



## Minutes Formal City Council Meeting August 18, 2011

Minutes of the Formal Council Meeting of Thursday, August 18, 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:**

Vice Mayor Joel Navarro  
Councilmember Robin Arredondo-Savage  
Councilmember Shana Ellis  
Councilmember Mark W. Mitchell  
Councilmember Onnie Shekerjian  
Councilmember Corey D. Woods

### **COUNCIL ABSENT:**

Mayor Hugh Hallman

### **STAFF PRESENT:**

Charlie Meyer, City Manager  
Andrew Ching, City Attorney  
John Osgood, Deputy Public Works Director – Field Operations  
Chris Anaradian, Community Development Director  
Bryan Berman, Police Officer

Jeff Kulaga, Assistant City Manager  
Brigitta M. Kuiper, City Clerk  
William Gallauer, Licensing Specialist  
Tom Ryff, Police Chief  
Various Department Heads or their representatives

Vice Mayor Navarro called the meeting to order at 7:45 p.m., and read a prepared statement from Mayor Hallman, who was absent from the meeting due to a family emergency.

1. Councilmember Shekerjian gave the invocation.
2. Vice Mayor Navarro led the audience in the **Pledge of Allegiance**.

### **3. MINUTES**

#### **A. Approval of Council Meeting Minutes**

**Motion by Councilmember Mitchell to approve the following COUNCIL MEETING MINUTES; second by Councilmember Ellis. Motion passed unanimously on a voice vote 6-0.**

1. [Formal Council Meeting - July 7, 2011](#)
2. [Issue Review Session - July 7, 2011](#)
3. Executive Session - July 7, 2011
4. [Sports, Tourism, Recreation, Arts and Cultural Development Council Committee - June 1, 2011](#)
5. [Transportation Council Committee - June 14, 2011](#)

**B. Acceptance of Committee, Board & Commission Meeting Minutes**

**Motion by Councilmember Mitchell 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. [Merit System Board - June 11, 2010](#)
2. [Enhanced Services Commission - January 12, 2011, April 13, 2011 and May 11, 2011](#)
3. [Transportation Commission Multi-modal Planning and Project Review Subcommittee - January 12, 2011, February 9, 2011 and April 13, 2011](#)
4. [Transportation Commission Accountability and Governance Subcommittee - February 22, 2011, March 28, 2011 and April 4, 2011](#)
5. [Transportation Commission Public Involvement/Marketing Subcommittee - April 11, 2011](#)
6. [Transportation Commission - April 12, 2011 and July 12, 2011](#)
7. [Human Relations Commission - April 12, 2011 and May 10, 2011](#)
8. [Human Relations Commission Teen Diversity Dialogue Subcommittee - April 12, 2011](#)
9. [Parks, Recreation and Golf Advisory Board - May 18, 2011 and June 15, 2011](#)
10. [Tempe Streetcar Working Group - May 23, 2011 and June 27, 2011](#)
11. [Fire Public Safety Personnel Retirement Board - June 2, 2011 and July 7, 2011](#)
12. [Police Public Safety Personnel Retirement Board - June 2, 2011 and July 7, 2011](#)
13. [Commission on Disability Concerns - June 2, 2011](#)
14. [Historic Preservation Commission - June 9, 2011](#)
15. [Neighborhood Advisory Commission - June 11, 2011](#)
16. [Aviation Commission - June 14, 2011](#)
17. [Development Review Commission - June 14, 2011 and July 12, 2011](#)
18. [Plumbing and Mechanical Code Advisory Board - June 16, 2011](#)
19. [Building Code Advisory Board - June 27, 2011](#)
20. [Hearing Officer - June 21, 2011, July 5, 2011 and July 19, 2011](#)
21. [Special Events Task Force - July 12, 2011, July 26, 2011 and August 9, 2011](#)

**4. REPORTS AND ANNOUNCEMENTS**

**A. Mayor's Announcements**

1. *Craig Hayton - Valor Proclamation*  
Vice Mayor Navarro read a proclamation declaring August 18, 2011 Craig Hayton Valor Day due to his quick thinking and action in administering first aid during an emergency situation.

**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.

Vice Mayor Navarro announced consideration of the **AGENDA** items.

**Motion by Councilmember Woods to approve the Agenda with the exception of agenda items 5A13, 5B11, 5C3, 5D4, 5E7 and 5E8, which were removed for separate consideration; second by Councilmember Sherkerjian. Motion passed unanimously on a roll call vote 6-0.**

**A. Miscellaneous Items**

- A1. [Approved the June 2011 Report of Claims Paid to be filed for audit.](#)

**COMMENTS** N/A  
**DOCUMENT NAME** 20110818fsnw01 ACCOUNTS PAYABLE (0208-01)

- A2. [Approved the July 2011 Report of Claims Paid to be filed for audit.](#)

**COMMENTS** N/A  
**DOCUMENT NAME** 20110818fsnw02 ACCOUNTS PAYABLE (0208-01)

- A3. [Approved a database and infrastructure management support expenditure with Public Safety Systems Incorporated \(PSSI\) for the Police Department's Computer Aided Dispatch system and the Incident/Crime Information system.](#)

**COMMENTS** Total annual expenditure shall not exceed \$87,220.  
**DOCUMENT NAME** 20110818fst16 PURCHASES (1004-01)

- A4. [Approved the acceptance of the Library Services and Technology Act Grant for Fabulous Arizona, Fantastic Tempe Centennial Grant.](#)

**COMMENTS** Upon approval, the City will receive a federal grant of \$10,000, valid through July 2012.  
**DOCUMENT NAME** 20110818csar01 COMMUNITY SERVICES ADMIN (0701-01)

- \*A5. [Adopted a Notice of Intention setting the time \(7:30 p.m.\) and date \(September 22, 2011\) for the public hearing to modify water rates.](#)

**COMMENTS** Notice of Intention to Modify Utility Fees - WATER RATES  
**DOCUMENT NAME** 20110818 wudph01 MISCELLANEOUS FEES (0210-05)

- \*A6. [Adopted a Notice of Intention setting the time \(7:30 p.m.\) and date \(September 22, 2011\) for the public hearing to modify wastewater rates.](#)

**COMMENTS** Notice of Intention to Modify Utility Fees - WASTEWATER RATES  
**DOCUMENT NAME** 20110802 wudph02 MISCELLANEOUS FEES (0210-05)

- A7. [Approved a final subdivision plat for Lake Country Village Phase One located at 1030 East Baseline Road.](#)

**COMMENTS** Request for LAKE COUNTRY VILLAGE PHASE ONE (PL110106) (Drew Goodman, LCV Property, Inc., property owner; Len Swartz, Olsson Associates, applicant) located at 1030 East Baseline Road in the PCC-2 (PAD), Planned Commercial Center General District with a Planned Area Development Overlay. The request includes the following: SBD11007 – Final Subdivision Plat to create three (3) Lots on +/-25.44 net acres.  
**DOCUMENT NAME** 20110818cdkko01 PLANNED DEVELOPMENT (0406)

The following conditions of approval apply:

1. The Subdivision Plat for the +/- 25.44 acre Lake Country Village Phase I including the subdivision of the existing parcel 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 Community Development Department on or before August 18, 2012 or prior to issuance of a Certificate of Occupancy of the first Phase One construction, whichever comes first. Failure to record the plat on or before August 18, 2012, which is one (1) year from date of City Council approval, shall make the City Council approval of the plat null and void.
2. Abandon existing public utility easements that are no longer needed within Lake Country Village. Separately submit abandonment request to Public Works/Land Services Division and process abandonments through City Council.
3. Provide exclusive easements for public water and sewer lines within Lake Country Village. Either have easements "dedicated hereon" the Subdivision Plat or have easements separately reviewed by the Public Works Department, dedicated by separate instrument and recorded at the Maricopa County Recorder's Office.
4. All property corners shall be set and verified by Registered Land Surveyor. Submit completed and sealed Notice of Verification to Land Services staff ([kenneth\\_olmstead@tempe.gov](mailto:kenneth_olmstead@tempe.gov)) no later than three (3) months from date of County Recordation of plat or on a date as determined by staff.

- A8. [Approved the Amendment to the Magellan Health Services of Arizona, Inc. Prevention Services Participation Agreement for the provision of youth substance abuse prevention programs and coalition efforts to reduce underage drinking in Tempe. \(Contract #2010-166A\)](#)

**COMMENTS** The Amendment to the Magellan Health Services of Arizona Prevention Services Participation Agreement awards to the City of Tempe \$159,633.00 in federal grant funds through June 30, 2012.

**DOCUMENT NAME** 20110818cskb02COMMUNITY SERVICES ADMIN (0701-01)

- \*A9. [Held a public hearing and recommended the approval of a Series 12 restaurant liquor license for 55 Thai LLC, dba R Cha 5 Thai, 815 West University Drive, #110B.](#) Vice Mayor Navarro noted that the City received notification from the Arizona Department of Liquor Licenses and Control that the dba name has been changed to: 5 R Cha Thai Go.

**COMMENTS** Kevin O. Rawlinson is the Agent for this application.

**DOCUMENT NAME** 20110818fsap01 125712- LIQ LIC (0210-02)

- \*A10. [Held a public hearing and recommended the approval of a Series 12 restaurant liquor license for Tholos Restaurant Concepts LLC, dba My Big Fat Greek Restaurant, 525 South Mill Avenue.](#)

**COMMENTS** Lauren Kay Merrett is the Agent for this application.

**DOCUMENT NAME** 20110818fsap02 200482- LIQ LIC (0210-02)

- \*A11. [Held a public hearing and recommended the approval of an acquisition of control of a Series 12 restaurant liquor license for Fiesta Holdings of Eateries, LLC, dba Garcia's Mexican Restaurant, 5000 South Arizona Mills Circle, #557.](#)

**COMMENTS** H.J. Lewkowitz is the Agent for this application.

**DOCUMENT NAME** 20110818fsap03 112907 - LIQ LIC (0210-02)

- \*A12. [Held a public hearing and recommended the approval of an acquisition of control of a Series 12 restaurant liquor license for Fiesta Holdings of Eateries, LLC, dba Garcia's Mexican Restaurant, 4400 South Rural Road.](#)

**COMMENTS** H.J. Lewkowitz is the Agent for this application.  
**DOCUMENT NAME** 20110818fsap04 112898 – LIQ LIC (0210-02)

- \*A13. [THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION. Hold a public hearing and recommend the denial of a Series 06 bar liquor license for Antars Sports Bistro I, LLC, dba Antars Sports Bistro, 699 South Mill Avenue, #201.](#)

- \*A14. [Held a public hearing and recommended the approval of a Series 10 beer and wine store liquor license for 7-Eleven, Inc., dba 7-Eleven #25466J, 8750 South McClintock Drive.](#)

**COMMENTS** Nicholas Carl Guttilla is the Agent for this application.  
**DOCUMENT NAME** 20110818fsap06 200504– LIQ LIC (0210-02)

- \*A15. [Held a public hearing and recommended the approval of a Series 07 beer & wine bar liquor license for NewBrave Arts and Entertainment, LLC, dba Venue 104, 940 East University Drive, #102.](#)

**COMMENTS** Michael Rodney Peck is the Agent for this application.  
**DOCUMENT NAME** 20110818fsap07 200462 – LIQ LIC (0210-02)

**B. Award of Bids/Contracts**

- B1. [Approved the utilization of a one-year Western States Contracting Alliance cooperative contract with Fisher Scientific Company, LLC and VWR International, Inc. for the purchase of laboratory equipment and supplies for the Public Works Department.](#)

**COMMENTS** The combined value of these contracts will not exceed \$225,000 for the one year contract term.  
**DOCUMENT NAME** 20110818fst03 PURCHASES (1004-01)

- B2. [Approved one-year contract renewals with Bound Tree Medical LLC and Henry Schein, Inc. for the supply of emergency medical supplies for the Tempe Fire Department.](#)

**COMMENTS** Total costs of these contracts will not exceed \$130,000.  
**DOCUMENT NAME** 20110818fslg01 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 2011/2012.](#)

**COMMENTS** Total expenditure of funds for fiscal year 2011/2012 shall not exceed \$125,000.  
**DOCUMENT NAME** 20110818fslg02 PURCHASES (1004-01)

- B4. [Approved the utilization of a three-year Western State Contracting Alliance cooperative contract with SHI International Corporation for the purchase of desktop productivity, Microsoft Office, server operating system software and related services for the Finance and Technology Department.](#)

**COMMENTS** Total value of this contract shall not exceed \$600,000 for the three-year contract term.

**DOCUMENT NAME** 20110818fst04 PURCHASES (1004-01)

- B5. [Approved a one-year contract renewal with PSS First In, Inc. for the installation of emergency communication and lighting products in public safety vehicles and warning lighting and accessories on City vehicles for the Public Works Department.](#)

**COMMENTS** Total cost of this contract will not exceed \$225,000 during the one-year contract renewal period.

**DOCUMENT NAME** 20110818fst05 PURCHASES (1004-01)

- B6. [Approved the utilization of a one-year State of Arizona contract with Qwest Communications Corporation for local and long distance telephone and data services utilized by all City departments.](#)

**COMMENTS** Total value of this contract will not exceed \$470,000 during the one-year contract period.

**DOCUMENT NAME** 20110818fst06 PURCHASES (1004-01)

- B7. [Approved the utilization of one-year State of Arizona contracts with Browns Partsmaster, Inc. and Ferguson Enterprises, Inc. for the purchase of plumbing parts and supplies for the Public Works Department.](#)

**COMMENTS** The combined value of these contracts shall not exceed \$400,000 for the one-year contract term.

**DOCUMENT NAME** 20110818fst07 PURCHASE (1004-01)

- B8. [Approved a one-year contract renewal with Phoenix Pumps, Inc. for the maintenance, repair and purchase of small to medium sized horizontal water pumps for the Public Works Department.](#)

**COMMENTS** Total contract amount shall not exceed \$250,000 for the one-year renewal term.

**DOCUMENT NAME** 20110818fst10 PURCHASES (1004-01)

- B9. [Approved the utilization of a one-year State of Arizona contract with Titan Power, Inc. for the purchase of uninterruptible power supply equipment, service and maintenance for the Finance and Technology and Public Works Departments.](#)

**COMMENTS** Total value of this contract will not exceed \$100,000 for the one-year contract term.

**DOCUMENT NAME** 20110818fst08 PURCHASES (1004-01)

- B10. [Awarded a construction manager at risk construction services contract with PCL Construction, Inc. for purchase of pre-sedimentation basin equipment for disinfection by-product control at Johnny G. Martinez Water Treatment Plant. \(Contract #2011-107\)](#)

**COMMENTS** Total amount of this contract is \$211,494.  
**DOCUMENT NAME** 20110818pwr03 JOHNNY G. MARTINEZ WATER TREATMENT PLANT (0811-03) PROJECT NO. 3204231

- B11. [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 Clean Harbors Environmental Services and PSC Environmental Services, LLC for the transportation and disposal of hazardous materials for the Public Works Department.](#)

- B12. [Approved a nine-month contract renewal with Trucks West of Phoenix for the purchase of refuse vehicles for use by the Public Works Department.](#)

**COMMENTS** There is no additional request for expenditures beyond the increase approved by Council on June 16, 2011.  
**DOCUMENT NAME** 20110818fsta13 PURCHASES (1004-01)

- B13. [Awarded a one-year contract with four, one-year renewal options to RSI Enterprises, Inc., to provide telemarketing services to support the City's new Service Line Protection Program \(SLiPP\). \(Contract #2011-109\)](#)

**COMMENTS** Total amount not to exceed \$50,000 over the initial one-year contract period.  
**DOCUMENT NAME** 20110818fsmg15 PURCHASES (1004-01)

- B14. [Approved a five year agreement with Tempe Sister City Corporation, for the Student Exchange expenses, educator and delegate programs. \(Contract #2011-110\)](#)

**COMMENTS** The agreement will provide fixed amounts for budgeting purposes and provide transparency of actual expenditures. The structure provides for a direct offset of expenses with revenue for services, so that the City can budget exactly for the contract amount. The total amount of this five year agreement equals \$255,000. Funding by the City to TSC shall be as follows:  
\$60,000 in 2011-12      \$55,000 in 2012-13  
\$50,000 in 2014-15      \$45,000 in 2015-16  
\$45,000 in 2016-17  
**DOCUMENT NAME** 20110818cstd01 COMMUNITY SERVICES ADMIN (0701-01)

- B15. [Approved an amendment to the City's retiree health care administration plan document administered by OptumHealth Financial Services/Administration Resources Corporation for the inclusion of Group 1 and Group 2 pre-Medicare retirees.](#)

**COMMENTS** The vast majority of expenses related to this contract are paid by plan participants.  
**DOCUMENT NAME** 20110818fsmg11 PURCHASES (1004-01)

- B16. [Awarded job orders no. 8 with Hunter Contracting Company \(Contract #2008-251\), and no. 17 with Foresite Design & Construction, Inc. \(Contract #2008-138Q\), for emergency waterline replacement and roadway restoration on Roosevelt Street between First and Fifth Streets.](#)

**COMMENTS** Total amount of job order no. 8 with Hunter Contracting Company is \$449,282.07, job order no. 17 with Foresite Design & Construction, Inc. is \$96,383 and the project contingency amount is \$54,500.

**DOCUMENT NAME** 20110818pwdr07 WATERMAIN UPGRADES (0810-04) PROJECT NO. 3204481

**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 amend Chapter 16 of the Tempe City Code to clarify the taxability of sales of medical marijuana and related medical marijuana infused products for transaction privilege tax purposes by amending Section 16-100. The second public hearing was scheduled for September 8, 2011.](#)

**COMMENTS** These proposed changes apply the changes adopted by the Municipal Tax Code Commission to clarify the taxability of sales of medical marijuana and related medical marijuana infused products.

**DOCUMENT NAME** 20110818fdpf01 TCC CH 16 - LICENSES, TAXATION & MISC BUS REGS, ETC. (0503-16) Ordinance No. 2011.30

- \*C2. [Introduced and held the first public hearing to incorporate conforming changes to the Model City Tax Code as a result of the 2010 legislative session into Chapter 16 of the Tempe City Code relating to License, Privilege and Excise Taxes by amending Sections 16-415, 16-416, 16-417, 16-445, and 16-660. The second public hearing was scheduled for September 8, 2011.](#)

**COMMENTS** Following each legislative session, Arizona cities and towns acting collectively through the Unified Audit Committee, review new laws to determine those areas of the Model City Tax Code that require adjustment to maintain or achieve conformity with State law. This committee meets with taxpayer advocates and business representatives to draft tax code changes, which are then forwarded to the Municipal Tax Code Commission for approval. These proposed changes apply the modifications adopted by the Municipal Tax Code Commission following the end of the 2010 legislative session to Tempe's Tax Code.

**DOCUMENT NAME** 20110818fdpf02 TCC CH 16 - LICENSES, TAXATION & MISC BUS REGS, ETC. (0503-16) Ordinance No. 2011.31

- \*C3. [THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION. Introduction and first public hearing to adopt an ordinance to authorize the mayor to execute a lease and memorandum of lease with ZarCalRes Tempe, LLC \(Zaremba\) with regard to West Sixth Apartments located at 111 West Sixth Street. The second public hearing is scheduled for September 8, 2011.](#)

- \*C4. [Introduced and held the first public hearing to adopt an ordinance authorizing the City Manager or his designee to negotiate and enter leases and related documents for the occupancy of space within the City-owned Tempe Transportation Center at 200 E. Fifth Street and leasable](#)

[commercial space within the City-owned public garage at 117 E. Fifth Street. The second public hearing was scheduled for September 8, 2011.](#)

**COMMENTS** N/A  
**DOCUMENT NAME** 20110818cdmm01 REAL PROPERTY LEASES (0903) ORDINANCE NO. 2011.35

- \*C5. [Introduced and held the first public hearing to adopt an ordinance authorizing the grant of a Power Distribution Easement to Salt River Project Agricultural Improvement at Tempe Marketplace. The second public hearing was scheduled for September 8, 2011.](#)

**COMMENTS** The City of Tempe owns lot 23 of Tempe Marketplace and leases the property to Vestar as part of a Government Property Lease Excise Tax (GPLET) agreement. Vestar has asked the City to grant SRP an electrical easement, on lot 23, so that power can be provided to a methane burning device on the property adjacent to Tempe Marketplace.  
**DOCUMENT NAME** 20110818cdcm02 UTILITY EASEMENT GRANTED (0904-02) ORDINANCE NO. 2011.28

- \*C6. [Introduced and held the first public hearing to adopt an ordinance to authorizing the Mayor to execute a Land and Improvements Lease with TEMPE RI, LLC, with regard to the Marriot Residence Inn located at 125 East 5th Street. The second public hearing was scheduled for September 8, 2011.](#)

**COMMENTS** Pursuant to the First Amendment to the Development and Disposition Agreement between the City and TEMPE RI, LLC, the City agreed to accept a conveyance of the property at 125 East 5th Street and to lease the property back to TEMPE RI, LLC, for a period of 15 years.  
**DOCUMENT NAME** 20110818cdcm01COMMUNITY DEVELOPMENT/REDEVELOPMENT ADMINISTRATION (0403-01) ORDINANCE NO. 2011.32

- \*C7. [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 for the office and program space within the Escalante Community Center. The second public hearing was scheduled for September 8, 2011.](#)

**COMMENTS** TCAA will pay the City \$1.00 per year under the lease through September 2021.  
**DOCUMENT NAME** 20110818kbc01 TEMPE COMMUNITY ACTION AGENCY - 2150 E. ORANGE (0903-36) ORDINANCE NO. 2011.38

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

- \*D1. [Held the second and final public hearing and adopted \*\*ORDINANCE NO. 2011.25\*\* authorizing the granting of a Power Distribution Easement to Salt River Project Agricultural Improvement and Power District by the City of Tempe for electrical lines, equipment and appurtenances at Tempe Diablo Stadium. \(Contract #2011-111\)](#)

**COMMENTS** The City of Tempe is currently conducting a capital improvement project for lighting upgrades at Tempe Diablo Stadium. This easement will accommodate the required, new transformer pad for the upgrades and service to the stadium.

**DOCUMENT NAME** 20110818pwko08 UTILITY EASEMENT GRANTED (0904-02)  
ORDINANCE NO. 2011.25

- \*D2. [Held the second and final public hearing and adopted \*\*ORDINANCE NO. 2011.23\*\* authorizing the abandonment of a portion of an existing drainage easement on Lot 9 of Fountainhead Apartments Subdivision.](#)

**COMMENTS** This drainage easement is no longer required due to reconfiguration of onsite drainage for Fountainhead Corporate Park.

**DOCUMENT NAME** 20110818pwko07 ABANDONMENT (0901) ORDINANCE NO.  
2011.23

- \*D3. [Held the second and final public hearing and adopted \*\*ORDINANCE NO. 2011.20\*\*, a Code Text Amendment for Community Gardens.](#)

**COMMENTS** Request for COMMUNITY GARDENS (PL110176) (Community Development Dept., applicant) consisting of Zoning and Development Code amendments for a new section on the use of community gardens within the commercial, industrial and residential districts, including a City Code amendment for an alternative processing fee. The request includes the following:  
ZOA11001 (ORDINANCE NO. 2011.20) – Code Text Amendment for Sections 3-102, 3-202, 7-104 and a new Section 3-427 for Community Gardens.

**DOCUMENT NAME** 20110818cdrl01 ZONING AND DEVELOPMENT CODE (0414)  
ORDINANCE NO. 2011.20

- \*D4. [\*\*THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.\*\* Final public hearing to adopt an ordinance for a Code Text Amendment for temporary use parking. This amendment will have one public hearing; this is the first and final public hearing.](#)

**E. Resolutions**

- E1. [Adopted \*\*RESOLUTION NO. 2011.71\*\* authorizing the Mayor to execute the Subgrant Award Agreement between the Arizona Department of Public Safety - Victims of Crime Act, Victim Assistance Grant Program and the City of Tempe, for the provision of CARE 7 victim assistance services. \(Contract #2011-112\)](#)

**COMMENTS** The Arizona Department of Public Safety Victims of Crime Act (VOCA) Victim Assistance Grant Program has awarded to the City of Tempe \$93,671.00 in federal funds through June 30, 2012. The required match of \$23,418.00 will be met through CARE 7 volunteer hours.

**DOCUMENT NAME** 20110818cskb01 COMMUNITY SERVICES ADMIN (0701-01) RESOLUTION NO. 2011.71

E2. [Adopted RESOLUTION NO. 2011.72 accepting funding from Target for the Getting Arizona Involved in Neighborhood \(G.A.I.N\) Event. \(Contract #2011-115\)](#)

**COMMENTS** The award amount is \$1,900

**DOCUMENT NAME** 20110818pdmk01 POLICE DEPT ADMIN (0606-02) RESOLUTION NO. 2011.72

E3. [Adopted RESOLUTION NO. 2011.76 entering into an agreement between U.S. Department of Justice, Drug Enforcement Administration and the Tempe Police Department to accept overtime funding for an officer assigned to the task force. \(Contract #2011-113\)](#)

**COMMENTS** The award amount is \$17,202.25

**DOCUMENT NAME** 20110818pdmk02 POLICE DEPT ADMIN (0606-02) RESOLUTION NO. 2011.76

E4. [Adopted RESOLUTION NO. 2011.75 amending Tempe City Code Appendix A – Fee Schedule, Chapter 29, Streets and Sidewalks, and Chapter 8, Buildings and Building Regulations, relating to fees associated with the new Service Line Protection Program \(SLIPP\).](#)

**COMMENTS** This resolution establishes new fees for the new Service Line Protection Program (SLIPP) as it relates to the enrollment and monthly subscription fee. In addition, this resolution establishes new flat rate permit fees for both Building Safety and Engineering.

**DOCUMENT NAME** 20110818pwws06 MISCELLANEOUS FEES (0210-05) RESOLUTION NO. 2011.75

E5. [Adopted RESOLUTION NO. 2011.62 amending Tempe City Code Appendix A - Zoning Fee Schedule for Community Gardens.](#)

**COMMENTS** Request for COMMUNITY GARDENS (PL110176) (Community Development Department, applicant) consisting of amendments for a new section on the use of community gardens, including a City Code amendment for an alternative processing fee. The request includes the following:

RESOLUTION NO. 2011.62 – Amendment for City Code, Appendix A, Zoning Fee Schedule, for a new application fee for community gardens.

**DOCUMENT NAME** 20110818cdr102 MISCELLANEOUS FEES (0210-05) RESOLUTION NO. 2011.62

- E6. [Adopted RESOLUTION NO. 2011.67 authorizing the Mayor to sign a Notice of Termination of Cross Access Agreement between Arizona Board of Regents and the City of Tempe for access between 903 S. Rural Road and 915 S. Terrace Rd. \(Contract #2011-114\)](#)

**COMMENTS** The existing cross access agreement is no longer required due to the completed construction of the Metro light rail system and the realignment of Terrace Rd.

**DOCUMENT NAME** 20110707pwko11 ABANDONMENTS (0901) RESOLUTION NO. 2011.67

- E7. [THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION. Request adoption of a resolution authorizing the Mayor to execute an Assumption Agreement among Centerpoint Land, LLC, ZarCalRes Tempe, LLC \(Zaremba\) and the City, in which Centerpoint Land, LLC and Zaremba assume portions of the Development Agreement \(C2004-128\) originally executed by City and Tempe Land Company, LLC.](#)

- E8. [THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION. Request adoption of a resolution authorizing the Mayor to execute a Modification Agreement, and Parking Use License Agreement with ZarCalRes Tempe, LLC \(Zaremba\). The Agreement modifies portions of the Development Agreement \(C2004-128\), originally executed between Tempe Land Company, LLC and the City, that have been assumed by Zaremba.](#)

- E9. [Adopted RESOLUTION NO. 2011.80 authorizing the Mayor to execute a Modification Agreement between Centerpoint Land, LLC \(Centerpoint Land\) and the City modifying portions of the Development Agreement \(C2004-128\), originally executed by Tempe Land Company, LLC and the City, that have been assumed by Centerpoint Land. \(Contract #2004-128G\)](#)

**COMMENTS** This agreement modifies portions of the Development Agreement related to the Performance Schedule (Section 9 of the Second Amendment). The current Performance Schedule requires that construction of Phase IV of the Project begin by January 1, 2014 or the developer forfeits any unused economic development benefits. The Modification Agreement extends the date by which construction of improvements must begin to December 31, 2017 and requires a minimum floor area ratio of 2.5 for the Centerpoint Land Property.

**DOCUMENT NAME** 20110818cdaws03 SOUTHEAST QUADRANT DOWNTOWN TEMPE (0403-02-06) RESOLUTION NO. 2011.80

- E10. [Adopted RESOLUTION NO. 2011.70 amending Tempe City Code Appendix A – Schedule of Fees and Charges, Chapter 19, Motor Vehicles and traffic, related to parking meter rates.](#)

**COMMENTS** This resolution amends the off-street parking meter rate for parking lots. The increased parking maximum fee will reflect the current market rate in the downtown area.

**DOCUMENT NAME** 20110818cdhg01 MISCELLANEOUS FEES (0210-05) RESOLUTION NO. 2011.70

- E11. [Adopted RESOLUTION NO. 2011.77 authorizing the Mayor to execute a First Amendment to City of Tempe-Marketplace Implementation Agreement Parcel No. 1. \(Contract #2004-86W\)](#)

**COMMENTS** The amendment refines the terms of repayment of deferred water and sewer development fees, so that payment will now start September 1, 2011 and continue for a period of 10 years (increased from 5 years).

**DOCUMENT NAME** 20110818cdcm03 FORMER SOUTH COUNTY ISLAND DEVELOPMENT (0403-08) RESOLUTION NO. 2011.77

- E12. [Adopted RESOLUTION NO. 2011.19 establishing rental fees for the use of the Tempe History Museum Community Room by outside organizations.](#)

**COMMENTS** The proposed fee schedule would enable the Tempe History Museum to bring in revenue while providing needed facility space for the community at reasonable prices.

**DOCUMENT NAME** 20110818csar02-MISCELLANEOUS FEES (0210-05) RESOLUTION NO. 2011.19

- E13. [Adopted RESOLUTION NO. 2011.83 approving the amended Post Employment Healthcare Policy effective October 1, 2011 and authorizing its execution.](#)

**COMMENTS** N/A

**DOCUMENT NAME** 20110818hrjoc02 HEALTH INSURANCE (0303-03-01) RESOLUTION NO. 2011.83

- E14. [Adopted RESOLUTION NO. 2011.82 authorizing the mayor to sign cancellation of operating agreements for school crossings at Meyer Elementary School \(Contract #2005-270\), Bustoz Elementary School \(Contract #96-253A\), and McKemy Junior High School \(Contract #90-172A\).](#)

**COMMENTS** The Tempe Elementary School District is closing Meyer Elementary, Bustoz Elementary and McKemy Junior High and has requested that crosswalks at these locations be removed and that the operating agreements be cancelled.

**DOCUMENT NAME** 20110818PWCH01 SCHOOL PEDESTRIAN CROSSING (0809-04) RESOLUTION NO. 2011.82

- E15. [Adopted RESOLUTION NO. 2011.87 establishing the Terms and Conditions of the City of Tempe Service Line Protection Program \(SLiPP\) - pilot program.](#)

**COMMENTS** This resolution establishes the program and the terms and conditions for the new Service Line Protection Program (SLiPP) as it relates to the enrollment, monthly subscription fee and the repair/replacement of the homeowner's water and/or sewer service lines.

**DOCUMENT NAME** 20110818pwws12 WATER MANAGEMENT ADMINISTRATION (0811-13) RESOLUTION NO. 2011.87

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

- \*A13. Hold a public hearing to recommend the denial of a Series 06 bar liquor license for Antars Sports Bistro I, LLC, dba Antars Sports Bistro, 699 South Mill Avenue, #201.

**COMMENTS** Jesus Manuel Altamirano is the Agent for this application.  
**DOCUMENT NAME** 20110818fsap05 200248 – LIQ LIC (0210-02)

Mike Williams, representative from Antars Sports Bistro, stated that he is requesting a continuance of this public hearing due to the fact that one of the individuals invested in this company cannot be located. There has been an exhaustive search to find this individual. Currently, consideration is being given to filing a lawsuit or preparing a blind trust to exclude this individual from being a participant in the company. It will take an additional two weeks to prepare documentation to present to the Tempe Police Department and to the Arizona Department of Liquor Licenses and Control to prove that this individual no longer holds an interest in this company.

Councilmember Ellis asked staff for clarification on whether or not there are any additional problems with this liquor license application. Bill Gallauer, Licensing Specialist, stated that the liquor license application was not filled out completely and involved an undisclosed owner.

Councilmember Shekerjian requested clarification on what the process is for granting a continuance of this liquor license application. Mr. Gallauer stated that the Arizona Department of Liquor Licenses and Control typically grants continuance requests for liquor license applications; a continuance will not adversely impact the Tempe Police Department background investigation portion of the process.

Andrew Ching, City Attorney, stated that the request being made is to reschedule this liquor license application to the September 8, 2011 Formal Council meeting. The Arizona Department of Liquor Licenses and Control allows municipalities 105 days for processing liquor license applications. Mr. Gallauer stated that the 105 days expires on Friday, August 26, 2011. Mr. Gallauer stated that staff would need to request an extension of the 105-day application processing time from the Arizona Department of Liquor Licenses and Control. Mr. Ching added that should the Arizona Department of Liquor Licenses and Control deny the City's request to extend the application processing timeframe, the application recommendation would be an automatic denial due to the lapse of the 105 day processing timeframe. If that were to occur, the application would not be placed on the September 8, 2011 Formal Council meeting agenda.

**Motion by Councilmember Shekerjian to defer agenda item 5A13 to the September 8, 2011 Formal Council meeting; second by Councilmember Mitchell. Motion passed unanimously on a voice vote 6-0.**

- 
- B11. Awarded one-year contracts with four, one-year renewal options to Clean Harbors Environmental Services and PSC Environmental Services, LLC for the transportation and disposal of hazardous materials for the Public Works Department. **(Contract #2011-108)**

**COMMENTS** Total combined value of these contracts will not exceed \$250,000 during the initial one-year contract period.  
**DOCUMENT NAME** 20110818fsta14 PURCHASES (1004-01)

Councilmember Shekerjian requested that this item be removed for separate consideration because it has the potential to exceed \$1,000,000. Staff was asked to explain the agenda item and its funding source. John Osgood, Deputy Public Works Director – Field Operations, explained that these contracts allow the City

to manage its hazardous waste transportation and disposal responsibilities for emergency and routine situations. The primary function of these contracts is associated with disposal operations at the Household Hazardous Waste Collections Center and various other City facilities. The primary funding source for these contracts is the Solid Waste Fund.

**Motion by Councilmember Shekerjian to approve agenda item 5B11; second by Councilmember Woods. Motion passed unanimously on a voice vote 6-0.**

- 
- \*C3. Introduced and held the first public hearing to adopt an ordinance to authorize the mayor to execute a lease and memorandum of lease with ZarCalRes Tempe, LLC (Zaremba) with regard to West Sixth Apartments located at 111 West Sixth Street. The second Public hearing was scheduled for September 8, 2011.

**COMMENTS** The Government Property Lease Excise Tax (GPLET) lease is authorized in the Modification Agreement.

**DOCUMENT NAME** 20110818cdaws04 SOUTHEAST QUADRANT DOWNTOWN TEMPE (0403-02-06) ORDINANCE NO. 2011.36

- E7. Adopted **RESOLUTION NO. 2011.78** authorizing the Mayor to execute an Assumption Agreement among Centerpoint Land, LLC, ZarCalRes Tempe, LLC (Zaremba) and the City, in which Centerpoint Land, LLC and Zaremba assume portions of the Development Agreement (C2004-128) originally executed by City and Tempe Land Company, LLC. (**Contract #2004-128D**)

**COMMENTS** The City and Tempe Land Company, LLC (TLC) were parties to a Development Agreement recorded June 28, 2004, with the First and Second Amendments recorded July 25, 2005 and February 10, 2006, respectively. The Development Agreement contemplated the development of the property as a mixed use, four-phase project consisting of "for sale" residential condominium units, retail uses and a structured parking facility, and that TLC would be the sole owner and developer of the Project.

Since the execution of the Development Agreement, Phase I, a 22-story tower (189 units) with a parking garage and retail space, and Phase Two, a 30-story tower (186 units), were substantially completed. TLC subsequently filed for bankruptcy and the Property was sold to Zaremba. Zaremba transferred to Centerpoint Land portions of the Property (Phases III and IV) and retained the balance of the Property (Phases I and II). This Assumption Agreement acknowledges the continued effectiveness of the Development Agreement, and allows the parties to formally assume their ongoing but separate obligations with respect to the Zaremba Property and the Centerpoint Land Property.

**DOCUMENT NAME** 20110818cdaws01 SOUTHEAST QUADRANT DOWNTOWN TEMPE (0403-02-06) RESOLUTION NO. 2011.78

- E8. Adopted **RESOLUTION NO. 2011.79** authorizing the Mayor to execute a Modification Agreement (**Contract #2004-128E**), and Parking Use License Agreement (**Contract #2004-**

**128F)** with ZarCalRes Tempe, LLC (Zaremba). The Agreement modifies portions of the Development Agreement (C2004-128), originally executed between Tempe Land Company, LLC and the City, that have been assumed by Zaremba.

<b>COMMENTS</b>	This agreement modifies sections of the Development Agreement related to the "Sales Tax Rebate Amount" payable to Zaremba, the Government Property Lease Excise Tax and the payment of deferred sewer and water fees. In addition, the City will receive exclusive 24-hour rights to 64 parking stalls located in the Zaremba parking garage which will be governed by a Permanent Parking Use License Agreement.
<b>DOCUMENT NAME</b>	20110818cdaws02 SOUTHEAST QUADRANT DOWNTOWN TEMPE (0403-02-06) RESOLUTION NO. 2011.79

Regarding agenda items 5C3, 5E7 and 5E8, Councilmember Mitchell requested clarification regarding whether or not the City will hold school districts harmless and whether or not funding is reinvested in the downtown. Chris Anaradian, Community Development Director, stated that expenditure of the rent payment collected by the City for this project has not been earmarked; how those revenues are spent is at the discretion of the City Council. Rent revenues will be deposited into an account until the City Council gives the authorization to spend those funds.

Councilmember Arredondo-Savage requested clarification on the length of the tax abatement and whether or not it goes beyond eight years. Mr. Anaradian explained that the state statutes limit the tax abatement period to eight years. Beyond the eight years, there would be a difference in the tax rate for an additional 22 years. This agreement is for a 30-year period.

Councilmember Arredondo-Savage stated that this will impact bond ratings because entities will be unable to use the assessed value for a 30-year period. Perhaps the agreement term could be modified to 15 years. Mr. Anaradian explained that previous Council direction was to consider a timeframe up to 20 years, plus an additional timeframe if it brought additional benefits to the City. Councilmember Arredondo-Savage stated that she did not recall a discussion regarding a 20 year timeframe; perhaps additional dialogue would have been helpful.

Mr. Anaradian stated that when the eight year tax abatement period ends, the remainder of the 22 year agreement terms would become effective.

Councilmember Arredondo-Savage stated that she does not support a 30-year contract term. Perhaps this discussion could be deferred to a future meeting. Mr. Anaradian stated that staff has identified potential downsides to deferring a decision to a future meeting. Mr. Ching stated that if Council chose to discuss the negotiation of an agreement, it could occur in executive session since the agreement has not been finalized. He noted that there are provisions on the meeting agenda that allow Council to adjourn to executive session during a formal Council meeting, if legal advice is needed.

Noting that agenda items 5C3, 5E7 and 5E8 are interrelated, Councilmember Shekerjian requested that one motion be made for all three agenda items.

**Motion by Councilmember Shekerjian to approve agenda items 5C3, 5E7 and 5E8 with the amendment that the City holds the schools harmless for an amount of \$50,000; second by Councilmember Mitchell. Motion passed on a roll call vote 5-1 with Councilmember Arredondo-Savage voting nay.**

- \*D4. Held the final public hearing and adopted **ORDINANCE NO. 2011.27**, a Code Text Amendment for temporary use parking. This was the first and final public hearing.

<b>COMMENTS</b>	Request for temporary use parking (PL110240) (City of Tempe, Community Development Department, applicant) consisting of changes within the Transportation Overlay District that would modify the current prohibited use of “parking as a principle use” and create new provisions that would allow a temporary parking facility design, with modified standards and time limits, subject to a review process. The request includes the following: ZOA11003 (Ordinance No. 2011.27) – Code Text Amendment for Section 5-608.
<b>DOCUMENT NAME</b>	20110818cdr103 ZONING AND DEVELOPMENT CODE (0414) ORDINANCE NO. 2011.27

Councilmember Arredondo-Savage noted that there has been a long term vision to not create a lot of parking in the downtown unless it is planned. This agenda item is relevant to the economic environment; however, if there is a sunset provision added to the ordinance, then Council will have the opportunity to revisit this issue.

Councilmember Shekerjian requested clarification regarding what staff views as being “temporary”. Mr. Anaradian stated that there have been modifications to the sign ordinance as a temporary measure in response to economic conditions. This ordinance gives temporary parking facilities a maximum life of five years. The ordinance could include a sunset clause. Mr. Ching added that if a temporary use is granted for five years and the ordinance is in existence for three years, then the temporary use could outlast the ordinance and be considered a non-conforming grandfathered use. Staff would not receive on-going applications for temporary use parking if a sunset provision was incorporated into the ordinance.

**Motion by Councilmember Arredondo-Savage to approve agenda item 5D4 with the provision that a five year sunset clause be incorporated into the ordinance and so that Council readdresses the ordinance at that time; second by Councilmember Shekerjian; motion passed unanimously on a roll call vote 6-0.**

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

Councilmember Shekerjian

- The City Code text amendment regarding agenda item 5D3, community gardens, allows for community gardens on private property and includes associated standards. The cost of the Use Permit is \$50. The process was inclusive.
- Wished a swift recovery to Eli Hallman

Councilmember Woods

- August 16, 2011 – attended a Ribbon cutting ceremony for the Pat Tillman Veterans Center at Arizona State University; thanked Veterans for their service
- Wished a swift recovery to Eli Hallman

Councilmember Ellis

- Fall Recreational Activities Opportunity brochure is available; classes begin September 5, 2011
- Transit passes are available at Walgreens stores, 7-Eleven, Fry’s and Safeway and PLS Check Cashers
- October 10, 2011 – Ralph and Alice Goita will receive the 2011 Don Carlos Humanitarian Award
- Wished a swift recovery to Eli Hallman

Councilmember Mitchell

- Wished a swift recovery to Eli Hallman
- Congratulated Ralph and Alice Goita for being honored with the 2011 Don Carlos Humanitarian Award
- Welcomed students back to Tempe

Councilmember Arredondo-Savage

- Wished a swift recovery to Eli Hallman
- Commended Councilmember Mitchell and Police Chief, Tom Ryff for their participation in the Tempe Chamber of Commerce luncheon
- Commended staff on various projects and programs that are being implemented

Vice Mayor Navarro

- Wished a swift recovery to Eli Hallman
- Good to be back to work after the summer break

## 7. PUBLIC APPEARANCES

### A. Scheduled

1. Citizens concerns regarding policing – No one spoke.
2. Bill Graham – Alley concerns/Taxis in downtown Tempe  
Alley concerns – Mr. Graham distributed photos of the alley adjacent to his residence and made the following comments:
  - Trash and dangerous items are found in the alley and thrown into his yard
  - Problem has been on-going for the past six years
  - His dogs were poisoned
  - He has called the Police 20-30 times
  - City personnel should be aware of where alleys need attention
  - Flies, odors and identity theft are concerns

Councilmember Mitchell requested that John Osgood, Deputy Public Works Director – Field Operations, meet with Mr. Graham regarding the alley concerns raised.

Taxis in downtown Tempe – Mr. Graham made the following comments:

- Taxis in the downtown are parking in red zones and using parking spots where downtown patrons park
- It is hazardous for disabled individuals to park far from their destinations
- Perhaps regulating taxi parking should begin

Councilmember Ellis stated that the Transportation Council Committee will study this issue and return to Council with recommendations.

Councilmember Woods stated that the alley behind his home is also problematic. Cleaning up alleys does not stop the behavior that creates the problem. Alleys are out of sight, which encourages illegal dumping. If residents had to place their trash in front of their homes, versus using alleys, it might resolve these issues. Perhaps a pilot project could be considered converting alley pick-up to curbside trash pick-up. Addressing the root cause may help in the long term.

Councilmember Shekerjian supported the curbside trash collection pilot program. She voiced the

importance of having taxis available in the downtown as they serve, in part, to reduce driving while intoxicated.

Vice Mayor Navarro stated that the Neighborhood Council Committee will also study the littering problem in alleys. There are safety hazards that exist. Taxi cabs are important in the downtown, but it is also important that patrons have adequate access to downtown.

Councilmember Woods stated that he has discussed the idea of a curb side trash collection pilot program with the City Manager, who has indicated his support. Charlie Meyer, City Manager, stated that staff will be returning to the City Council on September 8, 2011 to discuss the concept of a curbside trash collection pilot program.

3. Ralph Risoli - Water complaint – No one spoke.

B. Unscheduled

Tom Ryff, Police Chief, introduced Bryan Berman, Tempe Police Bike Squad, who patrols Mill Avenue. Officer Berman voiced the following concerns regarding taxi cabs in the downtown:

- Taxi cabs parking in fire lanes and bus lanes
- Warnings are issued if taxis are parking in inappropriate locations; tickets are issued if they continue to do so
- Taxis in downtown have a positive impact when the bars close
- Police take action on unlicensed taxi cabs; many cabs come from Phoenix

Mr. Graham continued:

- There are taxis that are unlicensed and uncertified
- Need police officers to be trained on how to regulate taxi cabs

Councilmember Ellis requested that Mr. Graham provide staff with his contact information so that he can be invited to the Transportation Council Committee meeting.

The meeting adjourned at 9:04 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 18, 2011, by the Tempe City Council, Tempe, Arizona.

\_\_\_\_\_  
Hugh Hallman, Mayor

ATTEST:

\_\_\_\_\_  
Brigitta M. Kuiper, City Clerk