Minutes
Formal City Council Meeting
January 13, 2011

Minutes of the Formal Council Meeting of Thursday, January 13, 2011, held at 7:30 p.m. in the Harry E. Mitchell Government Center, Tempe City Hall, City Council Chambers, 31 E. Fifth Street, Tempe, Arizona.

COUNCIL PRESENT:
Mayor Hugh Hallman
Councilmember Robin Arredondo-Savage
Councilmember Shana Ellis
Councilmember Mark W. Mitchell
Councilmember Onnie Shekerjian
Councilmember Corey D. Woods

COUNCIL ABSENT:
Vice Mayor Joel Navarro

STAFF PRESENT:
Jeff Kulaga, Acting City Manager
Lisa Collins, Deputy Community Development Dir. -Planning
Michael Greene, Central Services Manager
Brigitta M. Kuiper, City Clerk
Andrew Ching, City Attorney
Dave Humble, Police Commander
Kathy Berzins, Community Services Director
Various Department Heads or their representatives

Mayor Hallman called the meeting to order at 7:38 p.m.

1. Councilmember Mitchell gave the invocation.

2. Boy Scout Troop 174 led the audience in the Pledge of Allegiance.

3. MINUTES

A. Approval of Council Meeting Minutes
   Motion by Councilmember Ellis to approve the following COUNCIL MEETING MINUTES; second by Councilmember Woods. Motion passed unanimously on a voice vote 6-0.

   1. Formal Council Meeting - December 9, 2010
   2. Issue Review Session - December 9, 2010
   3. Executive Session - December 9, 2010
   4. Budget Workshop - December 9, 2010
   5. Council Community Sustainability Committee - January 25, 2010
   6. Council Community Sustainability Technology Subcommittee - March 12 & May 14, 2010
   7. Sports, Recreation, Arts and Cultural Development Council Committee - April 14, 2010
   8. Council Quality of Life Committee - April 22, 2010
   9. Education Partnerships Council Committee - December 6, 2010
B. Acceptance of Board & Commission Meeting Minutes

Motion by Councilmember Ellis to accept the following COMMITTEE, BOARD AND COMMISSION MEETING MINUTES; second by Councilmember Arredondo-Savage. Motion passed unanimously on a voice vote 6-0.

1. Rio Salado Papago Park Ad Hoc Committee - June 23, 2009
2. Tempe South Corridor Study – Ad-Hoc Advisory Committee - September 15, 2010
3. Tardeada Advisory Board - October 4, 2010
5. Development Review Commission, October 26 & November 9, 2010
7. Committee for Youth, Families and Community Marketing Sub-Committee - October 28 & November 9, 2010
8. Commission on Disability Concerns - November 4, 2010
9. Historic Preservation Commission - November 4, 2010
11. Historical Museum Advisory Board - November 4, 2010
12. Aviation Commission - November 9, 2010
13. Human Relations Commission - November 9, 2010
14. Hearing Officer - November 16 & December 7 & 21, 2010
15. Mayor’s Youth Advisory Commission - November 16, 2010
17. Grants Municipal Arts Commission Subcommittee - November 30, 2010
18. Special Event Task Force - December 14, 21 & 28, 2010

4. REPORTS AND ANNOUNCEMENTS

A. Mayor's Announcements

1. Miss Arab USA Jennifer Chahoud
   Mayor Hallman congratulated Jennifer Chahoud, a student at Arizona State University, who recently won the first Miss Arab USA contest.

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 items.

Motion by Councilmember Arredondo-Savage to approve the Agenda with the exception of items 5A4, 5B5, 5C2, 5C4, 5C5 and 5C6, which were removed for separate consideration; second by Councilmember Mitchell. Motion passed on a roll call vote 6-0.

A. Miscellaneous Items

A2. Approved the First Amendment to the agreement between AGL Networks, LLC (now known as Zayo Fiber Solutions LLC) and the City of Tempe for the placement and use of facilities in the City's rights-of-way and public places for a metropolitan optical network. *(Contract #2007-163A)*

**COMMENTS**

This amendment is to indicate AGL Networks' name change to Zayo Fiber Solutions, settling the contractual obligation, and granting a revocable and nonexclusive telecommunications license.

**DOCUMENT NAME**

20110113PWWS03 AGL NETWORKS (0802-27)

*A3.** Held a public hearing and recommended the approval of a Series 07 beer and wine bar liquor license for Alfred Wilfredo Gomez & Maria Solorio Partnership, dba Mugg Shots @ The Kings Korner, 1212 East Apache Boulevard, #107-109.

**COMMENTS**

Alfred Wilfredo Gomez is the Agent for this application.

**DOCUMENT NAME**

20110113fsap01 Mugg 125087 – LIQ LIC (0210-02)

*A4.** *THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.*

This is a public hearing and recommended the approval of a Teen Dance Hall application for Thomas N. George, dba Pulse, 1290 North Scottsdale Road, #121.

**B. Award of Bids/Contracts**

**B1.** Approved the utilization of a four-month extension of a State of Arizona contract with Waxie Sanitary Supply for janitorial supplies and equipment used by the Public Works Department.

**COMMENTS**

The total value of this contract will not exceed $60,000 during the contract extension period.

**DOCUMENT NAME**

20110113fsta04 PURCHASES (1004-01)

**B2.** Approved a one-year contract renewal with West Coast Equipment, Inc. for the purchase of street sweep brooms used by the Public Works Department.

**COMMENTS**

Total value of this contract will not exceed $80,000 during the contract renewal period.

**DOCUMENT NAME**

20110113fsta03 PURCHASES (1004-01)

**B3.** Approved a professional services contract with Malcolm Pirnie, Inc. for South Tempe Water Treatment Plant control system programming. *(Contract #2011-04)*

**COMMENTS**

Total cost for the professional services contract is $187,779.

**DOCUMENT NAME**

20101118pwr01 SOUTH TEMPE WATER TREATMENT PLANT (0811-08) PROJECT NO. 3203211
B4. Approved job order no. 10 with Foresite Design & Construction, Inc. for restroom renovations at Jaycee and Papago Parks.  *(Contract #2008-138J)*

**COMMENTS**
Total amount of job order no. 10 is $95,130 and the project contingency amount is $10,000.

**DOCUMENT NAME**
20110113pwdr01 ENGINEERING ADMINISTRATION (0803-02) PROJECT NO. 6301063

B5. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.  SEE BELOW FOR DISCUSSION AND ACTION.**
Request approval to award one-year contracts with four, one-year renewal options to Summit Electric Supply, Electric Supply, Inc. and Capital Electric Supply for the purchase of electrical supplies used by the Public Works Department.

B6. Awarded a one-year contract with four, one-year renewal options to West Coast Arborists Inc. for palm tree maintenance services for use by the Public Works Department.  *(Contract #2011-06)*

**COMMENTS**
Total value of this contract will not exceed $55,000 during the initial one-year contract period.

**DOCUMENT NAME**
20110113fslg02 PURCHASES (1004-01)

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

*C1. Introduced and held the first public hearing to adopt an ordinance for the historic designation of the Sandra Day O'Connor House located at 1230 North College Avenue. The second public hearing was scheduled for January 27, 2011.*

**COMMENTS**
Request for SANDRA DAY O’CONNOR HOUSE (PL100333) (City of Tempe, property owner; Tempe Historic Preservation Office, applicant) consisting of the Historic Designation and Listing of the Sandra Day O’Connor House, originally constructed in Paradise Valley and relocated to Tempe Papago Park, on one (1) lot of approximately 0.763 acres and located at 1230 North College Avenue in the R1-6, Single Family Residential District and the RSOD, Rio Salado Overlay District. The request includes the following:

HPO09002 – (Ordinance No. 2010.45) – Historic Designation and Listing in the Tempe Historic Property Register for the house located on 0.763 acres.

**DOCUMENT NAME**
20110113cdkko01 PLANNED DEVELOPMENT (0406) Ordinance No. 2010.45
*C2.  THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.
Introduction and first public hearing to adopt an ordinance for a Zoning Map Amendment and to adopt a resolution for a General Plan Amendment for PHOENIX PUMPS located at 1212 North McClintock Drive. The second public hearing is scheduled for January 27, 2011.

*C3.  Introduced and held the first public hearing to adopt an ordinance to execute a Covenant and Agreement Regarding Maintenance of Yards for An Adjacent Building on city property located adjacent to 601 South Farmer Avenue. The second public hearing was scheduled for January 27, 2011.

COMMENTS
This agreement is required as a part of the approval process for building permits for Lot 3 Farmer Arts District - Parcel 1 according to the plat recorded in Book 1070, Map 15, in the records of the County Recorder of Maricopa County, Arizona. The Covenant is required because of the proximity of developer’s building to the property line that separates the two lots for the purpose of conforming to the Tempe Building Code. The Covenant must be entered before the Building Safety Division; Community Development Department may issue a building permit. This agreement will not be recorded until developer’s acquisition of Lot 3 is completed.

DOCUMENT NAME
20110113cdhg01 TEMPE PACKING SITE – FIFTH AND FARMER (0403-02-09) ORDINANCE NO. 2011.02

*C4.  THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.
Introduction and first public hearing to adopt an ordinance for a Code Text Amendment for the Arizona Medical Marijuana Act. The second public hearing is scheduled for January 27, 2011.

*C5.  THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.
Introduction and first public hearing to adopt an ordinance approving and authorizing the Mayor to execute a Lease Agreement with the Tempe Community Action Agency to establish a pilot program for a community garden at Escalante Park. The second public hearing is scheduled for January 27, 2011.

*C6.  THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.
Introduction and first public hearing to adopt an ordinance amending Chapter 23 of the Tempe City Code relating to Parks and Recreation by amending Sections 23-39, 23-40 and Sections 23-74 through 23-77 relating to stand up paddle boarding as a surface water sport on Tempe Town Lake, managed by the Community Services Department. The second public hearing is scheduled for January 27, 2011.

D.  Ordinances and Items for Second Hearing/Final Adoption

*D1.  Held the second and final public hearing and adopted ORDINANCE NO. 2010.48 authorizing the Mayor to execute agreements to terminate the Lease (Contract #2011-07A) with, and to reconvey property to RP HFL LLC. (Contract #2011-07)
E. Resolutions

E1. Adopted RESOLUTION NO. 2011.02 authorizing the Mayor to execute an intergovernmental agreement between the City of Tempe and Maricopa County for the lease of certain County property for the purpose of installing, operating, and maintaining communications equipment for public safety and welfare. (Contract #2011-08)

E2. Adopted RESOLUTION NO. 2011.05 to enter into a Memorandum of Understanding (MOU) between the Arizona National Guard Joint Counter Narco-Terrorism Task Force and the Tempe Police Department that sets forth policies, procedures and guidelines governing National Guard cooperation and support of the Tempe Police Department drug law enforcement operations in the State of Arizona. (Contract #2011-09)

E3. Adopted RESOLUTION NO. 2011.01 authorizing the submission of the Community Development Block Grant (CDBG) and HOME Program Action Plan Substantial Amendment for Fiscal Year 2009-2010 and held a public hearing to obtain citizen comment.

E4. Adopted RESOLUTION NO. 2011.03 authorizing a change order to the intergovernmental agreement between the City of Phoenix and the City of Tempe, for the distribution of Federal Transit Administration Grant Funds, extending the term of the agreement to June 30, 2011. (Contract #2004-257C)

AGENDA ITEM(S) REMOVED FOR SEPARATE CONSIDERATION:

*A4. Held a public hearing and recommended the approval of a Teen Dance Hall application for Thomas N. George, dba Pulse, 1290 North Scottsdale Road, #121.

*No cost to the City from this change order.

Thomas N. George is the Agent for this application.
Thomas George, applicant, displayed pictures of the proposed teen dance hall establishment and stated the following:

- Individuals have indicated that they are not in support of this location for a teen dance hall; however, they have not voiced any concerns regarding the business model
- Building permits and a conditional use permit has been obtained; security requirements have been met; traffic plan has been approved
- He owns a restaurant and lounge in this shopping complex
- The teen dance hall suite has been remodeled
- The requirement to obtain a teen dance hall license was recently made known to him and was unknown to many city staff; it is a confusing process
- Property improvements include: installation of “no trespassing” signs, security cameras, rear door alarms, office door alarm, security switches on lights, smoke alarms; upgraded rear exit doors with security windows, restrooms are Americans with Disabilities Act (ADA) compliant with upgraded fixtures
- During the week this venue will be rented out as a hall

Mayor Hallman stated that the business is proposing to operate from 6:00 p.m. to 11:30 p.m. due to curfew restrictions for customers between the ages 16 to 20 years old.

Darlene Justus, Tempe, voiced opposition to this teen dance hall license and voiced the following concerns:

- Requested that Council grant a continuance of this agenda item; distributed a letter from Frank Dubuy requesting a continuance
- Parking lot crime
- Drunk patrons; patrons under the influence of drugs
- 700 East Weber is adjacent to the dance club; multiple arrests and ongoing criminal activity at this apartment complex
- Homeless population in this area
- 2009/2010 police reports are being reviewed; copies were distributed to Council
- There may be up to 600 teenagers at this dance club
- Noise/traffic congestion

Darlene Tussing, Tempe, voiced opposition to this teen dance hall license and voiced the following concerns:

- Requested that Council grant a continuance of this agenda item
- Requested a copy of the security plan; concerned with security in general

Earlene Miller, Tempe, voiced opposition to this teen dance hall license and voiced the following concerns:

- Noise, inadequate parking/overflow parking, traffic
- Proximity to 700 East Weber; drugs/criminal activity
- Wrong location for young people to congregate

Lane Carraway, Tempe, voiced opposition to this teen dance hall license and voiced the following concerns:

- Drugs, prostitution, trash, graffiti, vandalism, rape, predators, homeless presence, property damage, inadequate parking, noise
- 700 East Weber is a problem location; crime, drug deals occur
- Neighborhood abatement issues are pending
- Every teen dance club in Tempe has shut down due to drugs, vandalism, robberies
• City is aware of the problems in this area; do not approve this license

Paul Dunham, Tempe, voiced opposition to this teen dance hall license and voiced the following concerns:
• Crime, drugs, alcohol, prostitution, noise, traffic
• Tempe Police Department has voiced concerns and opposition to this type of business
• Adjacent apartment complex is a drug haven
• Proposed teen hall is only 150 feet from residences

Thomas George, applicant, addressed the concerns voiced:
• Parking survey indicated that there is adequate parking; on street parking is allowed
• 700 East Weber is an existing problem, a landlord issue; it is not a result of this license application
• Teenagers that smell of alcohol will not be allowed entry; searches will be conducted of patrons; identification will be verified
• Loitering is prohibited; 10-20 security personnel will be roaming the property, which is above the minimum number of security personnel required
• Traffic will be diverted towards Scottsdale Road, not into the neighborhood; this is included in the Police security plan
• He operates a restaurant next door and there have been no police incidents; alcohol is served at that location
• Continuing this license request is of no value; this has been an eight-month process and financial burden
• Prostitution, rape, robbery and graffiti were mentioned, however the club has not even been opened for business; there is crime everywhere, including Mill Avenue
• The conditional use permit has already been approved; this licensing requirement came as a surprise
• Patrons that are disruptive will not be allowed back onto the premises
• The security plan was filed with the Police Department; anyone can request a copy

Lisa Collins, Deputy Community Development Director – Planning, stated that approximately one year ago a use permit was granted to this location with a provision that it be reviewed within six months of being issued. She confirmed that this business has not yet opened.

Mayor Hallman asked the City Attorney what is the basis for Council to deny a business license. Andrew Ching, City Attorney, responded that with respect to a teen dance hall license, the Tempe City Code lists separate grounds for denial. These criteria relate to application requirements such as building permits/use permits, background investigation of applicant, public safety, health and welfare.

Ms. Collins stated that a condition of approval for the use permit was to acquire a business license and to secure an approved security plan by the Police Department.

Mayor Hallman noted that City processes are governed by codes, which impact processes that are applied equally to everyone. Most of the concerns raised have nothing to do with this particular business, but rather its proximity to an adjacent apartment complex. The Tempe Police Department has allocated resources and conducted special operations to curtail the problems regarding the apartment complex at 700 East Weber. Staff is continuing to address the deterioration within parts of that community. The right to use property, as long as it is in accordance with the law, is allowed. He voiced concern over denying a business license when the provisions of a use permit have been fulfilled. In fact, having a security presence in this strip mall may invigorate this location and help remove the bad elements.
Dave Humble, Police Commander, confirmed that this applicant/location received an approved security plan on December 14, 2010. Ms. Collins added that the six month review of the use permit was heard by a Hearing Officer on November 3, 2010. The conditional use permit states that if the land use does not occur within twelve months of issuing a use permit, then the use permit becomes invalid. There is also a code provision to revoke use permits, if the conditions of approval are not met. This use permit contained 18 conditions of approval which include: landscaping, vision panels on rear doors, hours of operation, music (sound/noise generated), live entertainment shall take place inside only, no outside entertainment is allowed, additional public hearing provisions if necessary, etc. The applicant is required to return to the Hearing Officer on May 3, 2011.

Mayor Hallman asked if, as part of the conditions of approval, consideration had been given to preclude on-street parking along Weber Drive to discourage patrons from parking across the street from this establishment. Or, perhaps signage could be placed on Weber Drive to preclude parking on the street.

Commander Humble stated that if the Police Department experiences problems at this location as a result of this business, the security plan can be revoked. Mayor Hallman acknowledged this and sought concurrence from the City Attorney on the code provision. Mr. Ching explained that the security plan can be revoked, which nullifies the use permit. There is also a revocation appeal process in place where these situations occur. Mayor Hallman asked if the business license could be conditionally granted with the condition that if harm to the public occurs, then the license could be revoked. It was determined that regardless of that, if the security plan is revoked, the use permit becomes nullified.

Councilmember Arredondo-Savage stated that the use permit is scheduled to be reviewed in May 2011. The applicant is aware of what is necessary to comply. She voiced her support for the Police Department’s involvement within this community. Should this agenda item be approved, she encouraged residents to provide feedback to Council regarding this business. Ms. Collins stated that complaints may be submitted at any time and are reviewed by the City Attorney who determines whether or not there is an issue that may generate the revocation process. Commander Humble added that the Police Department acts based upon the activity at a location; if there are acts of violence, it may result in a revocation of the security plan.

Mr. Ching referenced Tempe City Code, 16A-149, which provides for automatic termination of a teen dance hall license if the use permit or any other zoning approval is revoked or terminated.

Motion by Councilmember Woods to approve agenda item 5A4 noting the conditions in the use permit allow neighborhood complainants to seek revocation of the use permit, the Police Department to initiate revocation of the security plan and that a six-month review will take place in May [2011], such that the applicant understands that the activities carried on in the club will be subject to great scrutiny; second by Councilmember Arredondo-Savage. Motion passed on a roll call vote 6-0.

B5. Awarded one-year contracts with four, one-year renewal options to Summit Electric Supply, Electric Supply, Inc. and Capital Electric Supply for the purchase of electrical supplies used by the Public Works Department. (Contract #2011-05)

COMMENTS Total value of these contracts will not exceed $250,000 during the initial one-year contract period.

DOCUMENT NAME 20110113fsta05 PURCHASES (1004-01)
Councilmember Shekerjian requested that this item be removed for separate consideration for purposes of transparency; she asked staff to explain its funding source.

Michael Greene, Central Services Manager, stated that this is a one year contract for electrical supplies. Seven firms were considered and the top three firms are being recommended. Funding for these contracts is generated from the General Fund and the Water Wastewater Fund.

**Motion by Councilmember Shekerjian to approve agenda item 5B5; second by Councilmember Mitchell. Motion passed on a roll call vote 6-0.**

Mayor Hallman requested that the agenda be taken out of order and invited Marcus Hallman to approach the podium under agenda item 6B – Unscheduled public appearances.

Marcus Hallman and his brothers wished Mayor Hallman Happy Birthday.

*C2. Introduced and held the first public hearing to adopt an ordinance for a Zoning Map Amendment and to adopt a resolution for a General Plan Amendment for PHOENIX PUMPS located at 1212 North McClintock Drive. The second public hearing was scheduled for January 27, 2011.

**COMMENTS**

Request by PHOENIX PUMPS (PL090460) (Don Vise, Phoenix Pumps Inc, property owner; Michael Jorgensen, Cawley Architects, applicant) consisting of a two story building containing light manufacturing, office and warehouse functions of +/-36,018 s.f. on a +/- 2.27 net acre site and located at 1212 North McClintock Drive in the CSS, Commercial Shopping and Service District, the GID, General Industrial District and the RSOD, Rio Salado Overlay District. The request includes the following:

GEP10002 – (Resolution No. 2010.140) General Plan 2030 Projected Land Use Map Amendment from Commercial to Industrial Use.
ZON010002 – (Ordinance No. 2010.44) Zoning Map Amendment from CSS, Commercial Shopping and Service District to GID, General Industrial District.

**DOCUMENT NAME**

20110113cdkko02 PLANNED DEVELOPMENT (0406) Ordinance No. 2010.44; Resolution No. 2010.140

Kenneth Gilbert voiced concern that the zoning will be downgraded and that action will downgrade his property value; the wall on the property is also a point of concern.

Mayor Hallman suggested that Mr. Gilbert meet with Lisa Collins, Deputy Community Development Director - Planning, to get more information about this ordinance. He also suggested that Mr. Gilbert seek the expertise of a real estate agent for concerns regarding property valuations. Staff could potentially add conditions of approval to this ordinance.

**Mayor Hallman closed the public hearing on agenda item 5C2. No action was taken.**

*C4. Introduced and held the first public hearing to adopt an ordinance for a Code Text Amendment for the Arizona Medical Marijuana Act. The second public hearing was scheduled for January 27, 2011.
COMMENTS

Request for ARIZONA MEDICAL MARIJUANA ACT (PL100378) (City of Tempe, Community Development Department, applicant) consisting of changes within the Zoning and Development Code and City Code regarding Proposition 203, a voter-approved initiative for the Medical Marijuana Act. The request includes the following:

ZOA10003 – (Ordinance No. 2011.01) Code Text Amendment for Zoning and Development Code Sections 3-102, 3-202, 3-302, 3-426, 6-313, 7-114 and City Code Section 26-70.

DOCUMENT NAME

20110113cdir01 ZONING AND DEVELOPMENT CODE (0414-03, 0414-06, 0414-07) CITY CODE (0503-26) ORDINANCE NO. 2011.01

Aaron Smith, Tempe, Arizona Medical Marijuana Association (AMMA) representative
- Thanked Councilmembers for drafting this ordinance
- Voters approved this law; AMMA is interested in implementing ordinances in accordance with the letter and spirit of the law
- It is a false assertion that medical marijuana dispensaries act as a crime magnet or create secondary criminal activity.
- Voters want safe and open access
- Regarding zoning requirements/setbacks in relation to churches, synagogues, temples, etc., he requested the word "churches" be removed
- By moving these facilities into areas where there are strip clubs, the medical focus is lost

Jeff Tice, Tempe
- There is no correlation between crime and medical marijuana
- A pre-approval process would be helpful; problems with two potential dispensaries not being aware of each other and both applying for a dispensary status

Mayor Hallman stated that there is a notification process in place to address this situation should multiple applications are received; first applicant is given priority. It is not wise to make tenant improvements to a building without being approved for a particular type of use.

- Requested clarification on minimum square footage; please consider 5,000 square feet to allow more real estate options

Lisa Collins, Deputy Community Development Director – Planning, stated that this portion of the ordinance is to regulate the building square footage size, which requires that only one exterior access point (either ingress or egress) be allowed. The tenant space could preliminarily be in the range of 3,000 square feet. Mayor Hallman stated that the point of this provision is to focus on ingress/egress and maximize opportunities for tenants and landlords. This verbiage gives maximum flexibility.

- Hours of operation – instead of the proposed 8:00 a.m. – 6:00 p.m., please consider 8:00 a.m. to 7:00 p.m. or 8:00 p.m.

Mayor Hallman pointed out that the proposed hours of operation are in line with doctors’ office hours.

Greg Mathison, Tempe
- Law was passed for medicinal purposes
- Dispensaries/retail functions are a separate process from cultivating/agricultural functions
- One point of ingress/egress means trash will be taken out through the lobby as will deliveries of
product. Amend the ordinance to allow for egress, so the agricultural cultivation operation has a means of a second exit, other than going through a lobby where patients will be.
- Allow ages 18 and older on the premise. Currently, the ordinance proposes that no one under the age of 21 is allowed to work on the premise.

Ms. Collins stated that the intent of one point of ingress/egress was to minimize the transport of product to the dispensary and security issues related to that function. Floor plans can be configured whereby patients are not in the traffic pattern for trash and product transport; multiple access points inside the facility would address this concern. Mayor Hallman reiterated the concern about security, which includes employee access.

Timothy LaSota, Phoenix
- The 500 foot residence distance setback is onerous; some jurisdictions measure distance from the property line instead of the building
- Relegating these facilities to industrial areas is treating it differently than other medicine; pharmacy hours are longer and pharmacies can be located in a lot of different locations; build in more flexibility regarding where these facilities may be located

Mayor Hallman noted that voters did not pass legislation allowing pharmacies to dispense medical marijuana, a distinction that makes a difference.

Karyn Gitlis, Tempe
- Patients need adequate access to facilities
- Hours of operation, 8 a.m. to 6 p.m., may make it difficult for working people

Steve Ditzel, Tempe
- Commended the City for drafting this ordinance
- Zoning for medical marijuana should be similar to pharmacies
- Separate growth locations from dispensaries if the business owner so chooses

Mayor Hallman noted that there are limited agricultural locations in Tempe.

William Green, Tempe
- Described himself as a “caregiver” under Proposition 203 standards
- Medical marijuana is not under the realm of pharmaceuticals because it would conflict with federal law; eliminate ordinance language that references federal law
- Medical marijuana brings relief to individuals in pain

Mayor Hallman acknowledged Mr. Green’s points and stated that it is the role of policy makers to ensure that laws are drafted properly.

Crush Estrada
- Applauded Councilmembers for their proactive approach
- Medical marijuana should be treated as a medicine; get beyond the stereotypes
- Dispensaries should be treated as pharmacies in terms of zoning, hours of operation

In response to Councilmember Ellis, Ms Collins stated that dispensaries could operate on weekends.

Darin Sender, Phoenix
- Commended staff on drafting this ordinance. A lot of unknowns and questions remain.
- Separation requirements are a good thing
• Administrative approval is well written
• Concerned with single entrance requirement because of the building code and Department of Health Services requirements concerning restrooms, storage and other areas of dispensaries; existing square footage being proposed may not be sufficient
• Consider adding additional square footage; could set a maximum square footage
• Need more flexibility with ingress/egress requirements; perhaps adding language “secured egress point” for just the dispensaries

Gary Uninsky, Tempe
• He is a glaucoma patient that may wish to use medical marijuana as a treatment option in the future
• Ordinance may increase the price of the product and reduce accessibility
• There is a stigma regarding marijuana
• Title 36, Section 28-10 is a confidentiality statutory provision. It states that medical marijuana dispensaries are only subject to inspection by the Department of Health Services. It is a class one misdemeanor for any person, including a municipal employee, to breach the confidentiality of the information.
• The statute says that cities may enact zoning regulations that limit the use of land
• Tempe should be looking at its ordinance, not the Arizona League of Cities and Towns model ordinance.
• The ordinance definition of medical marijuana is confusing

Dana Green, Tempe
• Consider the needs of loved ones when considering this ordinance; it’s about people that are sick and pain management
• Marijuana has few side affects versus the multiple side affects of many pharmaceuticals
• Money is the reason some people want marijuana to remain illegal

Mayor Hallman stated that he and his colleagues have an obligation to follow the voter initiative regarding medical marijuana. Councilmember Woods added that he understands the stigma on this topic and has witnessed loved ones in pain. As a policy maker, he and his colleagues are taking a proactive approach on this topic.

Councilmember Shekerjian stated that she and her colleagues have done their research on this topic and understand chronic illness. Protecting the public is important; security around these facilities is of concern. She voiced her appreciation for the proactive approach that is being taken.

George Roznik, Tempe
• A medical director does not need to be in a dispensary; medical questions should be directed to a customer’s doctor
• Growing and dispensing medical marijuana in one location makes sense

Ms. Collins stated that the proposition references a medical director; Tempe’s ordinance does not include that reference.

• He questioned the number of required exists

Mayor Hallman stated that most pharmacies have very little square feet. Exit requirements are based on square footage.

Mayor Hallman closed the public hearing on agenda item 5C4. No action was taken.
*C5. Introduced and held the first public hearing to adopt an ordinance approving and authorizing the Mayor to execute a Lease Agreement with the Tempe Community Action Agency to establish a pilot program for a community garden at Escalante Park. The second public hearing was scheduled for January 27, 2011.

**COMMENTS**
No cost to City. Fees for water and permit will be paid by TCAA.

**DOCUMENT NAME**
20110113cskb01 PARKS ADM (0706-01) Ordinance No. 2011.03

Councilmember Woods declared a conflict on agenda item 5C5.

Kathy Berzins, Community Services Director, introduced Beth Fiorenza, Executive Director of Tempe Community Action Agency (TCAA). Ms. Berzins stated that the partnership between the City of Tempe and TCAA is a wonderful, resident-driven relationship. Ms. Fiorenza recognized the work of community members on this project. Councilmember Arredondo-Savage stated that this partnership is a great opportunity and the work of everyone involved is very much appreciated. Councilmember Shekerjian stated that this is a pilot project with the intent of future expansion.

Mayor Hallman closed the public hearing on agenda item 5C5. No action was taken.

*C6. Introduced and held the first public hearing to adopt an ordinance amending Chapter 23 of the Tempe City Code relating to Parks and Recreation by amending Sections 23-39, 23-40 and Sections 23-74 through 23-77 relating to stand up paddle boarding as a surface water sport on Tempe Town Lake, managed by the Community Services Department. The second public hearing was scheduled for January 27, 2011.

**COMMENTS**
N/A

**DOCUMENT NAME**
20110113cstd01 TCC CH 23 - PARKS AND RECREATION (0503-23) Ordinance No. 2011.04

Councilmember Woods voiced support for allowing paddle boarding on Tempe Town Lake.

Mayor Hallman closed the public hearing on agenda item 5C6. No action was taken.

6. PUBLIC APPEARANCES
   
   A. Scheduled - None.
      1. Citizens concerns regarding policing

   B. Unscheduled - None.

7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

   Councilmember Mitchell
   ➢ Happy birthday to the Mayor
Thanked staff for their work on the Insight Bowl and New Year’s Eve Block party events; he received a lot of positive feedback from visitors

Acknowledged the Tucson tragedy; condolences to victims

Councilmember Arredondo-Savage

- Happy birthday to the Mayor
- Good luck to Mayor Hallman and Councilmember Ellis, runners in the P.F. Changs Marathon
- Thanked staff for their work on the Insight Bowl and New Year’s Eve Block party events
- NCAA Football League gave Tempe a $50,000 grant to replace the lighting at Benedict field; commended staff on their pursuit of this grant funding

Councilmember Shekerjian

- Happy birthday to the Mayor
- Acknowledged the Tucson tragedy; condolences to victims

Councilmember Woods

- Happy birthday to the Mayor
- Acknowledged the Tucson tragedy; condolences to victims

Councilmember Ellis

- Happy birthday to the Mayor
- Acknowledged the Tucson tragedy; condolences to victims

Mayor Hallman

- Acknowledged the Tucson tragedy; condolences to victims
- Commended Kathy Berzins for her work on the NCAA grant funding

The meeting adjourned at 10:19 p.m.

I, Brigitta M. Kuiper, 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 January 13, 2011, by the Tempe City Council, Tempe, Arizona.

______________________________
Hugh Hallman, Mayor

ATTEST:

______________________________
Brigitta M. Kuiper, City Clerk