



Minutes Formal City Council Meeting June 24, 2010

Minutes of the Formal Council Meeting of June 24, 2010, held at 7:30 p.m. in the Harry E. Mitchell Government Center, Municipal Building, City Council Chambers, and 31 E. Fifth Street, Tempe, Arizona.

COUNCIL PRESENT:

Vice Mayor Shana Ellis
Councilmember P Ben Arredondo
Councilmember Mark W. Mitchell
Councilmember Joel Navarro
Councilmember Onnie Shekerjian
Councilmember Corey D. Woods

COUNCIL ABSENT:

Mayor Hugh Hallman

Vice Mayor Ellis called the meeting to order at 7:50 p.m.

1. Councilmember Woods gave the invocation.
2. Vice Mayor Ellis led the audience in the **Pledge of Allegiance**.
3. **MINUTES**

A. Approval of Council Meeting Minutes

Motion by Councilmember Shekerjian to approve the following **COUNCIL MEETING MINUTES**. Second by Councilmember Woods. Motion passed 6-0 on a voice vote.

1. Council Formal Meeting - June 10, 2010
2. Council Issue Review Session - June 10, 2010
3. Council Executive Session - June 10, 2010
4. Council Special Budget Meeting - June 10, 2010

B. Acceptance of Board & Commission Meeting Minutes

Motion by Councilmember Shekerjian to accept the following **COMMITTEE, BOARD AND COMMISSION MEETING MINUTES**. Second by Councilmember Navarro. Motion passed 6-0 on a voice vote.

1. Merit System Board - August 14, 2009
2. Commission on Disability Concerns Awareness Subcommittee - January 7, February 4, & March 4, 2010
3. Commission on Disability Concerns - February 4, 2010
4. Commission on Disability Concerns Partnership Subcommittee - January 7, February 4, 2010
5. Commission on Disability Concerns Special Projects Subcommittee - January 7, 2010

6. Commission on Disability Concerns Awards Subcommittee - January 20, February 17, 2010
7. Human Relations Commission Diversity Unity Grants Subcommittee - February 22, 2010
8. Fire Public Safety Personnel Retirement Board - April 8, 2010
9. Historic Preservation Commission - April 8, 2010
10. Neighborhood Advisory Commission - May 5, 2010
11. Police Public Safety Personnel Retirement Board - May 6, 2010
12. Tempe Aviation Commission - May 11, 2010
13. Human Relations Commission - May 11, 2010
14. Human Relations Commission Teen Diversity Dialogue Subcommittee - May 11, 2010
15. Rio Salado Communities Facilities District Board - May 20, 2010
16. Development Review Commission - May 25, 2010
17. Human Relations SB 1070 Subcommittee - May 27, 2010
18. Special Events Task Force - June 15, 2010

4. REPORTS AND ANNOUNCEMENTS

A. Mayor's Announcements

1. Development Review Commission Appointments

Vice Mayor Ellis announced that agenda item 5A7 is to formally reappoint Mike DiDomenico, Paul Kent and Margaret Tinsley (alternate) to the Tempe Development Review Commission.

B. Manager's Announcements

As a result of the reorganization, Charlie Meyer, City Manager, stated that there are several personnel changes occurring. Mr. Meyer congratulated the following individuals on their new role within the organization:

- Mark Simmons, Fire Chief
- Kathy Berzins, Community Services Director
- Chris Anaradian, Community Development Director
- Ken Jones, Finance and Technology Director
- Don Bessler, Public Works Director

Mr. Meyer then acknowledged the contributions of City employees that are retiring:

Louraine Arkfeld, Presiding City Judge

Jack Batty, Service Employees International Union (SEIU) President

Jan Hort, City Clerk

During the reorganization process, Mr. Meyer stated that City Council stressed that employee layoffs should be avoided if possible, and provided the following reorganization update:

- Management has worked to afford opportunities to all affected employees
- Administrative placements will be the next step
- Some employees will be eligible to be placed on a recall list
- The employee workforce has been reduced from approximately 1,850 to 1,600
- Many of the personnel changes will become effective July 1
- Thanked Human Resources and the City Council for their ongoing support during this process

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 Ellis announced consideration of the **AGENDA**.

Motion by Councilmember Arredondo to approve the Agenda with the exception of Items #5B5, 5B6, 5B7, 5D1, 5D4, 5E1, 5E3, 5E9 which were removed for separate consideration; second by Councilmember Mitchell. Motion passed on a roll call vote 6-0.

A. Miscellaneous Items

1. Approved the Report of Claims Paid to be filed for audit for May 2010.

COMMENTS N/A
DOCUMENT NAME 20100624fsnw01 ACCOUNTS PAYABLE (0208-01)

- *2. Held a public hearing and recommended the approval of a Series 06 bar liquor license for MBM 101, LLC dba Trailer Park Restaurant, 1001 East 8th Street.

COMMENTS Francis X. Massimiano is the Agent for this application.
DOCUMENT NAME Trailer Park - LIQ LIC (0210-02)

- *3. Held a public hearing and recommended the approval of a Series 06 bar liquor license for Flannys LLC, dba Flannys, 1805 East Elliot Road #104-105.

COMMENTS John Joseph Flanagan III is the Agent for this application.
DOCUMENT NAME Flannys 123677 - LIQ LIC (0210-02)

- *4. Held a public hearing and recommended the approval of a Series 09 liquor store liquor license for Saleha LLC, dba Liquor Villa, 1335 West University Drive #1.

COMMENTS Saleha Munir is the Agent for this application.
DOCUMENT NAME Liquor Villa 123574 - LIQ LIC (0210-02)

5. Approved a subdivision plat for Rio Salado College located at 2323 West 14th Street.

COMMENTS Request for RIO SALADO COLLEGE (PL100133) (Maricopa County Community College District property owner; Brett Flippo, Strand Associates, Inc applicant) located at 2323 West 14th Street in the GID, General Industrial District. This request includes the following:

SBD10013 – A Subdivision Plat to combine three (3) parcels into one (1) lot totaling 7.61 acres
The following conditions of approval apply:

- 1. The Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with Maricopa County Recorder's Office through the City of Tempe Development Services Department on or before June 24, 2011. Failure to record the plat on or before June 24, 2011, which is one (1) year from date of City Council approval, shall make the approval of the plat null and void.
- 2. The parking shall be brought up to required standards based on the Zoning and Development Code (Chapter 6, Section 4-603) for the one lot.

DOCUMENT NAME 20100624dssd01 PLANNED DEVELOPMENT (0406)

- 6. Approved a subdivision plat for Emerald Phase III Lot 2 to create two new lots located at 8515 South Emerald Drive.

COMMENTS Request for Emerald Phase III (PL100106) (Larry Talbott, Hunter Engineering, Applicant / David Sellers, Emerald Phase III, LLC, Owner) consisting of a replat of existing parcel #301-54-938, Lot 2, into Lot 1 (5.328 acres) and Lot 2 (6.390 acres), located at 8515 South Emerald Drive, in the RCC, Regional Commercial Center District.

SBD10009 – Final Subdivision Plat consisting of two (2) lots that total 11.72 acres.

The following condition of approval applies:

The Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with Maricopa County Recorder's Office through the City of Tempe Development Services Department on or before June 24, 2011. Failure to record the plat on or before June 24, 2011, one (1) year from date of City Council approval, shall make the approval of the plat null and void.

DOCUMENT NAME 20100624dsdk01 PLANNED DEVELOPMENT (0406)

- 7. Approved the Mayor and City Council Development Review Commission selections.

DOCUMENT NAME BDS, COMMITTEES ADMIN (0102-01)

Terms Expire 7/1/13

Mike DiDomenico	Reappoint (*)	serving last term
Paul Kent	Reappoint (1)	serving first term
Margaret Tinsley	Reappoint (*)	serving last term
	(Alternate)	

B. Award of Bids/Contracts

1. Approved a one-year renewal of contracts with NCO Group (formerly Risk Management Alternative) and Progressive Financial Services for collection services related to the recovery of outstanding fines, fees and costs due the City of Tempe to be used by Courts, Police and Financial Services.

COMMENTS (T05-094-01 and 02) Total combined value of this renewal shall not exceed \$250,000 during the one-year contract period beginning July 31, 2010.

DOCUMENT NAME 20100620fsta05 PURCHASES (1004-01)

2. Approved a one-year contract with two one-year renewal options to Water Movers, Inc. for the operation of a bypass pumping operation at Tempe Town Lake for use by the Community Development Department. (**Contract #2010-140**)

COMMENTS (RFP #10-076) The total amount of the contract shall not exceed \$160,000 during the initial one-year contract period.

DOCUMENT NAME 20100624fslg01 PURCHASES (1004-01)

3. Approved professional services contracts with Ricker Atkinson McBee Morman & Associates, Inc. (**Contract #2010-141**), Kleinfelder West, Inc. (**Contract #2010-142**), and Ninyo & Moore, Geotechnical Consultants Inc. (**Contract #2010-143**) to provide on-call materials testing and related services.

COMMENTS Total cost for each individual on-call materials testing contract will not exceed \$200,000 during the first contract year based on the needs of the City.

DOCUMENT NAME 20100624PWDR01 ENGINEERING ADMINISTRATION (0803-02)

4. Approved job order no. 7 with Quest Civil Constructors, Inc. for reclaimed water recharge well no. 1 at Ken McDonald Golf Course. (**Contract #2008-250**)

COMMENTS Total amount of job order no. 7 is \$225,321 and the project contingency amount is \$7,000.

DOCUMENT NAME 20100624PWDR02 ENG ADMIN (0803-02) PROJECT NO. 3209301

5. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**
Approved Amendment No. 1 to the lease agreement with Tempe Community Council, Inc. for the properties located at: 2240 E. Maryland Drive; 2307 E. Maryland Drive; 2239 E. Laird Street; and 2304 E. Randall Drive in Tempe, Arizona, for the provision of shared living for the elderly. (**Contract #2000-210A**)

COMMENTS Tempe Community Council is solely responsible for payment of all utilities, telephone, telephone equipment, insurance, furnishings, and operations.

DOCUMENT NAME 2010624cskb05 VICTORY ACRES ELDERLY HOUSING (0408-01)

Vice Mayor Ellis removed agenda item 5B5 for separate consideration and declared a conflict of interest. Councilmember Arredondo was asked to preside over this portion of the meeting.

Motion by Councilmember Mitchell to approve agenda item 5B5; second by Councilmember Woods. Motion passed 5-0 with Vice Mayor Ellis abstaining.

6. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**
Approved Amendment No. 2 to the lease agreement with Tempe Community Council, Inc. for the lease of real property located at 31 East 7th Street, Tempe, Arizona, including the Governor B.B. Moeur Residence and Hatton Hall in Tempe, Arizona. (**Contract #98-102B**)

COMMENTS Property improvements made at the request of Tempe Community Council and payment of all insurance is the sole responsibility of Tempe Community Council. Tempe Community Council pays all telephone charges and provides telephone equipment. The City pays all normal utility charges for water, sewer, refuse, electric and gas.

DOCUMENT NAME 2010624cskb06 LEASE FOR STAFF FACILITIES (1001-05)

Vice Mayor Ellis removed agenda item 5B6 for separate consideration and declared a conflict of interest. Councilmember Arredondo was asked to preside over this portion of the meeting.

Motion by Councilmember Mitchell to approve agenda item 5B6; second by Councilmember Woods. Motion passed 5-0 with Vice Mayor Ellis abstaining.

7. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**
Approved a construction manager at risk construction services contract (**Contract #2010-144**) with Achen-Gardner Engineering, L.L.C., and award of a construction management and design services contract (**Contract #2010-145**) with Brown and Caldwell, Inc., for rehabilitation of the Southern Avenue interceptor, GMP 2. This is a bond-funded project on the approved CIP project list.

COMMENTS Total cost for the construction manager at risk (CMAR) construction services contract is \$4,886,988.55. Total cost for the construction management and design services contract is \$448,635, and the amount of the project contingency is \$200,000.

DOCUMENT NAME 20100624PWDR03 WASTEWATER MANAGEMENT (0812-01)
PROJECT NO. 3200585

Councilmember Shekerjian removed item 5B7 for separate consideration and asked staff to explain the project and its funding source. Don Hawkes, Water Utilities Manager, stated that this project is to re-line a sewer line on Southern Avenue and Priest Drive. Funding comes from the Water Fund, which is an enterprise fund supported by user fees and sales taxes. The City of Mesa will be reimbursing Tempe for approximately 50% of the cost for this project. This project is approximately two years ahead of schedule, saving the City \$6 million.

Motion by Councilmember Shekerjian to approve agenda item 5B7; second by Councilmember Mitchell. Motion passed 6-0.

8. Approved professional services contract with C. Williams Construction Engineering, Inc. for utility plan review and inspection of Qwest Communications' fiber to the node project. **(Contract #2010-146)**

COMMENTS The total cost for this professional services contract is \$127,920. This cost will be reimbursed by Qwest Communications.

DOCUMENT NAME 20100624PWDR05 UNDERGROUND UTILITIES (0810)
PROJECT NO. 6708021

9. Approved a one-year renewal of a contract with Symetra Life Insurance Company for stop loss insurance.

COMMENTS (T08-183-01) Total cost of this contract will not exceed \$900,000 during the one-year contract period beginning July 1, 2010.

DOCUMENT NAME 20100624fsta06 PURCHASES (1004-01)

10. DELETED

11. Approved a one year renewal of a contract with Phoenix Pumps, Inc. for the maintenance, repair and purchase of small to medium sized horizontal water pumps for the Water Utilities Department.

COMMENTS (WUD08-169-01) Total contract amount shall not exceed \$250,000 for the one year renewal term.

DOCUMENT NAME 20100624tsfs04 PURCHASES (1004-01)

12. Approved an Amended and Restated Parking Agreement with the Downtown Tempe Community (DTC). **(Contract #2010-148)**

COMMENTS The City's FY10/11 budget forecasts parking related revenue in the General Fund at approximately \$315,000. It is anticipated that revenue from parking enforcement will generate sufficient funds to meet this budget estimate.

DOCUMENT NAME 20100624cdcm02 DOWNTOWN TEMPE COMM (0109-30)

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

- *1. Introduced and held the first public hearing for Code Text Amendments for Zoning and Development Code Amendments. The second public hearing was scheduled for July 1, 2010.

COMMENTS Request for ZONING AND DEVELOPMENT CODE AMENDMENTS (PL100051) (Development Services Department, applicant) consisting of changes with the Zoning and Development Code regarding drive-through facilities; charter schools; paved surfaces; meeting/decision notices; directional signs; and modified definitions for recreational vehicle, tobacco retailer, and trailer. The request includes the following:

ZOA10002 – (Ordinance No. 2010.17) Code Text Amendment for Sections 1-208, 3-102, 3-202, 3-302, 3-408, 4-502, 4-602, 4-903, 6-302, 7-119, and 7-121.

DOCUMENT NAME 20100624dsr101 ZONING AND DEVELOPMENT CODE (0414-01, -03, -04, -06, -07) ORDINANCE NO. 2010.17

- *2. Introduced and held the first public hearing to adopt an ordinance amending City Code Chapter 13A to clarify enforcement provisions for Tempe's dust control requirements. The second public hearing was scheduled for July 1, 2010.

COMMENTS This ordinance amends the City Code to provide for enforcement of the state-mandated dust control requirements under the appropriate city departmental authorities.

DOCUMENT NAME 20100624wudcb03 ENVIRONMENTAL PROGRAMS & STANDARDS (0503-42) Ordinance No. 2010.27

D. Ordinances and Items for Second Hearing/Final Adoption

- *1. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**
Held the second and final public hearing and approved **ORDINANCE NO. 2010.16** and **RESOLUTION NO. 2010.59** for a General Plan Amendment and Planned Area Development Overlay for The Apartments at Lakes Towne Center located at 577 East Baseline Road.

COMMENTS Request for THE APARTMENTS AT LAKES TOWNE CENTER (PL100035) (Rural Baseline Two, LLC, property owner; Charles Huellmantel, Huellmantel & Affiliates, applicant) consisting of a new 224 unit residential apartment complex within 132,000 sf. total building area on 10.07 acres, located at 577 East Baseline Road in the PCC-2, Planned Commercial Center General District. The request includes the following:

GEP10001 – (Resolution No. 2010.59) General Plan Projected Residential Density Map Amendment from 'Medium Density' (up to 15 du/ac) to 'Medium-High Density' (up to 25 du/ac) on approx. 3.96 acres.

PAD10004 – (Ordinance No. 2010.16) Planned Area Development Overlay to modify the development standards for the rear and side yard setbacks from 30 ft. to 10 ft.; reduce required vehicle parking from 470 to 442 spaces; and to reduce the required bicycle parking from 119 to 60.

DOCUMENT NAME 20100624dsr102 PLANNED DEVELOPMENT (0406) Ordinance No. 2010.16 & Resolution No. 2010.59

Charles Huellmantel spoke on behalf of the applicant, Mark Taylor. Mark Taylor prides itself on building high-end apartment communities, which has been successful in Tempe. This particular site is ideal for this project and ensuring that the mature vegetation at this location remains alive has been made a priority.

Greg Agen stated that his property is directly adjacent to the proposed project. He is against high density residential properties adjacent to neighborhoods because it affects the surrounding property values. The landscaping creates litter. A wall is the only acceptable way to block the view and noise; landscaping is not the answer. Noise from car doors and alarms are disruptive at night. If this proposal was for commercial property, that would not be the case. Mr. Agen urged Council to not allow a three story building in this location.

Mary Ganger voiced concern regarding:

- Sewer line damage/odor
- Neighborhood traffic will increase
- Potential flooding problem with her home as a result of the project
- Car alarms, kids and other noise problems
- Trash issues
- ASU students living in these apartments

Van De Reche stated that his property is located directly adjacent to this development. Concerns raised include:

- Privacy – there is a pool in his back yard
- Landscaping – some trees need to be replaced
- Commercial development would be preferable to this residential three story project

Lori Sucharski stated that she lives directly adjacent to this development. Concerns and suggestions raised include:

- Keep property commercially zoned
- Deny the increase in density
- 80% of area property owners have contacted city officials to express their concerns with this project, particularly the three story buildings
- Noise from apartment pool parties
- Deny the parking variance to reduce parking
- Surrounding property values will decline
- Privacy will be removed
- Support long term residents

Philip Smalley urged Councilmembers to vote against this project. The project was presented to residents as if it had already been approved by the City Council, which was disrespectful. In response to residents concerns, the only compromise proposed by the applicant's representative was for residents to plant trees in their own back yards. The height of the building is an issue, including the balconies. Noise and parking are other areas of concern.

Vice Mayor Ellis closed the public hearing portion of this agenda item at 8:38 p.m.

Mr. Huellmantel stated that it is the desire of the applicant to have complete support from neighbors. Project representatives attended neighborhood meeting to discuss concerns raised by residents. Project plans were presented at those meetings and had already been reviewed and approved by City staff. In response to concerns raised by residents:

- Landscape plans exceed city code requirements.
- Privacy concerns are understandable for residents as well as apartment tenants.
- This site is designed for commercial as well as residential via a use permit.
- Neighborhood residents had voiced displeasure with rental and apartment properties; however they were unwilling to work to mitigate their concerns with the applicant.
- Landscape mitigation solutions were sought, including a green screening application, which was deemed not appropriate for this project.
- Dead trees will be replaced by the applicant.
- 1,000 feet of Glossy Privet will be planted, which is a dense hedge.
- The applicant has made a commitment to install perimeter landscaping at the beginning of the project versus at the end of the project.
- The applicant has offered to plant landscaping materials in the backyards of concerned residents, an offer which has been declined by residents.
- The building setback could be modified, however that is not the desire of the applicant.
- There could be an elimination of single story garages, which would help separate the density of this development with the surrounding residential neighborhood; which is not the desire of the applicant.
- The reduction in parking is consistent with previous Mark Taylor projects and has been found to be acceptable. Landscaping would be increased as a result.
- Constructing a 16' wall to resolve the privacy issue is not allowed by City Code and is not conducive to neighborhoods.
- The sewer must meet City Code standards.

Mr. Huellmantel concluded that this project has the support of City staff as well as the Development Review Commission. In addition, the applicant's representatives have worked diligently to address the concerns of residents.

Councilmember Shekerjian asked if consideration had been given to turning the building in a direction that would not allow for balconies to overlook residential back yards. Mr. Huellmantel stated that the developer has designed the site plan to have a minimal impact on the adjacent residents, coupled with the fact that the landscaping exceeds City Code requirements.

Councilmember Shekerjian stated that her preference would be for this project to be two stories in height versus three stories and for landscaping to serve as a green screen.

Councilmember Shekerjian asked Mr. Huellmantel what other locations Mark Taylor has been approved for a reduction in parking requirements. Mr. Huellmantel stated those locations include Cook School, Hardy/Baseline, McClintock/Broadway and Rural/Weber. Councilmember Shekerjian stated that lowering the parking requirements for locations closer to ASU makes

sense, but this development is farther south, which is of concern because residents will be more apt to drive their cars versus utilize public transportation. Mr. Huellmantel stated that the parking plan that has been approved by staff is beyond what the developer believes is an adequate amount of parking for apartment residents.

Councilmember Shekerjian asked staff to talk about the sewer line concerns raised by residents. Andrew Goh, Deputy Public Works Manager – Engineering, stated that the sewer system is reviewed by City staff prior to approving a project.

Councilmember Shekerjian stated that Council and staff have worked with the applicant to encourage their involvement in mitigating the concerns of residents. Noted areas of concern for Councilmember Shekerjian were building height and reduction in parking.

Councilmember Mitchell noted that the first level of this building is a parking garage and asked what the height of the second balcony is and how that compares to the height of the Lowe's building. Chris Anaradian, Development Services Director, stated that the Lowe's building peak is approximately 49', the back of the building peak is approximately 20-30'. Mr. Huellmantel stated that the second balcony is approximately 21-22' in height.

Councilmember Woods asked if there were any landscaping compromises agreed to by the residents and applicant instead of building a tall wall. Mr. Huellmantel stated that the hedge has been one of the most effective landscaping solutions. The City's landscape architect has assisted in looking at landscaping options that mitigate noise and site lines.

Councilmember Shekerjian suggested that instead of planting Glossy Privets that consideration is given to planting the trees used in the ASU Research Park on Warner Road, which provide a dense green screen. This is beneficial to the neighborhood and in that instance, residents were satisfied with the solution.

Mr. Anaradian stated that the minimum setback for the Lowe's building is 30'.

Councilmember Woods asked Mr. Huellmantel how the traffic statistics were derived. Mr. Huellmantel stated that City staff provided traffic data, the applicant hired a traffic engineer who submitted a traffic report, and City staff approved the findings.

Councilmember Mitchell stated that the setback for this development is 74' which is double the Lowe's set back.

Councilmember Shekerjian asked if the applicant would be willing to plant similar landscaping to the City Hall six story parking garage. Mr. Huellmantel replied yes, the applicant is willing to modify landscaping for this project.

Councilmember Navarro voiced his support for trees as a landscaping buffer. Mr. Huellmantel stated that the applicant is proposing enhanced landscaping and replacing dead trees.

Councilmember Woods asked Mr. Huellmantel why the orientation of the buildings position balconies in the site line of single family homes. Mr. Huellmantel stated that the applicant has provided significant landscape buffers and has minimized the number of balconies.

Councilmember Shekerjian asked how many citizens attended the Development Review Commission to comment on this project. Mr. Anaradian estimated that six people spoke about this project.

Councilmember Woods asked the City Attorney if it was appropriate to open a dialogue with neighborhood residents in attendance regarding the landscaping. Mr. Ching responded that it would be appropriate. Councilmember Woods asked if any of the residents in attendance thought that more mature trees would help.

Lisa Sucharski stated that glossy privet is poisonous and in Arizona it does not grow tall. Currently there is a row of mature pine trees, which do not stop noise or light and are easy to see through. Another concern is landscaping that has roots that are disruptive to sewer systems. Councilmember Shekerjian voiced concern about the height of the landscaping from the wall upward. She asked that staff and the developer consider using the same landscaping as at the Edward Jones facility.

Councilmember Woods asked Ms. Sucharski if she would be willing to look at the landscaping at the Edward Jones facility. Ms. Sucharski replied yes, however the height of this building and balconies remain a concern.

Mr. Huellmantel stated that one of the reasons that the glossy privet was selected is because it has a non invasive root system, is fast growing, poisonous only to horses and is easy to clean. The applicant felt it was a good choice, however the developer is not committed to the glossy privet as the only choice or solution. The applicant is willing to agree to a stipulation that would allow for additional work with the City's professional staff.

Motion by Councilmember Navarro to approve agenda item 5D1 with the condition that City staff will seek public input and make a final determination as to the species and spacing of new landscaping to supplement the landscaping on-site, with the goal of providing an enhanced visual barrier; second by Councilmember Woods. Motion passed 6-0.

The following conditions of approval apply:

1. A building permit shall be obtained on or before June 24, 2013 or the Planned Area Development Overlay for the property may revert to that in place at the time of application, subject to a public hearing.
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 Development Services Department no later than July 23, 2010, or the Planned Area Development Overlay and General Plan Map Amendment approval shall be null and void.
3. The Planned Area Development Overlay for "The Apartments at Lakes Towne Center" shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Development Services Department prior to issuance of building permits.
4. A Preliminary and Final Subdivision Plat is required for this development and shall be recorded prior to issuance of building permits.

- *2. Held the second and final public hearing and approved **ORDINANCE NO. 2010.22** to amend Chapter 26, Article IV of the Tempe City Code relating to Public Safety Enhancement Charge by amending Section 26-60.

COMMENTS Changes the public safety enhancement charge from \$10 to \$30 for each offense, other than civil parking violations, processed by the court that results in an order or agreement to pay any fine, sanction, penalty or assessment or participate in any court authorized diversion program. The charge was first adopted in July 1999. This is the first proposed increase of these fees.

DOCUMENT NAME TCC CH 26 – MISCELLANEOUS FEES (0210-05) ORDINANCE NO. 2010.22

- *3. Held the second and final public hearing and approved **ORDINANCE NO. 2010.20** to adopt "Amendments to the City Tax Code of the City of Tempe, Arizona, Implementing Proposition 401 Passed by the Voters of Tempe on May 18, 2010" by reference; establishing a two-tenths (0.2%) tax rate increase, excluding sales of food for home consumption; establishing effective dates; and declaring the existence of an emergency.

COMMENTS N/A

DOCUMENT NAME TCC CH 16 – LICENSES, TAXATION & MISC. BUS REGS, ETC. (0503-16) Ordinance No. 2010.20

- *4. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**
Held the second and final public hearing and approved **ORDINANCE NO. 2010.24** authorizing the mayor to execute a lease (**Contract #2010-149**) and memorandum of Lease (**Contract #2010-149A**), with Campus Property Owner 922 LLC, with regard to The Vue Apartments located at 922 East Apache Boulevard.

COMMENTS On May 20, 2010 the City Council authorized the Mayor to execute a Development Agreement which, among other things, authorized a 12 year GPLET arrangement in exchange for a \$250,000 donation to the City for Historic Preservation. This Ordinance authorizes the Mayor to take all actions necessary to comply with the Development Agreement, including execution of a Lease and Memorandum of Lease

DOCUMENT NAME 20100624cdcm01 DEVELOPMENT PROJECT (0406)
Ordinance No. 2010.24

Bill Butler read a statement that this ordinance transfers the tax load of the schools, state, county and this City from the owners – developers to the residents who pay taxes but do not read their tax bills. Mr. Butler cited the Grigio as an example. A very successful sold out high dollar complex that owes the City \$10,000,000 plus the fees for maintenance of the Lake. The City is now willing to settle for \$5,000,000. The City is scrambling to make payroll and has cut services and laid off people. This is taking money from the poor and giving to the rich.

Motion by Councilmember Woods to approve agenda item 5D4; second by Councilmember Arredondo. Motion passed 6-0.

- *5. Held the second and final public hearing and approved **ORDINANCE 2010.12** authorizing the abandonment of a public drainage, utilities, irrigation and bridle path easement located on Lot 16 of Calle de Caballos Subdivision.

COMMENTS This request has been brought forward by the recorded owners of Lot 16 in which the easement resides (1315 E. Calle De Caballos).
DOCUMENT NAME 20100624PWWS04 ABANDONMENT (0901) Ordinance 2010.12

- *6. Held the second and final public hearing and approved **ORDINANCE NO. 2010.15** amending Chapter 14, Article II, Division 2 of the Tempe City Code relating to Fire Prevention and Protection by amending Section 14-41 relating to Fire Code Amendments.

COMMENTS This amendment to the Fire Code would require all fraternities and sororities to provide an automatic fire extinguishing system in their existing structures within a 24 month period upon notification by the Fire Department.
DOCUMENT NAME 20100520 TCC CH14 (0503-14) Ordinance No. 2010.15

E. Resolutions

1. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**
Approved **RESOLUTION NO. 2010.89**, the FY 2009-10 annual operations funding agreement with Valley Metro Rail, Inc. (VMR) for the City of Tempe's proportionate share of operating costs, **Contract #2010-150**.

COMMENTS Total cost to Tempe is \$10,085,002 of which \$304,333 is for rail system administration costs and \$9,780,669 is for base rail service costs.
DOCUMENT NAME 20100624pwgj02 TRANSPORTATION PLANNING (1101-01) RESOLUTION NO. 2010.89

Councilmember Shekerjian removed agenda item 5E1 and asked staff to explain this project and its funding source.

John Osgood, Deputy Public Works Manager – Field Operations, stated that this project represents the 2009-10 annual operating fund for light rail. This is a funding agreement with Valley Metro Rail. The funds reside in the Transit Fund and are included in the transit operating budget.

Motion by Councilmember Shekerjian to approve agenda item 5E1; second by Councilmember Woods. Motion passed 6-0.

2. Approved **RESOLUTION NO. 2010.84** to execute the Subgrantee 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, for 2010-2011, **Contract #2010-151**.

COMMENTS Victims of Crime Act (VOCA) grant award to the City of Tempe of \$55,978.00 in federal funds from July 1, 2010 through June 30, 2011. The required match of \$13,995.00 will be met through CARE 7 volunteer hours.

DOCUMENT NAME 20100624cskb01 COMMUNITY SERVICES ADMIN (0701-01)
Resolution No. 2010.84

3. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**
Approved **RESOLUTION NO. 2010.90** authorizing the Mayor to execute a funding agreement between the City and the Tempe Community Council regarding a grant to The Centers for Habilitation for transportation services for elderly and disabled residents, **Contract #2010-152.**

COMMENTS Grant award is \$50,000.

DOCUMENT NAME 20100624PWgj03 TRANSPORTATION PLANNING (1101-01)
RESOLUTION NO. 2010.90

Vice Mayor Ellis removed agenda item 5E3 for separate consideration and declared a conflict of interest. Councilmember Arredondo was requested to preside over this portion of the meeting.

Motion by Councilmember Mitchell to approve agenda item 5E3; second by Councilmember Woods. Motion passed 5-0 with Vice Mayor Ellis abstaining.

4. Approved **RESOLUTION NO. 2010.83** amending City Code Appendix A-Fee Schedule, Chapter 2, Administration, relating to Public Safety Enhancement Charge by amending Section 26-60.

COMMENTS This resolution increases the Public Safety Enhancement Charge from \$10 to \$30.

DOCUMENT NAME TCC CH 26 – MISCELLANEOUS FEES (0210-05)
RESOLUTION NO. 2010.83

5. Approved **RESOLUTION NO. 2010.88** authorizing creation of three full-time Utility Service Technician I positions to complete the water meter replacement program from July 5, 2010 through December 31, 2012.

COMMENTS Total cost is \$378,630, including full benefits.

DOCUMENT NAME 20100624wudmk01 POSITIONS AUTHORIZED (0302-01-00)
Resolution No. 2010.88

6. Approved **RESOLUTION NO. 2010.91**, an amendment to Resolution No. 2010.64 to allocate a portion of the City of Tempe, Arizona General Obligation Bonds, Series 2010 to the City's six percent (6%) debt limit and to correct a typographical error from "community services/parking improvements" to read "community services/park improvements".

COMMENTS This resolution amends Resolution No. 2010.64 approved on May 20, 2010 which authorized the issuance of \$45.2 million in general obligations bonds.

DOCUMENT NAME 20100624fsjh01BOND SERVICE ADMINISTRATION (0203-01)
Resolution No. 2010.91

7. Approved **RESOLUTION NO. 2010.92** to accept grant funding from the Arizona Peace Officer Standards and Training Board for firearms simulator upgrades.

COMMENTS The grant award totals \$14,000.00.
DOCUMENT NAME 20100624pdsj01 POLICE DEPT ADMIN (0606-02) Resolution
No. 2010.92

8. Approved **RESOLUTION NO. 2010.82** approving a Memorandum of Understanding between the City of Tempe, the City of Mesa and Valley Metro Rail, Inc (METRO) concerning safety, security and fare enforcement on the METRO light rail system within the City of Tempe, **Contract #2010-153**.

COMMENTS N/A
DOCUMENT NAME 2010624pwcd01 Transportation Planning (1101-01) Resolution
No. 2010.82

9. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.** Approved **RESOLUTION NO. 2010.85** amending the City of Tempe Personnel Rules and Regulations, Rule 2, Section 202, by adding a new sub-section L relating to furlough programs.

COMMENTS This resolution amends the City of Tempe Personnel Rules and Regulations allowing the City Manager to establish leave programs directly related to the implementation of a furlough program only. This was requested by employee groups and reviewed through the 6-Sided Partnership.
DOCUMENT NAME 20100624hrjoc01 PERSONNEL RULES AND REGULATIONS (0301-01) Resolution No. 2010.85

Councilmember Woods removed this item for separate consideration and asked staff to explain the furlough program changes.

Renie Broderick, Human Resources Director, stated that this resolution allows staff to amend the City's Personnel Rules and Regulations, giving staff flexibility in how the Furlough Program is administered. Employees will be allotted a furlough leave bank, which gives employees latitude in how they choose to use their furlough time off. The reduction in pay is spread out evenly over the course of the next fiscal year pay periods. Additionally management is proposing that vacation leave accrual be increased to avoid having employees forfeit excess leave time at the end of the calendar year.

Councilmember Navarro asked the City Attorney if the furloughs violate any of the union contracts. Mr. Ching replied no.

Councilmember Arredondo asked which employee groups participated in this process and the outcome of those discussions. Ms. Broderick stated that employees of SEIU and TSA requested modifications to the initial furlough program proposal to make it less impactful on employees. Councilmember Arredondo asked if the Police and Fire unions provided input on this process.

Mr. Meyer stated that the furlough program modifications were discussed by the six-sided partnership (four unions, confidential employee group, and the management team). It is unclear whether any of the employee groups supported or advocated for furloughs. However, they did indicate their preferences for administering furlough leave.

Motion by Councilmember Woods to approve agenda item 5B9; duly seconded. Motion passed 6-0.

10. Approved **RESOLUTION NO. 2010.86** extending the termination date of the Memorandum of Understanding between the City of Tempe and the Tempe Supervisors' Association.

COMMENTS	Resolution No. 2010.86 extends the termination date of the Memorandum of Understanding from June 30, 2010 to September 30, 2010.
DOCUMENT NAME	20100624hrjoc02 TEMPE SUPERVISORS. ASSOCIATION – MEET AND CONFER (0303-08-05) Resolution No. 2010.86

6. PUBLIC APPEARANCES

A. Scheduled

1. April Bojorquez – Senate Bill (SB) 1070
Ms. Bojorquez stated that Tempe is experiencing the social and economic consequences of SB 1070. This not only affects political careers, but also affects the sustainability of the Tempe community – a tolerant, diverse and intellectual city.
2. Matthew Garcia - SB 1070
Mr. Garcia stated that there are over seventy cities that have publicly condemned SB 1070 and urged the City Council to take a stance against this legislation. Many Native Americans do not speak English or English is not their first language, nor do they have birth certificates or documentation establishing their citizenship. Mr. Garcia asked the City Council to show that Tempe is a community that cares and believes in the respect and dignity of all residents in this City.
3. Edgar Ochoa - SB1070
Mr. Ochoa echoed the previous speakers' sentiments on this legislation. This law affects local business owners and reduces taxes. Mr. Garcia asked the City Council to consider their constituents and the economic impact of this legislation.

B. Unscheduled

Jack Batty stated that he is the President SEIU employee union. Mr. Batty thanked the City Council, Councilmember Arredondo, John Osgood, Charlie Meyer and the Human Resources staff for their hard work.

Eleanor Holguin thanked Jan Hort for her assistance and looks forward to working with Brigitta Kuiper, City Clerk.

Brenda Roscone talked about the educational environment that ASU provides and asked the City Council to consider the implications of Tempe remaining neutral on SB 1070. The law is ambiguous and places a burden on police officers to enforce federal law. This creates societal divisions that will outlast any election and is bad for the health of society.

William Robles stated that he is a victim of Sheriff Joe Arpaio. SB 1070 is causing problems.

Stacey Olsen stated that SB1070 leaves a stain on Arizona history and was written by an attorney who has been identified with racist groups.

Randy Dennan urged Tempe to not comply with SB 1070. The police should not target undocumented migrants and people with brown skin. Nobody should live in fear of the police.

7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

Councilmember Arredondo asked his colleagues for consensus that the City Manager and Police Chief make a presentation on August 19, 2010 regarding how the police department is addressing SB 1070. Councilmembers agreed with this request. Mr. Meyer stated that police procedures are currently being developed on a statewide basis; however staff will be prepared to make a presentation on August 19th. Councilmember Arredondo also asked that staff include budget impact projections with their upcoming presentation. Councilmember Woods asked staff to update the Council on pending SB 1070 lawsuits and how they impact Tempe as well as the state of Arizona.

Councilmember Shekerjian

Congratulated Judge Louraine Arkfeld on her retirement

Congratulated Jack Batty on his retirement

Congratulated Jan Hort on her retirement

Congratulated Chief Simmons, Kathy Berzins, Chris Anaradian, Ken Jones and Don Bessler for their new roles as department heads

Congratulated Councilmember Arredondo on his term of service on the Council

Congratulated her colleagues, the 6-sided partnership and Charlie Meyer on their perseverance during tough economic times and working together as a team

Councilmember Navarro

Congratulated Judge Louraine Arkfeld on her retirement

Congratulated Jack Batty on his retirement

Congratulated Jan Hort on her retirement

Congratulated Chief Simmons, Kathy Berzins, Chris Anaradian, Ken Jones and Don Bessler for their new roles as department heads

Councilmember Woods

Congratulated Judge Louraine Arkfeld on her retirement

Congratulated Jack Batty on his retirement

Congratulated Jan Hort on her retirement

Congratulated Tempe Community Council on the Kyrene First Things First grant

Councilmember Mitchell

Acknowledged the passing away of Dick McQueen
Congratulated Judge Louraine Arkfeld on her retirement
Congratulated Jack Batty on his retirement
Congratulated Jan Hort on her retirement
Congratulated Chief Simmons, Kathy Berzins, Chris Anaradian, Ken Jones and Don Bessler for their new roles as department heads

Councilmember Arredondo

Acknowledged Lisa Collins and Mike Williams for their professionalism
Thanked his family, City employees, fellow Councilmembers and citizens of Tempe for the support during his tenure on Council

Vice Mayor Ellis

Congratulated Jan Hort on her retirement
Congratulated Judge Louraine Arkfeld on her retirement
Congratulated Jack Batty on his retirement
Congratulated Charlotte Benson on her retirement
Congratulated Mark Stodola on his retirement
Congratulated Chief Simmons, Kathy Berzins, Chris Anaradian, Ken Jones and Don Bessler for their new roles as department heads

Meeting adjourned at 10:07 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 June 24, 2010, by the Tempe City Council, Tempe, Arizona.

Shana Ellis, Vice Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk