



# Minutes Formal City Council Meeting August 9, 2012

Minutes of the Formal Council Meeting of Thursday, August 9, 2012, 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 Mark W. Mitchell               | Councilmember Kolby Granville |
| Vice Mayor Onnie Shekerjian          | Councilmember Joel Navarro    |
| Councilmember Robin Arredondo-Savage | Councilmember Corey D. Woods  |
| Councilmember Shana Ellis            |                               |

**STAFF PRESENT:**

- |   |  |
|---|--|
| Charlie Meyer, City Manager                       | Jeff Kulaga, Assistant City Manager            |
| Andrew Ching, City Attorney                       | Brigitta M. Kuiper, City Clerk                 |
| Kathy Berzins, Community Development Director     | Michael Greene, Central Services Administrator |
| Various Department Heads or their representatives |  |

Mayor Mitchell called the meeting to order at 7:55 p.m.

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

**3. MINUTES**

- A. Approval of Council Meeting and Council Committee Meeting Minutes  
**Motion by Councilmember Ellis to approve the following COUNCIL MEETING AND COUNCIL COMMITTEE MEETING MINUTES; second by Councilmember Arredondo-Savage. Motion passed unanimously on a voice vote 7-0.**
1. Executive Session - June 28, 2012
  2. Neighborhood Quality of Life and Revitalization Council Committee - April 24, 2012 and May 22, 2012
- B. Acceptance of Committee, 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 7-0.**
1. Neighborhood Advisory Commission - March 22, 2011, September 7, 2011, November 2, 2011 and January 4, 2012
  2. Human Relations Commission - December 13, 2011
  3. Tardeada Advisory Board - October 5, 2011 and April 11, 2012

4. Commission on Disability Concerns - May 3, 2012
5. Fire Public Safety Personnel Retirement System Board - May 3, 2012 and July 5, 2012
6. Historic Preservation Commission - May 10, 2012 and June 7, 2012
7. Development Review Commission - May 22, 2012, June 26, 2012 and June 12, 2012
8. Police Public Safety Personnel Retirement System Board - June 12, 2012 and July 5, 2012
9. Tempe Aviation Commission - June 12, 2012
10. Hearing Officer - June 19, 2012 and July 3, 2012

#### 4. REPORTS AND ANNOUNCEMENTS

##### A. Mayor's Announcements

1. *Daniel Fowler Heroism Recognition*  
Mayor Mitchell read a proclamation declaring August 9, 2012, Daniel Fowler Day in City of Tempe.
2. *Board and Commission Appointment*  
A board and commission appointment will be considered later this evening.

##### 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 City 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 Mitchell announced consideration of the **AGENDA** items.

**Motion by Councilmember Woods to approve the Agenda with the exception of items 5A3, 5A10, 5B4, 5B7, 5B15, 5D2 and 5E12, which were removed for separate consideration; second by Councilmember Arredondo-Savage. Motion passed on a roll call vote 7-0.**

##### A. Miscellaneous Items

- A1. Approved the June 2012 Report of Claims Paid to be filed for audit.

<b>COMMENTS</b>	This report is a compilation of all payments made through the City's accounts payable system during June 2012 that will be subject to audit by the City's external auditors.
<b>DOCUMENT NAME</b>	20120809fsnw01 ACCOUNTS PAYABLE (0208-01)

- A2. Approved an Amendment to the Magellan Health Services of Arizona, Inc. Prevention Services Participant Agreement in order to accept and disburse a federal grant for the provision of youth substance abuse prevention programs and coalition efforts to reduce underage drinking in Tempe. **(Contract #2010-166B)**

<b>COMMENTS</b>	The Amendment to the Magellan Health Services of Arizona Prevention Services Participation Agreement awards \$157,225.00 in federal grant funds to Tempe through September 30, 2013.
<b>DOCUMENT NAME</b>	20120809cskb02 COMMUNITY SERVICES ADMIN (0701-01)

A3. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Request approval of recommended funding for the 2012-2013 Arts Grants Awards to Tempe schools and nonprofit organizations.

A4. Authorized the execution of Supplement No. 2 to the Intergovernmental Agreement between the Arizona Board of Regents (ASU) and the City of Tempe for the sharing of telecommunications services. **(Contract #2003-150A)**

**COMMENTS** As part of the ongoing expansion and support of Tempe and ASU fiber optic networks in and around the downtown campus, both parties have an interest in sharing telecommunications infrastructure to reduce construction and operational costs associated with providing high-speed broadband services to employees. This agreement will result in no cost to the City.

**DOCUMENT NAME** 20120809ftdh01 COMMUNICATION (0100-02)

A5. Approved the Community Development Department request to transfer fiscal year (FY) 2012-13 Capital Improvement Program (CIP) budget appropriation from the Tempe Town Lake Pedestrian Bridge project: No. 6501549, to the Veterans Memorial-Tempe project: No. 6503989, to provide sufficient budget appropriation to complete reimbursement for Phase 1 of the Veterans Memorial-Tempe project.

**COMMENTS** An appropriation of \$108,250.36 in the FY 2012-13 budget is required to complete the reimbursement to Veterans Memorial-Tempe LLC for construction of the Veterans Memorial project. Sufficient unencumbered CIP budget appropriation is available for transfer from the Tempe Town Lake Pedestrian Bridge project to the Veterans Memorial project. The transfer of appropriation between these projects will not increase the total FY2012-13 CIP budget appropriation amount.

**DOCUMENT NAME** 20120809cdnr02 RIO SALADO MASTER PLAN 0112-07-03

A6. Approved the Fire Department request to transfer fiscal year (FY) 2012-13 Capital Improvement Program (CIP) budget appropriation from the Radio Replacement project (cost center 6947) to the Fire Station #2 project (cost center 5603609), to provide sufficient budget appropriation to complete minimal remodeling at Fire Station #2 (located at 3025 S. Hardy Drive).

**COMMENTS** \$42,400 in FY 2012-13 budget appropriation is required to complete the Fire Station #2 minimal remodeling. Sufficient unencumbered CIP budget appropriation is available for transfer from the Radio Replacement project to the Fire Station #2 project. The transfer of appropriation between these projects will not increase the total FY 2012-13 CIP budget appropriation amount.

**DOCUMENT NAME** 20120809db02 FIRE/FIRE ADMINISTRATION (0605-01)

A7. Approved the recommended funding for the fiscal year 2012-2013 Maryanne Corder Neighborhood Grant Program to homeowners' and neighborhood associations.

**COMMENTS** Total amount of recommended grants funding is \$100,627.55 to be paid for from the Capital Improvement Program budget.

**DOCUMENT NAME** 20120809crsw01

- A8. Approved a Final Subdivision Plat for HAMPTON INN & SUITES AMENDED located at 1429 North Scottsdale Road.

**COMMENTS** Request for HAMPTON INN & SUITES AMENDED (PL100400) (William Spresser, VRE Holding II LLC and VRE Holding III LLC, property owner; Darin A. Sender, Sender Associates, Chtd., applicant) located at 1429 North Scottsdale Road in the MU-3 (PAD), Mixed-Use, Medium-High Density District with a Planned Area Development Overlay. The request includes the following: SBD12009 – Final Subdivision Plat to create three lots on +/-5.0083 acres.

**DOCUMENT NAME** 20120809cdkko01 PLANNED DEVELOPMENT (0406)

*The following conditions of approval apply:*

1. The Subdivision Plat for Hampton Inn & Suites Amended for the +/- 5.0083 net acre property including the creation of three lots shall be put into proper engineered format with appropriate signature blanks and recorded with Maricopa County Recorder's Office through the City of Tempe Community Development Department on or before August 09, 2013 or prior to issuance of building permit, whichever comes first. Failure to record the plat on or before August 09, 2013, which is one (1) year from date of City Council approval, shall make the approval of the plat null and void.
2. Abandon existing public utility easements that are no longer needed within lot 1, lot 2 and lot 3. Separately submit abandonment request to Public Works/Land Services Division and process abandonments through City Council. Complete abandonment process prior to issuance of building permit.
3. Provide exclusive easements for public water and sewer lines within lot 1, lot 2 and lot 3. Either have easements and agreements including cross drainage and cross access agreements "dedicated hereon" the subdivision plat or have easements and agreements separately reviewed by the Public Works Department, dedicated by separate instrument and recorded at the Maricopa County Recorder's Office. Complete the easements and agreements prior to issuance of building permit.
4. Complete the Building Code Compliance Covenant and Agreement to Hold Property as One Parcel for lot 1 and lot 3 prior to issuance of building permit.
5. All property corners shall be set and verified by Registered Land Surveyor. Submit completed and sealed Notice of Verification to Public Works/Land Services Division staff no later than three (3) months from the date of County recordation or as determined by staff.

- A9. Approved Amendment No. 2 to the Vehicle Lease Agreement between the City of Tempe and Downtown Tempe Community (DTC). **(Contract #2010-194B)**

**COMMENTS** This Amendment No. 2 restores the term of the lease to the original lease term date – June 24, 2015 along with any successive renewal terms. The lease term was amended in November, 2010, (Amd. No. 1) per C2010-194(a).

**DOCUMENT NAME** 20120809cdhg01 CENTRAL BUSINESS DISTRICT (0403-05)

- \*A10. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Hold a public hearing to recommend the approval of an acquisition of control of a Series 04 in-state wholesaler's liquor license for Action Wine and Spirits USA LLC, dba Action Wine and Spirits, 2055 East 5th Street.

- \*A11. Held a public hearing and recommended the approval of a Series 01 in-state producer's liquor license for Lipsmark LLC, dba Lipsmark, 5235 South Kyrene Road #7.

**COMMENTS** Mark Luther Phillips is the Agent for this application.  
**DOCUMENT NAME** 20120809 fsap02 203909 LIQ LIC (0210-02)

- \*A12. Held a public hearing and recommended the approval of a Series 12 restaurant liquor license for Brosenbrus LLC, dba Brosenbrus, 922 East Apache Boulevard #105.

**COMMENTS** Bradley Allen Stewart is the Agent for this application.  
**DOCUMENT NAME** 20120809 fsap03 123912 LIQ LIC (0210-02)

- \*A13. Held a public hearing and recommended the approval of a Series 10 beer and wine store liquor license for Oscar's Kwik Mart LLC, dba Quick Mart, 1806 North Scottsdale Road.

**COMMENTS** George Youel Awrahim is the Agent for this application.  
**DOCUMENT NAME** 20120809 fsap04 203974 LIQ LIC (0210-02)

- A14. Approved a board and commission appointment.

**COMMENTS** N/A  
**DOCUMENT NAME** 20120809 0102-01-00 BDS, COMMISSIONS, COMMITTEES ADM

**Merit System Board** Term Expires 5/31/15  
Russell Schoeneman (P1) (New member)

## **B. Award of Bids/Contracts**

- B1. Approved a ten-month contract renewal with Holmes Murphy & Associates as the City's employee benefits consultant for utilization by the Human Resources Department.

**COMMENTS** Total cost of the one-year contract renewal will not exceed \$63,000.  
**DOCUMENT NAME** 20120809fsta01 PURCHASES (1004-01)

- B2. Approved a two-year contract with three one-year renewal options to Precision Graphics for screen printed and embroidered clothing for the Tempe Fire Department.

**COMMENTS** Total cost of this contract will not exceed \$80,000 during the initial two-year contract period.  
**DOCUMENT NAME** 20120809fslg06 PURCHASES (1004-01)

- B3. Approved the expenditure of funds under the existing Intergovernmental Agreement with the City of Phoenix Fire Department for firefighter medical and physical exams for fiscal year 2012/2013.

**COMMENTS** Total expenditure of funds for fiscal year 2012-2013 shall not exceed \$127,900.  
**DOCUMENT NAME** 20120809fslg08 PURCHASES (1004-01)

- B4. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Request approval of a four-month contract renewal with Santa Barbara Catering for catering and concession services at the Tempe Center for the Arts.

- B5. Approved a one-year contract renewal with West Coast Arborist, Inc. for tree trimming services for the downtown trees and various City parks and facilities for the Public Works Department.

**COMMENTS** Total cost of this contract will not exceed \$100,000 during the one-year contract renewal period.

**DOCUMENT NAME** 20120809fslg04 PURCHASES (1004-01)

- B6. Approved one-year contract renewals with Precision Graphics and Snider Sports and Apparel for sports clothing for use by the Community Services Department.

**COMMENTS** Total combined costs of these contracts shall not exceed \$60,000 during the one-year contract renewal period.

**DOCUMENT NAME** 20120809fslg05 PURCHASES (1004-01)

- B7. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Request award of job order no. 3 to PCL Construction, Inc. for an emergency waterline repair and roadway restoration on McClintock Drive at Guadalupe Road due to a waterline break.

- B8. Approved the utilization of a nine-month Arizona Department of Transportation contracts with Dennis L. Lopez & Associates, First Appraisal Services, Inc., Loper & Associates, LLC, Nagy Property Consultants, Inc., and Sell & Associates, Inc. for property appraisal services for the Community Development Department.

**COMMENTS** Total cost of this contract will not exceed \$100,000 during the initial nine-month contract period.

**DOCUMENT NAME** 20120809fslg03 PURCHASES (1004-01)

- B9. Approved the utilization of a one-year State of Arizona WSCA (Western States Contracting Alliance) contract with Lowe's HIW, Inc. for a store-wide agreement for the purchase of MRO (Maintenance, Repair and Operating) materials, tools and supplies used primarily by the Public Works Department.

**COMMENTS** The total cost of this contract will not exceed \$100,000 during the one-year contract period.

**DOCUMENT NAME** 20120809fsta09 PURCHASES (1004-01)

- B10. Awarded job order no. 8 to J. Banicki Construction, Inc. for roadway restoration on Rural Road at Spence Avenue due to a waterline break.

**COMMENTS** Total amount of job order no. 8 is \$365,985.05 and the project contingency amount is \$36,000.

**DOCUMENT NAME** 20120809pwdr03 ENGINEERING ADMINISTRATION (0803-02)  
PROJECT NO. 3205281

- B11. Awarded job order no. 10 to Caliente Construction, Inc. for electrical rewiring and infrastructure replacement along bicycle and pedestrian multi-use pathways.

**COMMENTS** Total amount of job order no. 10 is \$319,463 and the project contingency amount is \$32,000.

**DOCUMENT NAME** 20120809pwdr04 ENGINEERING ADMINISTRATION (0803-02)  
PROJECT NO. 6005241

- B12. Approved the utilization of a one-year Maricopa County Community College District contracts with Facilitec, Inc., Transact Commercial Furnishings, Vanguard Concept Offices, and Workspaces for the purchase of furniture for use by all City Departments.

**COMMENTS** The total cost of these contracts will not exceed \$200,000 during the one-year contract period.

**DOCUMENT NAME** 20120809fslg11 PURCHASES (1004-01)

- B13. Awarded a two-year contract with three, one-year renewal options to Southwest Partitions and Office Interiors for the purchase of remanufactured Herman Miller systems furniture and related support services to be used throughout the City.

**COMMENTS** Total cost of this contract shall not exceed \$60,000 during the initial two-year contract period.

**DOCUMENT NAME** 20120809fslg10 PURCHASES (1004-01)

- B14. Awarded one-year contracts with four, one-year renewal options to Clayton Holdings, LLC, Comerica Leasing Corporation and Banc of America Public Capitol Corp to provide 3rd party lease financing services for various City departments.

**COMMENTS** Total combined cost of these one-year contracts shall not exceed \$500,391.84. Out of this total value, only \$17,774.19 will be related to financing cost. The remaining value will be the actual cost of the 120 unit golf cart fleet that was competitively sourced and awarded under a previous solicitation. Under the new golf business model, the City receives the revenue stream from the rental of golf carts (approximately \$667,000 annually) and assumes responsibility for the acquisition and operations of the fleet. By employing a strategy of owning its fleet, rather than renting, the City will reduce this annual expense after the 4th year and have the flexibility to stagger the age of the fleet for maximum benefit.

**DOCUMENT NAME** 20120809fsmg13 PURCHASES (1004-01)

- B15. **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 Universal Police Supply Company and West Valley Uniforms DBA East Valley Uniforms to provide ballistic vests, carriers and trauma plates for the Police Department.

**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 lease of real property to FSAL, Inc. / Tempe Adult Day Care for the Freestone House located at 2303 East Maryland Drive, Tempe, Arizona; and authorizing the Mayor to execute the lease and attendant documents. The second and final public hearing was scheduled for September 6, 2012.

**COMMENTS** The lessee pays \$100 per month for the leased premises, and all operating costs, including utility charges and telephone.

**DOCUMENT NAME** 20120809 VICTORY ACRES ELDERLY HOUSING (0408-01)  
ORDINANCE NO. 2012.34

- \*C2. Introduced and held the first public hearing to adopt an ordinance abandoning a portion of an existing public waterline easement north of Baseline Road, east of Jentilly Lane. The second and final public hearing was scheduled for September 6, 2012.

**COMMENTS** The existing waterline easement is being abandoned to accommodate construction for new development at the Lake Country Village. New waterlines have been installed and removal of the previously installed waterline has been completed. A new easement has been dedicated for the new waterline and appurtenances.

**DOCUMENT NAME** 20120809pwko01 ABANDONMENT (0901) ORDINANCE NO. 2012.36

- \*C3. Introduced and held the first public hearing to adopt an ordinance authorizing the abandonment of a portion of an existing Landscaping, Signage, Pedestrian, Bike Path, Drainage, Construction Slope and Public Utility Easement lying within Lot 4 of Papago Park Center – Phase 1, recorded in the office of the Maricopa County Recorder, Book 619 of Maps, Page 45. The second and final public hearing was scheduled for September 6, 2012.

**COMMENTS** This part of the existing easement lies under an existing parking garage that has been constructed on the parcel. The owner of the parcel has requested abandonment of this portion of the easement in order to remove the easement encumbrance for future sale of the property.

**DOCUMENT NAME** 20120809pwko02 ABANDONMENT (0901) ORDINANCE NO. 2012.37

- \*C4. Introduced and held the first public hearing to adopt an ordinance amending Chapter 33, Article V, Tempe City Code, relating to Cross-Connection Control, by amending Section 33-111, relating to Penalty. The second and final public hearing was scheduled for September 6, 2012.

**COMMENTS** This ordinance will amend the City Code to bring uniformity to the City's enforcement authorities and powers for violations of the City's ordinances on Stormwater Pollution Control (Chapter 12, Article VI), Sewers – Pretreatment (Chapter 27, Article I), and Cross-Connection Control (Chapter 33, Article V). Following the adoption of this ordinance, an Enforcement Response Plan outlining the proposed response to suspected violations of these ordinances will be submitted to Council for its approval.

The purpose of Tempe's cross-connection control program is to protect the public water supply from the possibility of contamination or pollution by preventing backflow of non-potable water into the public potable water supply. Currently, the City Code provides little enforcement authority or flexibility to ensure compliance with the cross-connection program. The ordinance will amend the City Code to (i) provide a broader and more flexible ability to enforce the cross-connection control program, (2) authorize the adoption of an enforcement response plan dealing with violations of the City Code provisions dealing with the cross-connection program, and (3) authorize combining the enforcement response plan for violations of the City Code provisions dealing with the cross-connection program

with the enforcement response plans for other violations of the City Code which are protective of water quality to assure uniformity to the City's enforcement response.

**DOCUMENT NAME** 20120809PWDM02 WATER ADMIN (0811-00) ORDINANCE NO. 2012.39

- \*C5. Introduced and held the first public hearing to adopt an ordinance amending Chapter 12, Article VI, Tempe City Code, relating to Storm Water Pollution Control, by amending Section 12-149, relating to Civil Penalties, and by adding a new Section 12-153, relating to Enforcement Response Plan And Penalty Policy. The second and final public hearing was scheduled for September 6, 2012.

**COMMENTS**

This ordinance will amend the City Code to bring uniformity to the City's enforcement authorities and powers for violations of the City's ordinances on Stormwater Pollution Control (Chapter 12, Article VI), Sewers – Pretreatment (Chapter 27, Article I), and Cross-Connection Control (Chapter 33, Article V). Following the adoption of this ordinance, an Enforcement Response Plan outlining the proposed response to suspected violations of these ordinances will be submitted to Council for its approval.

The discharge permit for stormwater recently issued to Tempe by the Arizona Department of Environmental Quality requires Tempe for the first time to adopt an enforcement response plan for violations of the Clean Water Act provisions dealing with stormwater. (AZPDES Permit No. AZS-000005-2010, Appendix A, Part III(G)). The ordinance will amend the City Code to (i) authorize the adoption of an enforcement response plan dealing with violations of stormwater provisions of the City Code as required by AZPDES Permit No. AZS-000005-2010, (2) authorize combining the enforcement response plan for violations of City Code stormwater provisions with the enforcement response plans for other violations of the City Code which are protective of water quality to assure uniformity to the City's enforcement response, and (3) bring uniformity to the civil penalty provisions of these various City Code provisions to allow for a uniform and combined enforcement response plan.

**DOCUMENT NAME** 20120809PWDM03 WATER ADMIN (0811-00) ORDINANCE NO. 2012.40

- \*C6. Introduced and held the first public hearing to adopt an ordinance amending Chapter 27, Article I, Tempe City Code, relating to Sewers - Pretreatment, by repealing Section 27-65, relating to Discharge Violations, by repealing Section 27-66, relating to Enforcement; Penalties, and by amending Section 27-95, relating to Enforcement Response Plan And Penalty Policy. The second and final public hearing was scheduled for September 6, 2012.

**COMMENTS**

This ordinance will amend the City Code to bring uniformity to the City's enforcement authorities and powers for violations of the City's ordinances on Stormwater Pollution Control (Chapter 12, Article VI), Sewers – Pretreatment (Chapter 27, Article I), and Cross-Connection Control (Chapter 33, Article V). Following the adoption of this ordinance, an Enforcement Response Plan outlining the proposed response to suspected violations of these ordinances will be submitted to Council for its approval. This ordinance also repeals

certain duplicative City Code provisions dealing with enforcement of Tempe City Code, Chapter 27, Article I.

Regulations adopted under the Clean Water Act require publicly owned treatment works to develop and implement enforcement response plans to detail how violations of the Clean Water Act by industrial users will be investigated and enforced. See 40 C.F.R. § 403.8. The ordinance will amend the City Code to (i) update the process by which Tempe adopts its enforcement response plan, (ii) eliminate duplicative provisions of Chapter 27 of the City Code dealing with the enforcement response plan, and (iii) authorize combining the enforcement response plan for violations of the Clean Water Act by industrial users with enforcement response plans for other violations of the City Code which are protective of water quality to assure uniformity to the City's enforcement response..

**DOCUMENT NAME** 20120809PWDM04 WASTE WATER ADMIN (0812-01)  
ORDINANCE NO. 2012.41

- \*C7. Introduced and held the first public hearing to adopt an ordinance for the TEMPORARY SIGN PROGRAM. The second and final public hearing was scheduled for September 6, 2012.

**COMMENTS** Request for TEMPORARY SIGN PROGRAM (PL100056) (Community Development Dept., applicant) consisting of Zoning and Development Code amendments for an extension of temporary sign allowances and temporary banners to advertise vacant commercial space. The request includes the following: ZOA12001 (Ordinance No. 2012.43) – Code Text Amendment for Sections 4-903(M), Lead-In Sign; 4-903(P), For Sale, Lease or Rent Sign; 4-903(R), Special Event Sign; and Section 4-906, Leasing Banner Sign.

**DOCUMENT NAME** 20120809cdri01 ZONING & DEVELOPMENT CODE (0414-04)  
ORDINANCE NO. 2012.43

**D. Ordinances and Items for Second Hearing/Final Adoption**

- \*D1. Held the second and final public hearing and adopted **ORDINANCE NO. 2012.26** and **RESOLUTION NO. 2012.55** authorizing the Mayor to execute a General Plan Amendment and to adopt an ordinance for a Zoning Map Amendment for RURAL AND LAKESHORE RESTAURANT COMPLEX located at 4455 S. Rural Road.

**COMMENTS** Request for RURAL AND LAKESHORE RESTAURANT COMPLEX (PL120121) (Holly James, D.R.Horton, Inc., property owner; Wayne Sterling, Sterling Design Associates, LLC, applicant) consisting of Lot 1, a one-story 1,725 s.f. restaurant and Lot 2 a one-story 3,500 s.f. building for two restaurants for a total of 5,225 s.f., on 1.23 net acres, located at 4455 S. Rural Road in the MU-3 District. The request includes the following:  
GEP12002 – (Resolution No. 2012.55) General Plan Land Use Amendment from Mixed Use to Commercial.  
ZON12002 – (Ordinance No.2012.26) Zoning Map Amendment from MU-3, Mixed-Use Three, Medium Density District to PCC-2 Planned Commercial Center Two.

**DOCUMENT NAME** 20120809cddk02 PLANNED DEVELOPMENT (0406)  
(RESOLUTION NO. 2012.55) (ORDINANCE NO. 2012.26)

*The following conditions of approval apply:*

1. A building permit application shall be made on or before August 9, 2014, or the zoning of the property may revert to that in place at the time of application. Any reversion is subject to a public hearing process as a zoning map amendment.
2. The property owner(s) shall sign a waiver of rights and remedies form. By signing the form, the Owner(s) voluntarily waive(s) any right to claim compensation for diminution of 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 Community Development Department no later than September 10, 2012 or the Zone Map Amendment and General Plan Map Amendment approval shall be null and void.
3. An amended Subdivision Plat is required for this development and shall be recorded prior to issuance of building permits.
4. The Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Community Development Department on or before August 9, 2013. Failure to record the plat on or before August 9, 2013, shall make the plat null and void.
5. All property corners shall be set and verified with staff upon final recordation of the subdivision plat, no later than three (3) months from the date of County recordation or as determined by staff.

\*D2. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Second and final public hearing to adopt a resolution authorizing the Mayor to execute a General Plan Amendment and to adopt ordinances for a Zoning Map Amendment and Planned Area Development Overlay for ARGO AT TOWN LAKE, 601 W. Rio Salado Parkway.

\*D3. Held the second and final public hearing and adopted **ORDINANCE NO. 2012.35** to amend the Tempe City Code, Section 2-181, relating to the City boards and commissions, providing authority to boards and commissions to create subcommittees under certain restrictions.

**COMMENTS** There is no direct cost to the City with this Code amendment.  
**DOCUMENT NAME** 20120809ccb01 0102-01-00 BDS, COMMISSIONS, COMMITTEES ADM; ORDINANCE NO. 2012.35

## **E. Resolutions**

E1. Adopted **RESOLUTION NO. 2012.91** accepting grant funding from the Governor's Office of Highway Safety for Traffic Enforcement and Equipment, receive the grant funds and to disperse the funds and/or incur allowable expenses. **(Contract #2012-123)**

**COMMENTS** The award amount is \$38,830  
**DOCUMENT NAME** 20120809pdmk01 POLICE DEPT ADMIN (0606-02) RESOLUTION NO. 2012.91

E2. Adopted **RESOLUTION NO. 2012.92** accepting grant funding from the Governor's Office of Highway Safety for DUI Enforcement and Equipment, receive the grant funds and to disperse the funds and/or incur allowable expenses. **(Contract #2012-124)**

**COMMENTS** The award amount is \$44,363  
**DOCUMENT NAME** 20120809pdmk02 POLICE DEPT ADMIN (0606-02) RESOLUTION NO. 2012.92

- E3. Adopted **RESOLUTION NO. 2012.93** authorizing the Mayor to execute an Intergovernmental Agreement between the Town of Gilbert and the City of Tempe for the Juvenile Accountability Block Grant JB-CSG-12-2366-09. (**Contract #2012-125**)

**COMMENTS** The City of Tempe will disburse Juvenile Accountability Block Grant funds in the amount of \$2,619.00 to support the Town of Gilbert's Adolescent Life Fundamentals Program.  
**DOCUMENT NAME** 20120809cskb01 COMMUNITY SERVICES ADMIN (0701-01) RESOLUTION NO. 2012.93

- E4. Adopted **RESOLUTION NO. 2012.94** accepting grant funding from the Governor's Office of Highway Safety for Occupant Protection Enforcement, receive the grant funds and to disperse the funds and/or incur allowable expenses. (**Contract #2012-126**)

**COMMENTS** The award amount is \$20,000  
**DOCUMENT NAME** 20120809pdmk03 POLICE DEPT ADMIN (0606-02) RESOLUTION NO. 2012.94

- E5. Adopted **RESOLUTION NO. 2012.95** authorizing the Mayor to terminate the intergovernmental agreement between the City of Tempe and participating municipalities for sharing information obtained from E-Verify audits.

**COMMENTS** In order to reduce staff time and obligations, Tempe wishes to terminate its participation in the sharing of E-Verify audit results. Other participating cities did not contribute to the shared database as anticipated. There is no cost to Tempe to terminate the agreement.  
**DOCUMENT NAME** 20120809caef01 AZ League of Cities & Towns (0105-04-01) RESOLUTION NO. 2012.95

- E6. Adopted **RESOLUTION NO. 2012.96** authorizing the Mayor to execute the Grant Agreement between the Arizona Criminal Justice Commission and the City of Tempe for the purpose of accepting and spending a state grant for the provision of CARE 7 victim services. (**Contract #2012-127**)

**COMMENTS** The Arizona Criminal Justice Commission has awarded \$21,000.00 to Tempe through June 30, 2013.  
**DOCUMENT NAME** 20120809cskb03 COMMUNITY SERVICES ADMIN (0701-01) RESOLUTION NO. 2012.96

- E7. Adopted **RESOLUTION NO. 2012.97** authorizing the Mayor to execute the Subgrant Award Agreement between the Arizona Department of Public Safety-Victims of Crime Act, Victim Assistance Program and the City of Tempe, for the purpose of accepting and spending a federal grant for the provision of Care 7 victim assistance services. (**Contract #2012-128**)

**COMMENTS** The Arizona Department of Public Safety Victims of Crime Act Victim Assistance Grant Program has awarded \$105,656.00 to Tempe through June 30, 2013.  
**DOCUMENT NAME** 20120809cskb04 COMMUNITY SERVICES ADMIN (0701-01)) RESOLUTION NO. 2012.97

- E8. Adopted **RESOLUTION NO. 2012.98** authorizing the execution of an amendment to the existing Agreement with Salt River Project Agricultural and Improvement District to accommodate relocation of City improvements within or adjacent to Tempe Town Lake to facilitate the widening of State Route 202 (SR202). (**Contract #97-163A**)

**COMMENTS** As part of the widening of SR202, the City must relocate certain improvements constructed within land within or along Tempe Town Lake over which SRP has existing easements and which may impact existing SRP facilities. Under the existing Agreement [C97-163] City and SRP agreed to coordinate with one another when making changes to their facilities. As part of the widening of State Route 202, City must relocate certain improvements. This amendment will facilitate the relocation by providing the requisite coordination between SRP and City.

**DOCUMENT NAME** 20120809pwko06 SRP (0113-03) RESOLUTION NO. 2012.98

- E9. Adopted **RESOLUTION NO. 2012.99** accepting Federal Emergency Management Agency (FEMA) Grant No. EMW-2011-FP-01175, receive the grant funds and to distribute the funds and/or incur allowable expenses.

**COMMENTS** The total project amount of this grant is \$48,300 of which \$38,640 is Federal funds.

**DOCUMENT NAME** 20120809fdjv01 FIRE/FIRE PREVENTION (0605-01) RESOLUTION NO. 2012.99

- E10. Adopted **RESOLUTION NO. 2012.100** authorizing the execution and delivery of certain agreements; approving an official statement; approving the issuance and sale of not to exceed \$45,000,000 Transit Excise Tax Revenue Refunding Obligations, Series 2012; authorizing the redemption in advance of maturity of certain outstanding obligations; authorizing the taking of all other actions necessary for the consummation of the transactions contemplated.

**COMMENTS** The issuance of the Transit Excise Tax Revenue Refunding Obligations, Series 2012, is in accordance with the operating budget as adopted by the City Council; issuance of the obligations allows the City to take advantage of the historically low interest rate environment through converting the remaining, outstanding variable rate debt to fixed rate debt.

**DOCUMENT NAME** 20120809ftjh BOND SERVICE ADMINISTRATION (0203-01) RESOLUTION NO. 2012.100

- E11. Adopted **RESOLUTION NO. 2012.101** authorizing the execution and delivery of an equipment lease-purchase agreement and separate lease schedule (not to exceed \$525,000) as required with respect to the acquisition, purchase, financing and leasing of certain equipment for the public benefit; authorizing the execution and delivery of documents required in connection therewith; and the taking of all other actions necessary for the consummation of the transactions contemplated.

**COMMENTS** The approval of this resolution will authorize the third-party, lease financing of a fleet of 120 new electric golf carts to be used at the Rolling Hills and Ken McDonald golf courses.

**DOCUMENT NAME** 20120809ftjh BOND SERVICE ADMINISTRATION (0203-01) RESOLUTION NO. 2012.101

- E12. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Request adoption of a resolution authorizing the Manager to seek approval from the Federal Transit Administration and Arizona Board of Regents to extend the closing and certain other performance dates set forth in the Development and Disposition Agreement [C2011-72], dated as of June 30, 2011 between the City and 529 TEMPE L.L.C.

**AGENDA ITEM(S) REMOVED FOR SEPARATE CONSIDERATION:**

- A3. Approved the recommended funding for the 2012-2013 Arts Grants Awards to Tempe schools and nonprofit organizations.

**COMMENTS** Total amount of recommended grants funding is \$138,983 to be paid from the Municipal Arts Fund. No general fund monies are used for this project.  
**DOCUMENT NAME** 20120809cskb01 COMMUNITY SERVICES ADMIN (0809-01)

Councilmember Granville asked staff to brief the City Council on agenda item 5A3. Kathy Berzins, Community Services Director, responded as follows:

- A citizen's board reviews grant applications and how they fit the criteria. Criteria include that the entity be a public school and how much of a benefit it would be for the community as a whole.
- If an application meets the criteria, it does not necessarily mean that they get funded.
- Value to the community is rated, as is capacity to complete the project.
- Some applications are not approved because their outreach was more selective in terms of reaching out to specific populations, such as students only, versus a broader outreach to citizens.

**Motion by Councilmember Granville to approve agenda item 5A3; second by Councilmember Navarro. Motion passed on a roll call vote 7-0.**

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- \*A10. Held a public hearing and recommended the approval of an acquisition of control of a Series 04 in-state wholesaler's liquor license for Action Wine and Spirits USA LLC, dba Action Wine and Spirits, 2055 East 5th Street.

**COMMENTS** Billy Edward Shields is the Agent for this application.  
**DOCUMENT NAME** 20120809 fsap01 124723 – LIQ LIC (0210-02)

Councilmember Ellis declared a conflict of interest on agenda item 5A10.

**Motion by Councilmember Navarro to approve agenda item 5A10; second by Vice Mayor Shekerjian. Motion passed on a roll call vote 6-0-1 with Councilmember Ellis abstaining.**

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- B4. Approved a four-month contract renewal with Santa Barbara Catering for catering and concession services at the Tempe Center for the Arts.

**COMMENTS** This renewal will result in no cost to the City.  
**DOCUMENT NAME** 20120809fslg02 PURCHASES (1004-01)

Councilmember Granville asked staff to brief the City Council on the process for vendor selection. Kathy Berzins, Community Services Director, responded as follows:

- The City has had a contract with Santa Barbara Catering for five years; the contract expires in September, 2012.

- This contract renewal is a four month extension, allowing for a transition to a different caterer.

Michael Greene, Central Services Administrator, spoke to the following points regarding the City's standard evaluation process for contracts and contract renewals:

- The process involves performance grading by key users: A (exceeding standards), B (meeting standards), and C (below standards).
- The key users also provide a formal recommendation if a renewal is warranted.

Councilmember Granville requested that staff provide the City Council with vendor score data. Mr. Greene stated that the City uses a one-page score-sheet that is completed by the key user; Procurement staff is also involved in contract administration and price audits.

**Motion by Councilmember Granville to approve agenda item 5B4; second by Councilmember Woods. Motion passed on a roll call vote 7-0.**

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B7. Awarded job order no. 3 to PCL Construction, Inc. for an emergency waterline repair and roadway restoration on McClintock Drive at Guadalupe Road due to a waterline break.

<b>COMMENTS</b>	Total amount of job order no. 3 is \$69,429.03 and the project contingency amount is \$6,900.
<b>DOCUMENT NAME</b>	20120809pwr05 ENGINEERING ADMINISTRATION (0803-02) PROJECT NO. 3205311

Councilmember Granville asked what recourse the City has when a contractor is given 30 days to complete a project, but does not complete it within that timeframe. Andrew Ching, City Attorney, responded as follows:

- The master contract with PCL Construction includes clauses that give authority to the requirement to complete a project within the timeframe; those clauses allow the City to require performance and to impose penalties.
- The master contract anticipates instances such as timeframes not being met.

**Motion by Councilmember Granville to approve agenda item 5B7; second by Councilmember Navarro. Motion passed on a roll call vote 7-0.**

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B15. Awarded one-year contracts with four, one-year renewal options to Universal Police Supply Company and West Valley Uniforms DBA East Valley Uniforms to provide ballistic vests, carriers and trauma plates for the Police Department. **(Contract #2012-147, #2012-148)**

<b>COMMENTS</b>	Total combined cost of these one-year contracts shall not exceed 85,000.
<b>DOCUMENT NAME</b>	20120809fsmg14 PURCHASES (1004-01)

Councilmember Granville asked staff to brief the City Council on how proposals are scored and how their scores relate to pricing. Michael Greene, Central Services Administrator, responded as follows:

- In the Request for Proposal (RFP) process, proposals are evaluated on qualitative and pricing criteria.
- In this case, some of the RFP respondents failed to provide the complete line of items outlined in the RFP.
- Location and convenience of vendor location are factors.

Councilmember Granville and Mr. Greene discussed non-susceptibility and the impact on the purchasing process.

**Motion by Councilmember Granville to approve agenda item 5B15; second by Councilmember Woods. Motion passed on a roll call vote 7-0.**

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\*D2. Held the second and final public hearing and adopted **RESOLUTION NO. 2012.60** authorizing the Mayor to execute a General Plan Amendment and adopted **ORDINANCE NO. 2012.27**, a Zoning Map Amendment and adopted **ORDINANCE NO. 2012.28**, a Planned Area Development Overlay for ARGO AT TOWN LAKE, 601 W. Rio Salado Parkway.

**COMMENTS**

Request for ARGO AT TOWN LAKE (PL110131) (Jason Ottman, Evergreen Development Co., property owner; Brent Fike, Todd & Associates Inc., applicant) consisting of a new four story building over two floors of podium parking, with 604,105 s.f., on approximately 5.72 net acres, located at 601 W Rio Salado Parkway in the MU-4 Mixed Use District. The request includes the following:

GEP12003 - (Resolution No. 2012.60) General Plan Land Use and Density Map Amendment from Open Space to Mixed Use and from up to 25 du/ac to greater than 25 du/ac on .135 acres of the 5.72 acre site.

ZON12003 – (Ordinance No. 2012.27) Zoning Map Amendment from GID, General Industrial District to MU-4, Mixed-Use, High Density District for .135 acres of the 5.72 acre site.

PAD12003 – (Ordinance No. 2012.28) Planned Area Development Overlay Amendment to change existing entitlements for density from 99 du/ac to 63 du/ac, lot coverage from 53% to 75%, landscape area from 35% to 43.2%, building height from 189' to 90', side yard setback from 44'6" to 34'0", and parking reduction from 664 to 559 parking spaces.

**DOCUMENT NAME**

20120809cddk01 PLANNED DEVELOPMENT (0406)  
RESOLUTION NO. 2012.60; ORDINANCE NO. 2012.27;  
ORDINANCE NO. 2012.28

Councilmember Granville declared a conflict of interest on agenda item 5D2.

**Motion by Councilmember Woods to approve agenda item 5D2; second by Councilmember Navarro. Motion passed on a roll call vote 6-0-1, with Councilmember Granville abstaining.**

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E12. Adopted **RESOLUTION NO. 2012.102 as amended** authorizing the Manager to seek approval from the Federal Transit Administration and Arizona Board of Regents to extend the closing and certain other performance dates set forth in the Development and Disposition Agreement [C2011-72], dated as of June 30, 2011 between the City and 529 TEMPE L.L.C.

**COMMENTS**

N/A

**DOCUMENT NAME**

20120809cdlc REAL PROPERTY DISPOSITION (0902-21-01)  
RESOLUTION NO.2012.102

Vice Mayor Shekerjian called upon Andrew Ching, City Attorney, to read revised wording for Section 4 of the Development and Disposition Agreement [C2011-72] as follows:

*"If the developer demolishes the building on the property in accordance with applicable state, county and local standards by March 1, 2013, then the Manager is authorized, at his discretion, to grant a further extension of the closing date of not more than an additional six months to a date no later than March 1, 2014, so long as such additional extension is consistent with conditions imposed by other parties."*

**Motion by Vice Mayor Shekerjian to approve the amended language, read by Mr. Ching, to agenda item 5E12.**

Councilmember Navarro voiced disagreement in revising the wording in Section 4; this project has been in existence for the past four years.

**Second by Councilmember Arredondo-Savage.**

Councilmember Ellis declared a conflict of interest on agenda item 5E12.

Councilmember Woods supported Councilmember Navarro's concerns and requested that adjustments to agenda items not be made at such a late hour.

Councilmember Arredondo-Savage asked for confirmation that the extension will be in place prior to the September 1, 2012 deadline; Mr. Ching confirmed that the extension will be in place before the deadline. Mr. Ching stated that the City Council is currently voting to accept the amendment only; if this motion is approved, there will need to be a second motion and vote to approve the item as amended.

**Motion to approve the amendment passed on a roll call vote 5-1-1 with Councilmember Navarro dissenting and Councilmember Ellis abstaining.**

**Motion by Vice Mayor Shekerjian to approve agenda item 5E12 as amended; second by Councilmember Granville. Motion passed on a roll call vote 6-0-1 with Councilmember Ellis abstaining.**

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

Councilmember Granville

- Thanked the City Manager and City staff for responding to his questions.

Councilmember Navarro

- October 20, 2012 – Old Settlers Picnic at the Arizona Community Church; invited community members to attend.

Councilmember Woods

- Welcomed Councilmember Granville to the Tempe City Council.

Councilmember Ellis

- Wished her parents a happy 58<sup>th</sup> wedding anniversary.

Vice Mayor Shekerjian

- Thanked Don Hawkes, Deputy Public Works Director – Water Utilities, regarding his work on water issues.
- Thanked Michael Greene, Central Services Administrator, regarding his work on a contract renewal evaluation system.
- Welcomed Councilmember Granville to the Tempe City Council. She suggested that Councilmember Granville spend time with Procurement staff to learn more about their processes.

Councilmember Arredondo-Savage

- School is back in session.
- Working in partnership with ASU to develop the first Tempe Tailgate event.
- Cardiocerebral Resuscitation (CCR) Program is now being offered in all Tempe High Schools.

Mayor Mitchell

- Recognized new staff members for the Mayor and City Council: Steven Methvin, Chief of Staff; Elizabeth Higgins, Mayoral Aide; Parrish Spisz, City Council Aide; and Michael Branom, City Council Aide.
- Wished his daughter, Allison, Happy Birthday.

**7. PUBLIC APPEARANCES**

A. Scheduled

1. Haryaksha Gregor Knauer requested that the City Council adopt a resolution abolishing corporate personhood.

Councilmember Woods requested that staff provide background and context for Mr. Knauer's request; something that speaks to precedent regarding this topic.

B. Unscheduled

Ken Bonham expressed concern about amplified noise on Mill Avenue and stated that he felt the City is not taking the issue seriously. Mayor Mitchell asked Mr. Bonham to contact Lisa Collins, Interim Community Development Director, regarding his concerns.

Kevin Hengehold requested that the City Council support the abolishment of corporate personhood and endorse a resolution that corporations are not people and money is not speech.

Charles Park requested that the City Council pass a resolution regarding corporate personhood.

The meeting adjourned at 9:03 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 August 9, 2012, by the Tempe City Council, Tempe, Arizona.

\_\_\_\_\_  
Mark W. Mitchell, Mayor

ATTEST:

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Brigitta M. Kuiper, City Clerk