Municipal Arts Commission - April 14, 2010](#)

4. REPORTS AND ANNOUNCEMENTS

A. Mayor's Announcements

1. **Arizona Spelling Bee Champion Anjali Nair**
Mayor Hallman invited Anjali Nair to the podium and stated that Anjali is an eighth-grade student at Tempe's McKemy Middle School, who recently won the Arizona Spelling Bee. Her winning word was regurgitant, which means throwing or flowing back.

In two weeks, Anjali will be representing Arizona at the 83rd Annual Scripps National Spelling Bee in Washington D.C. Anjali's family and McKemy Principal Ardie Sturdivant were also invited to join the Mayor and Ms. Nail at the podium to commemorate her success.
2. **East Valley Institute of Technology (EVIT) Presentation for Councilmember Arredondo**
Mayor Hallman invited Dr. Sally Downey, Superintendent of the East Valley Institute of Technology, to assist in presenting Councilmember Ben Arredondo with the Arizona School Public Relations Association's Multicultural Award.

Dr. Downey stated that Councilmember Arredondo has been a phenomenal asset to EVIT. Mr. Arredondo has bridged multi-cultural differences and has formed relationships with many students. Dr. Downey then presented Councilmember Arredondo with an award of recognition for his contributions to the community.
3. **Water Safety Awareness Month**
Mayor Hallman stated that with the temperatures rising, the time has come to take a refreshing dip in the pool, be it in a backyard, a Tempe park or a local resort. But with

aquatic recreation comes danger for children. Too often we hear heartbreaking news reports of a child drowning. The guardian had been distracted for a moment – and, tragically, a moment is all it takes.

That is why June is Water Safety Awareness Month. Everyone is encouraged to take all the precautions they can when children are around water. Interim Fire Chief, Chief Simmons, was then asked to join Mayor Hallman in reading a proclamation.

4. Tempe Spirit Proclamation – this item was removed from the agenda.

B. Manager's Announcements

5. AGENDA

All items in these minutes identified with an asterisk (*) **are public hearing items**. All items listed on the agenda are approved with one council action. Items scheduled for Introduction/First Public Hearing will be heard but not adopted at this meeting. Items scheduled for Second Public Hearing/Final Adoption will be voted upon at this meeting.

Mayor Hallman announced consideration of the **AGENDA**.

Motion by Councilmember Woods to approve the Agenda (Agenda Items 5A8, 5B1, 5B2, 5B3, 5B12, 5D1, 5D2, 5E5, 5E6 were removed for separate consideration). Second by Councilmember Arredondo. Motion passed 7-0.

A. Miscellaneous Items

1. [Approved the Report of Claims Paid to be filed for audit for the month of April 2010.](#)

COMMENTS	N/A
DOCUMENT NAME	Claims for April 2010

- *2. [Held a public hearing and recommended the approval of a Series 12 restaurant liquor license for Blazin Wings Inc., dba Buffalo Wild Wings Grill & Bar, 705 South Rural Road #101.](#)

COMMENTS	Winston Gaylon Wells Jr., is the Agent for this application.
DOCUMENT NAME	Buffalo Wild - LIQ LIC (0210-02)

- *3. [Held a public hearing and recommended the approval of a Series 10 beer and wine store liquor license for Walgreen Arizona Drug Co., dba Walgreens #03768, 6404 South McClintock Drive.](#)

COMMENTS	Randy Allen Guse is the Agent for this application.
DOCUMENT NAME	Walgreens– LIQ LIC (0210-02)

- *4. [Held a public hearing and recommended the approval of a Series 10 beer and wine store liquor license for Tumber Inc., dba 7-Eleven #26096E, 5125 South Mill Avenue.](#)

COMMENTS Susheel Singh Tumber is the Agent for this application.
DOCUMENT NAME 7- Eleven– LIQ LIC (0210-02)

- *5. [Held a public hearing and recommended the approval of a Series 12 restaurant liquor license for Tiger Brother Restaurant, Inc., dba Crazy Buffett, 7720 South Priest Drive,](#)

COMMENTS Chun Chi Li is the Agent for this application.
DOCUMENT NAME Crazy Buffett - LIQ LIC (0210-02)

6. [Approved the annual excess insurance renewal program for fiscal year 2010/2011 to include excess property, primary and excess liability, crime, excess workers' compensation, and auto physical damage insurance purchased through the City's risk management consultant/broker, Marsh USA, Inc.](#)

COMMENTS (T05-109-01) Total amount shall not exceed \$1,100,000.
DOCUMENT NAME 20100520fst12 PURCHASING (1004-01)

7. [THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.](#)
[Approved a final subdivision plat for the Alpha Drive Subdivision located at 720 South Rural Road.](#)

COMMENTS Request for ALPHA DRIVE SUBDIVISION (PL090485) (Arizona Board of Regents-Arizona State University, Alpha 601 LLC, Garnet & Gold House Corp., Phi Sigma Kappa Properties, Arizona Alpha House Corp. of the Sigma Phi Epsilon Fraternity, Inc., All Greek Investors LLC, Alpha Sigma Housing Corporation, Inc., The Sigma Chi House Corp. of Epsilon Upsilon, Alumni Control Board Beta Psi Chapter Delta Sigma Phi, and the City of Tempe, owners; Steven Nielsen and Neil Calfee, Arizona State University, applicants) located at 720 South Rural Road in the GID, General Industrial District, the T.O.D., Transportation Overlay District, the MU-Ed, Mixed-Use Educational District and the RSOD, Rio Salado Overlay District, including the following:

SBD10011 – Final Subdivision Plat to create eleven (11) lots and one (1) tract on +/- 18.76 net acres.

The following conditions of approval apply:

1. The Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with

Maricopa County Recorder's Office through the City of Tempe Development Services Department on or before May 20, 2011. Failure to record the plat on or before May 20, 2011, which is one (1) year from date of City Council approval, shall make the approval of the plat null and void.

2. Provide a separate Acknowledgment for the City of Tempe in the subdivision plat documents.
3. Provide a continuous 15.00 ft. wide easement for public use parallel to University Drive. Measure the width of the easement from the University Drive right of way line that is the common southern edge of Lot 10, Lot 8, Lot 9 and Lot 1 to a line that is 15.00 ft. north of the University Drive right of way line.
4. Provide a 45 degree cut-off triangular easement for public use that is adjacent to the northwest corner of Rural Road and University Drive. The east and south legs of the triangular easement measure 30.00 ft. by 30.00 ft. Place the triangular easement on Lot 1. Place the east leg on the Rural Road right of way line. Place the south leg parallel and 15.00 ft. north of the University Drive right of way line so the triangular easement abuts the public easement described in condition 3 above.
5. Amend the Zoning Map for properties that will be privately owned and are within the MU-Ed, Mixed Use-Educational District prior to redevelopment of these properties. The request for Zoning Map Amendment may be undertaken either by the present or future property owner, as outlined in the Intergovernmental Agreement # C2004-156A, dated September 30, 2004. Refer to "Zoning Regulations and Building Codes" in that document.

DOCUMENT NAME 201000520dskko03 PLANNED DEVELOPMENT (0406)

Mayor Hallman stated that there has been a revision to condition of approval #3 to read: "Provide a continuous 15.00 ft. wide NON EXCLUSIVE easement for public use IN A FORM REASONABLY ACCEPTABLE TO BOTH PARTIES parallel to University Drive. Measure the width of the easement from the University Drive right of way line that is the common southern edge of Lot 10, Lot 8, Lot 9 and Lot 1 to a line that is 15.00 ft. north of the University Drive right of way line."

Mayor Hallman asked his colleagues if this verbiage update was acceptable to them in light of the fact that the vote on this agenda item has previously taken place and had been approved. All were in consensus that this was acceptable and with the concurrence with the City Attorney, no additional motion was necessary.

8. [THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.](#)
[Approved the appeal of the April 13, 2010 Development Review Commission decision for Lake Country Village located at 1030 East Baseline Road.](#)

COMMENTS

Appeal of the April 13, 2010 Development Review Commission decision to require submittal of construction documents containing a residential component by April 13, 2015, for the request by **LAKE COUNTRY VILLAGE (PL090467/UPA10004)** (Paul Berkowitz V.P., LCV Property Inc., owner; Paul E. Gilbert, Beus Gilbert PLLC, applicant) for a Use Permit (ZUP10018) to allow residential land use located at 1030 East Baseline Road in the PCC-2, Planned Commercial Center General District as follows:

Condition of Approval No. 12 – Submit construction documents to the Building Safety Division for building permit for a phase of the development that contains a multi-family residential component by April 13, ~~2020~~ **2015**, or the Use Permit approval will expire. Subsequently, an expiration of the building plan check period or expiration of the issued building permit will result in expiration of the Use Permit approval. **bold and underline is as approved by the Development Review Commission.**

An approval of appeal UPA10004 shall cause the condition of approval to read as follows:

12. Submit construction documents to the Building Safety Division for building permit for a phase of the development that contains a multi-family residential component by **April 13, 2020**, or the Use Permit approval will expire. Subsequently, an expiration of the building plan check period or expiration of the issued building permit will result in expiration of the Use Permit approval.

A denial of appeal of UPA10004 shall cause the condition of approval to remain as approved by the Development Review Commission on April 13, 2010, as follows:

12. Submit construction documents to the Building Safety

Division for building permit for a phase of the development that contains a multi-family residential component by **April 13, 2015**, or the Use Permit approval will expire. Subsequently, an expiration of the building plan check period or expiration of the issued building permit will result in expiration of the Use Permit approval.

DOCUMENT NAME 20100520dskko01 PLANNED DEVELOPMENT (0406)

Mayor Hallman was given the approval by the City Attorney to have this agenda item and agenda item 5D1 considered together.

Paul Gilbert, applicant, introduced himself and stated that he is in support of the staff recommendation for these agenda items with a minor word change to Stipulation #9c on Agenda Item 5D2 to read, (and which the staff concurs with):

9c. The City shall complete traffic signal installation after issuance of building permits for final phase of development or sooner **AS DEEMED APPROPRIATE BY THE CITY if signal warrants are met and accepted by the City.** This condition shall become null and void if signal is not warranted and issuance of building permit for final phase of development is not granted by May 20, 2022 (as presented in the 4/13/10 D.R.C. staff summary report) May 20, 2017 (as recommended by the D.R.C.). If this condition becomes null and void, the City shall refund the amount equal to One Hundred Ten Thousand Dollars (\$110,000.00) to the Developer.

Mayor Hallman then stated that the staff recommendation is that the PAD continue through April 13, 2020 and the Commission recommendation is 2015. Mayor Hallman asked Mr. Gilbert why the Council should grant 10 years for a PAD for this project under the view that 5 years ought to be deemed sufficient if someone is going to move forward with a project and if that does not happen, then perhaps this would then need to be revisited by the Council.

Mr. Gilbert responded that his appearance on this agenda item relates to the zoning only. This is not a design review case. The General Plan is a 10 year plan and staff has made the finding that we're in conformance with that plan. There is no reason not to give the developer the time period that is commensurate with the General Plan 2020. If this were a

design review case, they would not ask for this time length. It is a simple zoning case dealing with a piece of property that has a very difficult history. It's a piece of property that needs a boost and that has a residential element that only with this residential element does it make it a true mixed use project. Hence, in conformance with the General Plan. Due to a difficult market, the residential component will be the most challenging part to sell, therefore, the additional time is needed to obtain the money to come forward to do the residential development.

When the developer comes forward with design review, they will carefully and willingly accept a shorter time stipulation. The ten year period is commonly used in the lending industry. They usually have a ten year call period. There are unique challenges with this property in that almost all the leases on the property we have to be renegotiated and terminated. Major remediation before the property can be put in a position will need to be done where it can be developed. There is no question that residential development is the corner stone that makes this new site plan so appealing. The residential portion of this project will not be ready to go within the five year period, which is why the developer was asking for 10 years. Staff supports the 10 year period.

Councilmember Navarro talked about building height and how that relates to the surrounding neighborhood development. This location is crucial to the area and its potential needs to be maximized. Chris Anaradian stated that the action being requested does not preclude the applicant from amending this PAD if it is improved in the future for additional height. Staff is only working with the existing building height request.

Mr. Gilbert noted that if there is an opportunity for more height, he would pursue that action. Twenty five people attended a neighborhood meeting on this development and no one was in opposition of this project.

Councilmember Mitchell asked about the Condition of Approval #4 regarding the site clearing and asked staff to verify that no buildings can be demolished until a plan comes forward. Mr. Anaradian confirmed this condition in which the intent is to avoid the possibility of having fallow property for an extended period of time. Councilmember Mitchell stated that he would like to see an upcoming Issue Review Session discussion on the building demolition process and possibly requiring

developers to pull a building permit before they are allowed to conduct demolition activity. Mayor Hallman stated that incorporating the demolition process into these types of project approvals is helpful so that land is not cleared prematurely and ends up being a fallow property.

Councilmember Arredondo voiced his appreciation of the applicant's desire to develop this property. The 10 years being requested is not unrealistic for this project.

Councilmember Navarro made a motion to approve agenda item 5A8 to appeal the Development Review Commission decision on the Use Permit to require submittal of construction documents containing a residential component by April 13, 2015, thus allowing submittal by April 13, 2020; and approving agenda item 5D1 revising the recommended condition of approval number 2 to allow building permits for the first phase of development be obtained on or before May 20, 2020 and condition of approval number 9(c) stating that the City shall complete traffic signal installation after issuance of building permits for final phase of development or sooner as deemed appropriate by the City, and that the condition would become null and void if issuance of building permits for final phase of development is not granted by May 20, 2022; second by Councilmember Arredondo. Motion passed 7-0.

9. [Approved the appointment of Judge MaryAnne Majestic as Presiding Judge of Tempe Municipal Court. Contract #2010-109.](#)

COMMENTS

Judge Majestic was first appointed as City Judge of the Tempe Municipal Court for a two-year term in 1994. She was subsequently reappointed in 1996, 1998, 2000, 2002, 2004, 2006 and 2008.

DOCUMENT NAME

20100520caef01 COURT ADMINISTRATION (0501-02)

10. [Set a public hearing date of June 10, 2010 for the Downtown Tempe Enhanced Services District assessments for fiscal year 2010/2011.](#)

COMMENTS

Each year the City Council authorizes an assessment on downtown Tempe property owners. The Assessment partially funds the DTC operation for the upcoming fiscal year. The attached notice announces the public hearing when the assessments will be reviewed and acted on.

DOCUMENT NAME

20100520cdcm02 DOWNTOWN TEMPE ENHANCED

SERVICES DISTRICT (0805-03)

B. Award of Bids/Contracts

1. THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.
Approved a one-year renewal of a contract with Medco Health Solutions for the management of pharmacy benefits for current and retired City employees and their dependents.

COMMENTS (T08-124-01) Total cost of this contract will not exceed \$3,500,000 during the one-year contract period beginning July 1, 2010.

DOCUMENT NAME 20100520fsta01 PURCHASES (1004-01)

Councilmember Shekerjian removed this item for separate consideration because of its significant dollar amount and asked staff to explain what this money will be spent on and where those funds are coming from. Renie Broderick stated that this contract is for pharmacy benefits for current and retired employees and their dependents. It impacts approximately 4,500 lives. This represents approximately 15% of annual medical benefit costs and is funded through a combination of premiums that are paid by the City, employees and retirees.

Councilmember Shekerjian made a motion to approve agenda item 5B1; second by Councilmember Woods. Motion passed 7-0.

2. THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.
Approved a one-year renewal of a contract with CIGNA Dental Health Inc. for a dental preferred health maintenance organization plan (DHMO) for eligible City employees and their dependents.

COMMENTS (T09-058-02) Total cost of this contract will not exceed \$75,000 during the one-year contract period beginning July 1, 2010.

DOCUMENT NAME 20100520fsta04 PURCHASES (1004-01)

Mayor Hallman declared a conflict on this agenda item and deferred to Vice-Mayor Ellis to proceed with her colleagues on taking action.

Councilmember Woods made a motion to approve agenda item 5B2; second by Councilmember Navarro. Motion passed 6-0 with Mayor Hallman abstaining.

Councilmember Arredondo thanked management for meeting with employees to get their feedback regarding the Wellness contract.

3. [THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.](#)
[Approved a one-year renewal of a contract with United Concordia Insurance Company for a dental preferred provider organization plan \(DPPO\) for eligible City employees and their dependents.](#)

COMMENTS (T09-058-01) Total cost of this contract will not exceed \$1,300,000 during the one-year contract period beginning July 1, 2010.

DOCUMENT NAME 20100520fsta03 PURCHASES (1004-01)

Councilmember Shekerjian removed this item for separate consideration because of its significant dollar amount and asked staff to explain what this money will be spent on and where those funds are coming from. Renie Broderick stated that this is the City's fully insured dental plan that covers active city employees and dependents. Funding comes from a combination of premiums paid by the employee and funds from the City's health fund. A majority of employees are in this dental plan.

Councilmember Shekerjian made a motion to approve agenda item 5B3; second by Councilmember Navarro. Motion passed 7-0.

4. [Approved a one-year renewal of a contract with Brooks Brothers Utility Contractors for street light maintenance, street light installation and structural pole replacement utilized by the Public Works Department.](#)

COMMENTS (T08-109-01) Total cost of this contract will not exceed \$471,000 during the one-year contract period.

DOCUMENT NAME 20100520fsta07 PURCHASES (1004-01)

5. [Approved a one year renewal of a contract with Siemens Water Technologies Corporation for the purchase of odor control chemicals for the Water Utilities Department.](#)

COMMENTS (WUD08-154-03) Total contract amount shall not exceed \$200,000 for the one year renewal term.

DOCUMENT NAME 20100520fst14 PURCHASES (1004-001)

6. [Approved a one-year renewal of contracts with Andwin Scientific, Idexx Distribution, Inc., Thermo Fisher Scientific, LLC., and VWR International, LLC. for the purchase of](#)

laboratory supplies for the Water Utilities Department.

COMMENTS (WUD08-105-01, 02, 03 and 04) Total cost of these contracts shall not exceed \$225,000 for the one year renewal term.
DOCUMENT NAME 20100520fst15 PURCHASES (1004-01)

7. Approved a one year renewal of a contract with Mission Linen Supply for uniform rental and laundry delivery service for use by the Public Works Department and Water Utilities Department.

COMMENTS (T07-111-01) Total contract amount shall not exceed \$55,000 for the one-year renewal period.
DOCUMENT NAME 20100520fslg05 PURCHASES (1004-01)

8. Approved a one-year renewal of contracts with Basic Chemicals, LLC, Brenntag Pacific, Inc. and Hill Brothers Chemical Company for the purchase of water and wastewater treatment chemicals for the Water Utilities Department.

COMMENTS (WUD09-080-01, 02 and 03) Total amount of the contracts shall not exceed \$250,000 for the one year renewal term.
DOCUMENT NAME 20100520fst17 PURCHASES (1004-01)

9. Approved a one-year renewal of a contract with Heinfeld, Meech & Co., P.C. for professional financial statement audit services for the Financial Services Department and other City departments on an as needed basis.

COMMENTS (T08-128-01) Total contract amount shall not exceed \$125,000 for the one year renewal term.
DOCUMENT NAME 20100520fst13 PURCHASES (1004-001)

10. Awarded a one-year **Contract #2010-110** with one, one-year renewal option to American Locker for the supply and installation of coin-operated lockers at Kiwanis Recreation Center for the Parks and Recreation Department.

COMMENTS (RFP #10-069) The total amount of the contract shall not exceed \$90,000 during the initial one-year contract period.
DOCUMENT NAME 20100520fslg06 PURCHASES (1004-01)

11. Awarded a one-year **Contract #2010-111** with four, one-year renewal options to Precision Graphics for the purchase of employee uniforms and miscellaneous clothing items for use by all City departments.

COMMENTS (RFP #10-058) Total cost of this contract shall not exceed \$120,000 during the initial one-year contract period.
DOCUMENT NAME 20100520fslg09 PURCHASES (1004-01)

12. [THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.](#)
[Awarded a one-year **Contract #2010-112** with four, one-year renewal options to IT partners for the purchase of Hewlett Packard enterprise servers and related products, accessories and services that are used by the Information Technology Department to support numerous applications for various City departments.](#)

COMMENTS (RFP #10-132) Total amount not to exceed \$1,500,000 during the initial one-year contract period.

DOCUMENT NAME 20100520fsts10 PURCHASES (1004-01)

Councilmember Shekerjian removed this item for separate consideration because of its significant dollar amount and asked staff to explain what this money will be spent on and where those funds are coming from. Dave Heck stated that this contract is for enterprise-wide computer systems and software. These computer system are generally located in the City's computer center for all departments to utilize. For example, last year there was an expenditure for a new CAD system and water utility billing system hardware and software. These systems are also used as storage equipment. This company has recently relocated their headquarters to the City of Tempe.

Some of these funds come from bond funded projects and remaining funds come out of the operations budget.

Councilmember Shekerjian made a motion to approve agenda item 5B12; second by Councilmember Woods. Motion passed 7-0.

13. [Awarded a five-year limited source **Contract #2010-113** to West, A Thomson Reuters Business \(Westlaw\), for a subscription service providing access to federal and state case law, statutes and citation checking as well as access to secondary materials and regulations to be used by the City Attorney's Office.](#)

COMMENTS (Limited Source 10-153) Total cost of this contract will not exceed \$105,000 during the five-year contract period.

DOCUMENT NAME 20100520fsta11 PURCHASES (1004-01)

14. [Approved the renewal of public defender **Contract #2010-114, Contract #2010-115 & Contract #2010-116**, for a one year period to provide services for indigent defendants in the Tempe Municipal Court.](#)

COMMENTS The total cost of these contracts with overages shall not exceed \$220,000

DOCUMENT NAME COURT ADMINISTRATION (0501-02)

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

- *1. [Introduced and held the first public hearing to adopt an ordinance authorizing the City Manager or his designee to negotiate and enter a lease for approximately 2,904 square feet of space within the Tempe Transportation Center. The second public hearing is scheduled for June 10, 2010.](#)

COMMENTS N/A
DOCUMENT NAME 20100422mmcd01 REAL PROPERTY LEASES (0903)
Ordinance No. 2010.11

- *2. [Introduced and held the first public hearing to adopt an ordinance granting a 3.26 foot wide irrigation easement to the United States of America \(Department of the Interior Bureau of Reclamation\). Said easement to extend generally from 3rd Street and Ash Avenue to 3rd Street and Mill Avenue. The second public hearing is scheduled for June 10, 2010.](#)

COMMENTS This easement was previously granted to Salt River Project in 2005 by Ordinance No. 2005.68 in conjunction with the Light Rail Project. Through this action and the provision of Quit Claim Deeds from the USA to the City of Tempe and other named parties any Federal interest in the Hayden, McKinley – Kirkland Canal in this area will be extinguished.
DOCUMENT NAME 20100520PWWS03 UTILITY EASEMENT GRANTED (0904-02)
Ordinance No. 2010.14

D. Ordinances and Items for Second Hearing/Final Adoption

- *1. [THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.](#)
[Held the second and final public hearing and approved **ORDINANCE NO. 2010.08**, a Planned Area Development Overlay for LAKE COUNTRY VILLAGE located at 1030 East Baseline Road.](#)

COMMENTS Request for LAKE COUNTRY VILLAGE (PL090467) (Paul Berkowitz V.P., LCV Property Inc., owner; Paul E. Gilbert, Beus Gilbert PLLC, applicant) for a redevelopment of the shopping center to include approximately 215,200 sf. of commercial, approximately 728,000 sf. of multi-family residential (430 dwelling units) and approximately 315,000 sf. of office, or 1,258,200 sf. combined building area, not including structured parking. The 25.45 acre site is located at 1030 East Baseline Road and is within the PCC-2, Planned Commercial Center

General District. The request includes the following:

PAD10003 – (Ordinance No. 2010.08) Planned Area Development Overlay to establish development standards for building height, side-yard building setback and vehicle parking quantity.

The following conditions of approval apply:

1. This approval is based on conformance to conceptual drawings and exhibits submitted for the requests for a Planned Area Development Overlay and Use Permit except where amended by the conditions of approval indicated below and by governing Code and Ordinance Standards. The preliminary exhibits, dated 2/22/2010 except where noted, include the following:
 - a. Planned Area Development Title and Legal Description sheets 1 and 2.
 - b. Conceptual Site Plans sheets 3 and 5.
 - c. Aerial Photo of Site, sheet 4.
 - d. Conceptual Landscape Plans sheets 6 and 7.
 - e. Conceptual Site Section, sheet 8.
 - f. Conceptual Ground Floor and Second Floor Layouts, sheets 9 and 10.
 - g. 3D Site Models, sheet 11.
 - h. Reference Images, sheet 12.
 - i. Shared Parking Model: Monday through Friday and Saturday through Sunday, dated (received by C.O.T.) 2/26/2010.
 - j. Traffic Impact Analysis Baseline Road and Lakeshore Drive (revised), dated 3/11/2010.
2. A building permit for the first phase of this development shall be obtained on or before May 20, 2020 (as presented in the 4/13/10 D.R.C. staff summary report) **May 20, 2015 (as recommended by the D.R.C.)**, or the zoning of the property may revert to that in place at the time of application, subject to a public hearing.
3. The property owner(s) shall sign a waiver of rights and remedies form. By signing the form, Owner(s) voluntarily waive(s) any right to claim compensation for diminution in property value under A.R.S. §12-1134 that may now or in the future exist, as a result of the City's approval of this application, including any conditions, stipulations and/or modifications imposed as a condition of approval. The

signed form shall be submitted to the Development Services Department no later than June 21, 2010 or the Planned Area Development Overlay approval shall be null and void.

4. Site clearing:
 - a. Obtain a demolition permit and remove the existing buildings, site and landscape improvements of Lake Country Village after concluding the tenancy in the buildings to the satisfaction of all parties.
 - b. Do not demolish the existing buildings, site and landscape improvements, including landscape in the public right of way, until a building permit for the succeeding development is issued, or until Development Services and Public Works Division waivers for this condition are granted.
 - c. Prior to demolition, coordinate with Public Works Department the salvage of existing fixtures and trees in the right of way.
5. The Planned Area Development for Lake Country Village shall be put into proper engineered format (sample is available from the Planning Division), sealed by an Arizona registered architect or registered professional engineer, fitted with appropriate signature blanks and kept on file with the Community Development Department. Complete this process prior to the issuance of building permits.
6. Maximum height of the building, as measured from the top of curb adjacent to the center of the front-yard of the site, to the highest portion of the roof or parapet of the building shall not exceed 55'-0". Increased height exception is allowed for non-inhabited structures in accordance with ZDC Sec. 4-205 (A), including for roof-top mechanical penthouses, but the height of these structures may not exceed 65'-0". Similarly, architectural appurtenances such as antennae, communications equipment or flagpole may not extend above 65'-0". The height of inhabited open air balconies or roof decks may not exceed the height of the highest inhabited floor level within the building.
7. The minimum side yard building setback along the north property line shall be 0'-0". This setback reduction is established solely to allow the location of the step back plane on the north property line. The north elevations of the building shall be set back minimum 30'-0" from the north

property line.

8. The minimum required quantity of vehicle parking spaces for the building shall be 2,591 spaces for the mix of units as presented. The development shall conform to the following with respect to vehicle parking:
 - a. The residential component includes 430 dwelling units in buildings that are exclusively for residential use. The mix of unit types may be modified at time of Development Plan Review. Minimum parking for each studio, one and two bedroom units as well as minimum residential guest parking per all units (including three bedroom and “townhouse”) shall be as per the ZDC Sec. Table 4-603(E) or 1.0, 1.5, 2.0 and 0.2 spaces, respectively. 2.0 spaces are required per “townhouse” regardless of the amount of bedrooms per “townhouse”. Minimum parking for each three bedroom unit shall be 3.0 spaces.
 - b. The potential of an additional 175 dwelling units above commercial and office portions of the development shall be parked per ZDC Sec. Table 4-603(E). The overall quantity of residential dwelling units may not exceed the maximum allowable density of residential units for the site.
 - c. The commercial and office components shall be a maximum of 215,200 sf. of commercial area composed of retail, service, and indoor and outdoor restaurant and tavern uses, and a maximum of 315,000 sf. of office area composed of general and medical office. The parking standard commercial and office areas shall be 3.25 spaces per 1,000 sf.
 - d. With each succeeding phase of development that modifies the parking standard, submit a Shared Parking Application and Amended Planned Area Development Overlay request to validate the parking quantity for the site with the specific mix of uses for that phase. Incorporate the minimum required and provided parking quantities into the Building Safety Division’s parking file during plan check submittal for each construction phase.
9. Traffic Signal on Baseline Road:
 - a. The Developer shall undertake traffic signal design and installation of signal mast foundations and associated sub-grade infrastructure as part of the first phase of development.

- b. The Developer shall contribute to the City an amount equal to One Hundred Ten Thousand Dollars (\$110,000.00) for future installation of traffic signal masts, lights and associated items. The contribution shall occur prior to issuance of building permits for first phase of development.
 - c. The City shall complete traffic signal installation after issuance of building permits for final phase of development or sooner if signal warrants are met and accepted by the City. This condition shall become null and void if signal is not warranted and issuance of building permit for final phase of development is not granted by May 20, 2022 (as presented in the 4/13/10 D.R.C. staff summary report) **May 20, 2017 (as recommended by the D.R.C.)**. If this condition becomes null and void, the City shall refund the amount equal to One Hundred Ten Thousand Dollars (\$110,000.00) to the Developer.
10. The developer must provide a final Traffic Impact Study prior to any submittal for a building permit.
11. The developer must receive approval of the final Traffic Impact Study from the Transit Studies Division prior to issuance of a building permit.

DOCUMENT NAME 20100520dskko02 PLANNED DEVELOPMENT (0406)
Ordinance No. 2010.08

Mayor Hallman was given the approval by the City Attorney to have this agenda item and agenda item 5A8 considered together. (reference discussion above)

Paul Gilbert, applicant, introduced himself and stated that he is in support of the staff recommendation for these agenda items with a minor word change to Stipulation #9c on Agenda Item 5D2 to read, (and which the staff concurs with):

- 9c. The City shall complete traffic signal installation after issuance of building permits for final phase of development or sooner **AS DEEMED APPROPRIATE BY THE CITY** ~~if signal warrants are met and accepted by the City~~. This condition shall become null and void if signal is not warranted and issuance of building permit for final phase of

development is not granted by May 20, 2022 (as presented in the 4/13/10 D.R.C. staff summary report) May 20, 2017 (as recommended by the D.R.C.). If this condition becomes null and void, the City shall refund the amount equal to One Hundred Ten Thousand Dollars (\$110,000.00) to the Developer.

Councilmember Navarro made a motion to approve agenda item 5A8 to appeal the Development Review Commission decision on the Use Permit to require submittal of construction documents containing a residential component by April 13, 2015, thus allowing submittal by April 13, 2020; and approving agenda item 5D1 revising the recommended condition of approval number 2. to allow building permits for the first phase of development be obtained on or before May 20, 2020 and condition of approval number 9(c) stating that the City shall complete traffic signal installation after issuance of building permits for final phase of development or sooner as deemed appropriate by the City, and that the condition would become null and void if issuance of building permits for final phase of development is not granted by May 20, 2022; second by Councilmember Arredondo. Motion passed 7-0.

*2.

[THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.](#)

[Held the second and final public hearing and approved **ORDINANCE NO. 2010.13** authorizing the acquisition and disposition of certain remnants, slivers and gores of real property owned by the City at various locations.](#)

COMMENTS

City is adopting this ordinance to authorize the conveyance of a remnant parcel to facilitate the re-plat of certain property along Alpha Drive to be known as the Alpha Drive Subdivision, 720 South Rural Road.

DOCUMENT NAME

20100506casv01 REAL PROPERTY ACQUISITION-DISPOSITION (0902-00) Ordinance No. 2010.13

Mayor Hallman pulled this agenda item for separate consideration and noted that he wanted to ensure that the public understands that this agenda item is about setting the opportunity to dispose of property. However, the terms of any disposition is not yet set. This is merely providing the chance for staff to work with University officials in a cooperative fashion with respect for disposition of property; it does not authorize the disposition without further public hearings and Council approval.

Councilmember Woods made a motion to approve agenda item 5D2; second by Councilmember Navarro. Motion passed 7-0.

E. Resolutions

1. [Approved RESOLUTION NO. 2010.48 authorizing the City of Tempe to amend Appendix A - Schedule of Fees and Charges authorized by the City Code relating to Chapter 29, Streets and Sidewalks.](#)

COMMENTS The estimated additional revenue is in the amount of \$200,000.
DOCUMENT NAME 20100520PWWS03 MISCELLANEOUS FEES (0210-05)
Resolution No. 2010.48

2. [Approved RESOLUTION NO. 2010.56 authorizing Tempe Water Utilities to apply for a United States Bureau of Reclamation Water and Energy Efficiency Grant to help fund the City's aquifer recharge project, and to enter into a cooperative agreement with the Bureau if the application is successful.](#)

COMMENTS Federal grant funds in the amount of \$1,000,000 are being requested.
DOCUMENT NAME 20100520wudcb02 WASTEWATER MANAGEMENT
ADMINISTRATION (0812-01) Resolution No. 2010.56

3. [Approved RESOLUTION NO. 2010.57 authorizing the Mayor to execute an intergovernmental agreement, Contract #2010-117, with Maricopa County for Animal Control Services for fiscal years 2011-2013.](#)

COMMENTS Total cost for this contract is estimated to be \$190,051 for fiscal year 2010-2011.
DOCUMENT NAME 20100520dsnw01 ANIMAL CONTROL (0601) Resolution No. 2010.57

4. [Approved RESOLUTION NO. 2010.59 reaffirming the commitment of the City to advancing Mill Avenue streetcar and the Tempe South Corridor Study.](#)

COMMENTS Continue to support advancement of the Mill Avenue streetcar in light of the recent RPTA action to defer regional capital and operating funding for the BRT corridor
DOCUMENT NAME 20100520cdjism01 COMMUNITY
DEVELOPMENT/TRANSPORTATION PLANNING (1101-01)
Resolution No. 2010.59

5. [THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.](#)
[Approved RESOLUTION NO. 2010.62 designating a central business district within the City of Tempe, and modifying Resolution No. 2003.25.](#)

COMMENTS N/A

DOCUMENT NAME 20100520casv01 CENTRAL BUSINESS DISTRICT 0403-05
Resolution No. 2010.62

Councilmember Arredondo removed this item for separate consideration and asked staff to explain this resolution and how it pertains to a state law that takes affect June 1.

Chris Salomone stated that the new law stipulates that the central business districts in cities can be no more than 5% of their land area. For the City of Tempe, that is approximately 2 square miles. Central business districts are established under state criteria. Tempe currently has a central business that comprises 8% of this city. This resolution will bring the central business district into compliance before June 1 in order to retain Tempe's ability to exercise Government Property Lease Excise Tax (GPLET) options.

Councilmember Arredondo asked what areas of Tempe are being affected. Chris Salomone responded that staff took the existing central business district and paired it down to 5% by removing undevelopable parcels or parcels that already have been fully developed. The revised area can be revised as long as the total land mass remains at 5%. For instance, if a streetcar project becomes a reality, then revising the existing central business district would be necessary.

Councilmember Arredondo encouraged staff to bring this item back to Council in a timely manner to illustrate various options on how the land parcels can be rearranged to meet the 5% criteria set by law.

Councilmember Woods made a motion to approve agenda item 5E5; second by Councilmember Shekerjian. Motion passed 7-0.

6. [THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.](#)
[Approved RESOLUTION NO. 2010.63 authorizing the City Manager or his designee to negotiate and execute a Third Modification and Settlement Agreement with GDG Partners, L.L.C., Contract #2006-301C.](#)

COMMENTS N/A
DOCUMENT NAME 20100520casv02 RIO SALADO MASTER PLAN 0112-07-03
Resolution No. 2010.63

Mayor Hallman removed this item for separate consideration in order to note that there has been a language change to the resolution as follows:

1. Title change to: “.....Potential Settlement Agreement With Regard To The Grigio Project....”
2. Paragraph 2 revised to read: “WHEREAS, City desires to authorize the City Manager to discuss the potential for settlement and/or compromise of the remaining obligations under the Payment Agreement and related documents in light of current economic conditions and developer’s pending bankruptcy. “
3. Section 1 revised to read: “That the City Manager or his designee is authorized and directed to negotiate and, after obtaining any requisite approvals and consents, if agreement is reached on all terms the City Manager deems material and if the City Manager determines such agreement to be in the best interests of the City, to enter into a modification and/or settlement agreement regarding the Payment Agreement and other documents related to the Grigio project, all on such terms as the Manager approves provided that the amount to be received by the City is not less than \$4,856,387, of which \$1,836,387 represents deferred sewer and water development fees. The City Manager is further authorized and directed to execute such other documents and take such actions as are necessary to implement the terms of this Resolution.”

Councilmember Woods made a motion to approve the revised resolution for agenda item 5E6; second by Councilmember Navarro. Motion passed 7-0.

7. [Approved RESOLUTION NO. 2010.64 authorizing the issuance and sale of not to exceed \\$45,165,000 principal amount of City of Tempe General Obligation Bonds, Series 2010A, and approving related actions and documents.](#)

COMMENTS

The issuance of the not to exceed \$45,165,000 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 improvement of the 91st Ave Wastewater Treatment Plant, South Tempe Water Treatment Plant and the Johnny G. Martinez Water Treatment Plant, and other improvements. Financing is also provided for the interoperable radio system; police/courts building renovation; library renovation; street and various park improvements.

DOCUMENT NAME

20100520fsjh01 BOND SERVICE ADMINISTRATION (0203-01)

Resolution No. 2010.64

8. [Approved RESOLUTION NO. 2010.49 authorizing amendment no. 5 to the intergovernmental agreement with the Regional Public Transportation Authority \(RPTA\) for purchase of paratransit services in Tempe during fiscal year 2009/2010, Contract #2004-241E.](#)

COMMENTS (Contract C2004-241E) Cost to Tempe is \$512,484.
DOCUMENT NAME 20100520PWGJ01 RPTA (169-32-2010) Resolution No. 2010.49

9. [Approved RESOLUTION NO. 2010.61 authorizing the Mayor to execute a Development Agreement, Contract #2010-118, with Campus Property Owner 922 LLC, with regard to The Vue Apartments located at 922 East Apache Blvd.](#)

COMMENTS The Vue Apartments were constructed a year ago on Apache Blvd just east of Rural Road. The attached Development Agreement would provide for a 12 year GPLET arrangement in exchange for a \$250,000 donation to the City for Historic Preservation.
DOCUMENT NAME 20100520cdcm01 DEVELOPMENT PROJECT (0406) Resolution No. 2010.61

10. [Approved RESOLUTION NO. 2010.66 authorizing the Mayor to execute a Government Property Land and Improvements Lease and Memorandum of Lease for each government property improvement located within the Apache Trails project on the occurrence of specified conditions.](#)

COMMENTS N/A
DOCUMENT NAME 20100520casv04 APACHE TRAILS (0403-05-09) Resolution No. 2010.66

11. [Approved RESOLUTION NO. 2010.67 authorizing the Mayor to execute a Government Property Land and Improvements Lease and Memorandum of Lease for each government property improvement located within the Dorsey Station project on the occurrence of specified conditions.](#)

COMMENTS N/A
DOCUMENT NAME 20100520casv05 DORSEY STATION (0403-05-10) Resolution No. 2010.67

12. [Approved RESOLUTION NO. 2010.68 authorizing the Mayor to execute a Government Property Land and Improvements Lease and Memorandum of Lease for each government property improvement located within the Tempe Dodge project on the occurrence of specified conditions.](#)

COMMENTS N/A
DOCUMENT NAME 20100520casv06 TEMPE DODGE (0403-05-11) Resolution No. 2010.68

13. [Approved RESOLUTION NO. 2010.69 authorizing the Mayor to execute a Government Property Land and Improvements Lease and Memorandum of Lease for each government property improvement located within the South Bank project on the occurrence of specified conditions.](#)

COMMENTS N/A
DOCUMENT NAME 20100520casv07 SOUTH BANK (0403-05-12) Resolution No. 2010.69

14. [Approved RESOLUTION NO. 2010.70 authorizing the Mayor to execute a Government Property Land and Improvements Lease and Memorandum of Lease for each government property improvement located within the Crescent Crown project on the occurrence of specified conditions.](#)

COMMENTS N/A
DOCUMENT NAME 20100520casv07 CRESCENT CROWN (0403-05-13) Resolution No. 2010.70

15. [Approved RESOLUTION NO. 2010.71 authorizing the Mayor to execute a Government Property Land and Improvements Lease and Memorandum of Lease for each government property improvement located within the Sierra Plaza project on the occurrence of specified conditions.](#)

COMMENTS N/A
DOCUMENT NAME 20100520casv09 SIERRA PLAZA (0403-05-14) Resolution No. 2010.71

16. [Approved RESOLUTION NO. 2010.72 authorizing the Mayor to execute a Government Property Land and Improvements Lease and Memorandum of Lease for each government property improvement located within the Twin Palms project on the occurrence of specified conditions.](#)

COMMENTS N/A
DOCUMENT NAME 20100520casv10 TWIN PALMS (0403-05-15) Resolution No. 2010.72

17. [Approved RESOLUTION NO. 2010.73 authorizing the Mayor to execute a Government Property Land and Improvements Lease and Memorandum of Lease for each government property improvement located within the Tempe Mission Palms project on the occurrence of specified conditions.](#)

COMMENTS N/A
DOCUMENT NAME 20100520casv10 TEMPE MISSION PALMS (0403-05-16)
Resolution No. 2010.73

18. [Approved RESOLUTION NO. 2010.76 authorizing the Mayor to execute one or more Government Property Land and Improvements Leases and Memorandums of Lease for each government property improvement located on real property within the City of Tempe on the occurrence of specified conditions.](#)

DOCUMENT NAME 20100520casv12 CENTRAL BUSINESS DISTRICT (0403-05)
Resolution No. 2010.76

19. [Approved RESOLUTION NO. 2010.65 authorizing the renaming of the Sister Cities Garden at Kiwanis Park in honor of Richard G. Neuheisel and Jane A. Neuheisel, to be known as the "Dick and Jane Neuheisel Sister Cities Garden."](#)

COMMENTS N/A
DOCUMENT NAME 20100520casv03 PARKS ADMIN (0706-10) Resolution No.
2010.65

6. PUBLIC APPEARANCES

A. Scheduled
None.

B. Unscheduled

7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

Councilmember Woods

- Acknowledged the passing away of former Councilmember Len Cople

Vice-Mayor Ellis

- Acknowledged the passing away of former Councilmember Len Cople

Councilmember Mitchell

- Wished his daughter Happy Birthday
- Congratulated Judge Maryanne Majestic on her new appointment as Judge
- Congratulated Congressman Harry Mitchell for receiving the Spirit of Enterprise Award from the US Chambers of Commerce
- Acknowledged the passing away of former Councilmember Len Cople

Councilmember Arredondo

- Acknowledged the passing away of former Councilmember Len Cople

- Congratulated Travis Dray on his wife's recovery
- Condolences to Andrew Ching on the loss of a grandparent
- Congratulated Tempe voters and people that worked on Proposition 401

Councilmember Shekerjian

- Visit the Sea Life Aquarium at Arizona Mills Mall
- Acknowledged the passing away of former Councilmember Len Cople

Councilmember Navarro

- Acknowledged the passing away of former Councilmember Len Cople
- Participated in last week's Tempe International Triathlon; streets crew did an excellent job

Mayor Hallman

- Acknowledged the passing away of former Councilmember Len Cople

Meeting adjourned at 9:10 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 20, 2010, by the Tempe City Council, Tempe, Arizona.

Hugh Hallman, Mayor

ATTEST:

Jan Hort, City Clerk

Dated this _____ day of _____, 2010.