



Minutes Formal City Council Meeting October 20, 2011

Minutes of the Formal Council Meeting of Thursday, October 20, 2011, held at 7:30 p.m. in the Harry E. Mitchell Government Center, Tempe City Hall, City Council Chambers, 31 E. Fifth Street, Tempe, Arizona.

COUNCIL PRESENT:

Mayor Hugh Hallman
Councilmember Robin Arredondo-Savage
Councilmember Mark W. Mitchell
Councilmember Corey D. Woods

Vice Mayor Joel Navarro
Councilmember Shana Ellis
Councilmember Onnie Shekerjian

STAFF PRESENT:

Charlie Meyer, City Manager
Andrew Ching, City Attorney
Don Bessler, Public Works Director
Greg Jordan, Interim Deputy Public Works Dir. – Transportation
Various Department Heads or their representatives

Jeff Kulaga, Assistant City Manager
Brigitta M. Kuiper, City Clerk
Andy Goh, Deputy Public Works Director – Engineering

GUESTS PRESENT:

Stephen Anderson, Gammage & Burnham
Manjula Vas, Gammage & Burnham

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

1. Councilmember Arredondo-Savage gave the invocation.
2. Mayor Hallman led the audience in the **Pledge of Allegiance**.

3. MINUTES

A. Approval of Council Meeting and Council Committee Meeting Minutes

Motion by Councilmember Ellis to approve the following COUNCIL MEETING AND COUNCIL COMMITTEE MEETING MINUTES; second by Councilmember Arredondo-Savage. Motion passed unanimously on a voice vote 7-0.

1. Formal Council Meeting - September 22, 2011
2. Issue Review Session - September 8, 2011 and September 22, 2011
3. Executive Session - September 22, 2011
4. Neighborhood Quality of Life and Revitalization Committee - August 23, 2011
5. Education Partnerships Council Committee - September 12, 2011
6. Housing and Social Service Programs Council Committee - September 13, 2011
7. Technology, Economic and Community Development Council Committee - August 19, 2011
8. City Council and Tempe Chamber of Commerce Joint Dinner Meeting - September 28, 2011

B. Acceptance of Committee, Board & Commission Meeting Minutes

Motion by Councilmember Ellis to accept the following COMMITTEE, BOARD AND COMMISSION MEETING MINUTES; second by Councilmember Mitchell. Motion passed unanimously on a voice vote 7-0.

1. Tempe Streetcar Community Working Group - July 25, 2011
2. Mayor's Youth Advisory Commission - May 3, 2011 and September 20, 2011
3. Committee for Youth, Families and Community Marketing Subcommittee - June 8, 2011
4. Tardeada Advisory Board - June 8, 2011
5. Municipal Arts Commission Grants Subcommittee - June 28, 2011 and August 3, 2011
6. Historic Preservation Commission - July 14, 2011
7. Plumbing and Mechanical Code Advisory Board - July 21, 2011 and August 11, 2011
8. Committee for Youth, Families and Community - August 9, 2011, and September 13, 2011
9. Building Code Advisory Board - August 4, 2011
10. Transportation Commission - August 9, 2011 and September 20, 2011
11. Parks, Recreation and Golf Advisory Board - August 17, 2011
12. Development Review Commission - August 23, 2011, September 13, 2011 and September 27, 2011
13. Municipal Arts Commission Public Art/Art in Private Development Subcommittee - August 31, 2011
14. Historical Museum Advisory Board - September 1, 2011
15. Fire Public Safety Personnel Retirement Board - September 1, 2011
16. Fire and Police Public Safety Personnel Retirement Board Joint Meeting - September 1, 2011
17. Police Public Safety Personnel Retirement Board - September 1, 2011
18. Hearing Officer - September 6, 2011
19. Library Advisory Board - September 7, 2011
20. Merit System Board - September 7, 2011 and September 19, 2011
21. Aviation Commission - September 13, 2011
22. Human Relations Commission - September 13, 2011
23. Special Events Task Force - September 20, 2011 and October 4, 2011

4. REPORTS AND ANNOUNCEMENTS

A. Mayor's Announcements

1. Lights On Afterschool

"Lights on Afterschool!" is an annual event, celebrated to call attention to the importance of quality afterschool programs, such as the Kid Zone Enrichment Program, operating in elementary schools and multi-generational facilities. Tempe provides numerous affordable or no-cost afterschool options for children and their families. Kid Zone Program Manager, Jill Rasmussen, and Kid Zone Coordinator, Patty Russell, were acknowledged for their contributions to this program.

2. Tour de Tempe

Mayor Hallman announced that the 16th annual Tour de Tempe community bike ride will be held Sunday, October 23, 2011 from 7:30 – 11:00 a.m. at Kiwanis Park.

3. Teen Diversity Dialogue

Mayor Hallman announced that this year the Tempe Human Relations Commission and the Tempe Diversity Office created a new program for teens, "The Teen Diversity Dialogue Program." While Tempe has had an adult dialogue program for over 10 years, this is a new concept for teens to help create future leaders while promoting Tempe's values of diversity and inclusion. Program participants were acknowledged for their participation.

4. **Dave Cutty Day**

Mayor Hallman honored community leader, Dave Cutty for his contributions to the community over the past 40 years. Mr. Cutty's commitment to the disabled population, participation on several City of Tempe boards and commissions and making a difference was commended.

B. Manager's Announcements – None.

5. **AGENDA**

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

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

Motion by Councilmember Shekerjian to approve the Agenda with the exception of items 5A3, 5B3, 5B7, 5B8, 5B9, 5C2 and 5C3, which were removed for separate consideration, and items 5B2 and 5B10 which were removed/deleted from the agenda; second by Councilmember Arredondo-Savage. Motion passed on a roll call vote 7-0.

A. Miscellaneous Items

- A1. Approved the September 2011 Report of Claims Paid to be filed for audit.

COMMENTS	N/A
DOCUMENT NAME	20111020wudph03 WATER MANAGEMENT ADMINISTRATION (0811-13)

- A2. Approved the expenditure of \$201,472.53 from the Water Fund contingency fund to pay the municipality fee to be collected from Tempe by the Arizona Department of Water Resources (ADWR) pursuant to Laws 2011, Ch. 36, § 2 (S.B. 1624) and A.A.C. R12-15-107.

COMMENTS	Approval of this request would authorize the Water Utilities Division to expend budgeted Water fund contingency funds to pay the 2011-2012 ADWR municipality fee, the initial year of the fee. THIS PAST LEGISLATIVE SESSION, THE LEGISLATURE ADOPTED THIS MANDATE REQUIRING ALL MUNICIPALITIES TO FUND ADWR, and the legislation and rule authorizing this fee were implemented too late in the year to consider the fee in this year's annual Tempe water rate study. Thus, it is recommended that budgeted contingency funds be used to pay the fee this initial year.
DOCUMENT NAME	20111020wudph03 WATER MANAGEMENT ADMINISTRATION (0811-13)

- A3. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Request approval of Capital Improvement Program appropriation increase to complete the construction of additions to the East Valley Bus Operations and Maintenance Facility (EVBOM).

- A4. Approved a Capital Improvement Program (CIP) budget transfer to complete tenant improvements at the Tempe Transportation Center ground floor retail space.

COMMENTS To complete the build-out and leasing of the ground floor retail space, a \$722,176 transfer from the TRANSIT FUND's fund balance to CIP project No. 6762 is necessary and will be directed to the following purposes: Essential Building Systems - \$549,512 for design and construction of gas lines, ventilation system, drainage system, grease interceptor, 10% contingency, and related city fees. Standard Tenant Improvements - \$165,000 for a tenant improvement allowance based on a market rate of \$40 per sq. ft.

DOCUMENT NAME 20111020jcpw02 TEMPE TRANSIT CENTER (1106-06)

- A5. Approved an Agreement for the Downtown Safety Program (**Contract #2011-150**), and the Lease Agreement (**Contract #2011-151**) for the Downtown Safety Program, between the City of Tempe and the Downtown Tempe Community (DTC).

COMMENTS The Agreement is a five year agreement with the DTC for the DTC to implement, manage, and enforce a Downtown Safety Program in the Downtown District and at Tempe Town Lake. The Lease Agreement is a two year lease with the DTC for a boat, a boat trailer, and a pick-up truck to be used for the Downtown Safety Program. Total cost of the Agreement will not exceed \$375,000 (\$234,980 from CFD and \$140,020 from DTC) per year.

DOCUMENT NAME 20111020pdfs01 DOWNTOWN TEMPE COMMUNITY (0109-30)

- A6. Authorized the Mayor to execute the settlement between the City of Tempe and Pinnacle Risk Management Services, Inc., regarding Steven Baker v. Pinnacle Risk Management and the City of Tempe, Maricopa County Superior Court No. CV2009-011461. (**Contract #2011-152**)

COMMENTS The total amount of this settlement is Two Hundred Thirty-Seven Thousand Five Hundred Dollars (\$237,500.00), which is 25% of the amount Pinnacle Risk Management paid to settle the underlying lawsuit.

DOCUMENT NAME 20111020cacm01 LITIGATION SETTLEMENT (0501-04)

B. Award of Bids/Contracts

- B1. Approved a one-year contract renewal with Sierra Auction Management, Inc. for auction services utilized to dispose of City surplus property that includes: vehicles, equipment, furniture and police confiscated property.

COMMENTS Total sales volume generated by this contract is estimated at \$400,000.

DOCUMENT NAME 20111020fsta01 PURCHASES (1004-01)

- B2. **THIS ITEM WAS REMOVED/DELETED FROM THE AGENDA** Request approval to award a one-year contract with two, one-year renewal options to United Fire for the supply of Fire Department station and dress uniforms.

B3. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Request approval of one-year contract renewals with Factory Motor Parts, Chapman Ford (formerly Five Star Ford), Arizona Rubber Company, Turbo & Electric Sales & Service, Courtesy Chevrolet, FleetPride, One Source Distributors, Performance Plus, Pro Auto Parts & Hardware, Carquest of Tempe, Mighty Auto Parts of Arizona, RWC International (formerly McCandless of Arizona), Watkins Specialists, North Valley Motor Sports, Tempe Power Equipment, RLS Services, American Filter Equipment, Lighthouse, Simpson-Norton, Valley Truck & Trailer Services, Brown & Brown Chevrolet, NAPA Auto Parts, Arizona Emergency Products and Arizona Refuse Sales for the purchase of repair parts for City vehicles and equipment used by the Public Works Department.

B4. Approved a one-year contract renewal with West Coast Arborists, Inc. for palm tree maintenance services for use by the Public Works Department.

COMMENTS Total cost of this contract will not exceed \$55,000 during the one-year contract renewal period.

DOCUMENT NAME 20111020fslg03 PURCHASES (1004-01)

B5. Awarded one-year contracts with four, one-year renewal options to Above All Plumbing, RKS Plumbing and Service Pros Plumbing for plumbing services related to the City of Tempe Service Line Protection Program (SLiPP) to be program overseen by the Public Works Department. **(Contract #2011-153)**

COMMENTS Total combined value of these contracts will not exceed \$100,000 during the initial one-year contract period.

DOCUMENT NAME 20111020fsta09 PURCHASES (1004-01)

B6. Approved an addendum to a professional engineering services contract with Malcolm Pirnie, Inc. for South Tempe Water Treatment Plant water quality improvements. **(Contract #2009-148)**

COMMENTS Total cost for this professional services contract addendum is \$179,201. The original contract amount of \$3,635,877, plus previous addenda in the amount of \$129,421, and this addendum will bring the total contract amount to \$3,944,499.

DOCUMENT NAME 20111020pwdr03 SOUTH TEMPE WATER TREATMENT PLANT (0811-08) PROJECT NO. 3203211

B7. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Request award of a construction contract with D.L. Withers Construction, L.C. and approval of a project contingency for the federally grant funded additions to the East Valley Bus Operations and Maintenance Facility (EVBOM).

B8. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Request award of job order construction contracts to Foresite Design & Construction, Inc., Caliente Construction, Inc. and Builders Guild, Inc. to perform on-call general construction services.

B9. **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 M Group Constructors, SDB Contracting Services, Building Technologies, Hernandez Companies, A & H Painting, Michael Riddle Painters, Fabiani Painting, GTI Contractors, G & G Specialty Contractors, Star Roofing, Straight Arrow Contracting, Crawford Mechanical Services, Southwest Trane, Pueblo Mechanical & Controls, Roto Rooter Services & Plumbing, Valley Wide Companies, Spectra Electrical Services, KSK Electric, Commonwealth Electric, Natural State Landscaping and Vic's welding for trade services that maximizes resources and supplements Public Works facility staff in the maintenance and repair of City buildings, facilities and assets.

B10. **THIS ITEM WAS REMOVED/DELETED FROM THE AGENDA** Request approval to utilize a six-month State of Arizona contract with Motorola Solutions Inc. to purchase two-way radios, parts and related repair and maintenance services for the municipal and public safety radio systems.

B11. Approved a one-year contract renewal with G4S Secure Solutions and Truly Every Assignment Matters, LLC to provide armed and unarmed security officer services for various City departments.

COMMENTS Total combined amount of this one-year contract renewal shall not exceed \$800,000.

DOCUMENT NAME 20111020fsmg13 PURCHASES (1004-01)

B12. Awarded a two-year contract with three, one-year renewal options to Artistic Land Management, Inc. to provide landscape maintenance services for transit properties. **(Contract #2011-159)**

COMMENTS Total value of this contract will not exceed \$360,000 during the initial two-year contract period.

DOCUMENT NAME 20111020fslg02 PURCHASES (1004-01)

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

*C1. Introduced and held the first public hearing to adopt an ordinance amending Chapter 5, Article III of the Tempe City Code relating to Large Parties, Gatherings or Events, by amending Section 5-30 through 5-33 relating to Nuisance Parties and Unlawful Gatherings. The second public hearing was scheduled for November 3, 2011.

COMMENTS This ordinance amends Chapter 5 of the Tempe City Code by amending the existing Article III related to large parties, gatherings or events, by retitling the Article "Nuisance Parties and Unlawful Gatherings". The changes keep intact the previous restrictions for large parties, renaming them "nuisance parties", and adding a new category of "unlawful gatherings".

DOCUMENT NAME 20111020caac01 TCC CH 5 – AMUSEMENTS (0503-05)
ORDINANCE NO. 2011.56

*C2. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Introduction and first public hearing to adopt an ordinance for an Amended Planned Area Development Overlay for 323 VETERANS WAY located at 323 East Veterans Way. The second and final public hearing is scheduled for November 3, 2011.

*C3. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Introduction and first public hearing to adopt an ordinance for a Planned Area Development Overlay, including Use Permits and Development Plan Review for DISCOVERY BUSINESS CAMPUS located at 2100 East Elliot Road. The second and final public hearing is scheduled for November 3, 2011.

*C4. Introduced and held the first public hearing to adopt an ordinance for a Historic Overlay for the Barnes (Conway) House located at 1203 South Ash Avenue. Second and final public hearing was scheduled for November 3, 2011.

COMMENTS Request for BARNES (CONWAY) HOUSE (PL110250) (Matthew and Jacqueline Conway property owners; Tempe Historic Preservation Office, applicant) consisting of Historic designation and listing in the Tempe Historic Property Register of one (1) lot on approximately 0.24 acres located at 1203 South Ash Avenue in the R-3R, Multi-Family Residential Restricted District. The request includes the following: HPO11006 (Ordinance No. 2011.26) – Historic Designation consisting of one (1) lot.

DOCUMENT NAME 20111020cdjn01 PLANNED DEVELOPMENT (0406) ORDINANCE NO. 2011.26

*C5. Introduced and held the first public hearing to adopt an ordinance abandoning a public utility easement south of Apache Boulevard, between Normal Avenue and McAllister Avenue. The second public hearing was scheduled for November 3, 2011.

COMMENTS Pursuant to Resolution 904, the City previously abandoned a portion of the Apache Boulevard right-of-way but retained a public utility easement.

DOCUMENT NAME 20111020pwko06 ABANDONMENT (0901) ORDINANCE NO. 2011.52

*C6. Introduced and held the first public hearing to adopt an ordinance abandoning a waterline easement south of Baseline Road, between Rural Road and College Avenue. The second public hearing was set for November 3, 2011.

COMMENTS The San Marquis Apartment project is being constructed at 577 E. Baseline Road. Waterline easements were dedicated by the previous owners for business developments at the site. The developments have been relocated and a new residential complex is being constructed. The new development has removed the existing waterlines and is installing new waterlines to serve the project. New easements will be dedicated with the project

DOCUMENT NAME 20111020pwko07 ABANDONMENT (0901) ORDINANCE NO. 2011.53

D. Ordinances and Items for Second Hearing/Final Adoption

- *D1. Held the second and final public hearing and adopted **ORDINANCE NO. 2011.44** authorizing the Mayor to execute a license agreement (**Contract #2011-160**) with Electric Transportation Engineering Corporation, dba ECotality North America, to use and occupy City property to install, maintain, and operate electric vehicle charging equipment through the use of Department of Energy funding through the American Recovery and Reinvestment Act. (**Contract #2011-160A**)

COMMENTS ECotality will fund the installation of the charging sites on City property under an ARRA grant at no cost to city. The City will be responsible for the electricity cost to each site. The cost of each charge for use of the charging station is estimated at \$1.25 - \$2.00 per hour, for a 4-6 hour charge, to be paid by the vehicle user.

DOCUMENT NAME 20110922pwws07 ENGINEERING ADMINISTRATION (0803-02) ORDINANCE NO. 2011.44

- *D2. Held the second and final public hearing and adopted **ORDINANCE NO. 2011.46** amending the Tempe City Code to add Code Section 19-101, to regulate parking at electric vehicle charging stations in the City of Tempe.

COMMENTS The penalties for violating the Code section include a civil sanction of up to \$250.

DOCUMENT NAME 20110922pwws06 TCC CH 19 – MOTOR VEHICLES AND TRAFFIC (0503-19) ORDINANCE NO. 2011.46

- *D3. Held the second and final public hearing and adopted **ORDINANCE NO. 2011.39**, a Zoning Map Amendment and Planned Area Development Overlay and adopted **RESOLUTION NO. 2011.81** authorizing the Mayor to execute a General Plan Amendment for San Capella-Mark-Taylor Development located at 1155 West Elliot Road.

COMMENTS Request for SAN CAPELLA – MARK-TAYLOR DEVELOPMENT (PL110258) (CNL Income FEC Tempe, LLC. property owner; Huellmantel & Affiliates, applicant) consisting of a new 384 unit multi-family residential development with two and three-story buildings, totaling up to 507,000 sf. in building area on approximately 19.5 acres, located at 1155 West Elliot Road in the GID, General Industrial District and within the Southwest Tempe Overlay District. The request includes the following:
GEP11002 (RESOLUTION NO. 2011.81) – General Plan Projected Land Use Map Amendment from “Commercial” to “Residential” on 19.5 acres.
ZON11004 (ORDINANCE NO. 2011.39) – Zoning Map Amendment from GID, General Industrial District to R-4, Multi-Family Residential General District on 19.5 acres.
PAD11010 (ORDINANCE NO. 2011.39) – Planned Area Development Overlay, modifying the general development standards, to reduce the required vehicle parking from 799 to 727 spaces and reduce the required bicycle parking from 282 to 76 spaces, all on 19.5 acres.

DOCUMENT NAME 20110908cdr101 PLANNED DEVELOPMENT (0406) ORDINANCE NO. 2011.39 RESOLUTION NO. 2011.81

The following conditions of approval apply:

1. A building permit shall be obtained on or before October 6, 2013, or the zoning of 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 waives any right to claim compensation for diminution of Property value under A.R.S. §12-1134 that may now or in the future exist, as a result of the City's approval of this Application, including any conditions, stipulations and/or modifications imposed as a condition of approval. The signed form shall be submitted to the Community Development Department no later than November 5, 2011 (effective date of ordinance), or the Planned Area Development Overlay, Zone Map Amendment and General Plan Map Amendment approval shall be null and void.
3. The Planned Area Development Overlay shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Community Development 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.
5. The developer must receive acceptance of the final Traffic Impact Study from the Traffic Engineer prior to issuance of a building permit.
6. Any proposed improvements to the traffic medians requested by the developer, subject to authorization by the City's Traffic Engineer, the developer shall be responsible for all payments including design, permitting and construction.

E. Resolutions

- E1. Adopted **RESOLUTION NO. 2011.95** designating the physical posting location for all City of Tempe public meeting notices as the City Hall Garden Level posting board.

COMMENTS

This resolution designates the City Hall Garden Level posting board (a current posting location) as the official physical posting location for all City of Tempe public meeting notices, standardizes the posting locations for all City of Tempe public meeting notices and eliminates the requirement for posting notices at locations that are not accessible to the public at all times.

DOCUMENT NAME

20111020ccb01 Open Meeting Law (0101-05) RESOLUTION NO. 2011.95

- E2. Adopted **RESOLUTION NO. 2011.96** authorizing the Mayor to execute a Development Agreement (**Contract #2011-161**) and Parking Sublicense and Operating Agreement (**Contract #2011-162**) with BREOF TEMPE LAND LP, a Delaware limited partnership ("Brookfield").

COMMENTS

Brookfield is the owner of two parcels of real property, one located at the North West corner of University Drive and Mill Avenue ("Mill Avenue Parcel") and the other located west of the Mill Avenue Parcel at the North West corner of University Drive and Ash Avenue (the "University Drive Parcel"). The Mill Avenue Parcel contains an office building leased to Chase Bank that requires additional parking stalls. City is a party to a Permanent Parking Use License Agreement with ZARCALRES TEMPE LLC ("Zaremba"), dated August 18, 2011, that granted City a license to use 64 parking spaces within the parking structure owned by Zaremba and located directly north of Brookfield's existing garage. City will sub-license those 64 stalls to Brookfield for 5 years, pursuant to the Parking Sublicense, at \$30,720 per year.

Brookfield, intends to develop the University Drive Parcel into a mixed-use project consisting of retail space, grocery uses and structured parking facilities. The structured parking will provide parking for the new project as well as the existing office building. The Development Agreement requires Brookfield to commence construction of the project within twelve (12) months of the effective date of the Development Agreement. In consideration for constructing the project, the Development Agreement waives the first year of the fees payable under the Parking Sublicense provided that the waiver is rescinded and the fees otherwise payable during the first year must be paid if Brookfield fails to obtain a Certificate of Occupancy for the project within 5 years.

DOCUMENT NAME 20111020cdaws01 SOUTHEAST QUADRANT DOWNTOWN TEMPE (0403-02-06) RESOLUTION NO. 2011.96

- E3. Adopted **RESOLUTION NO. 2011.97** accepting grant funding from Target Corporation for the Mounted Unit in the Police Department. (**Contract #2011-163**)

COMMENTS The grant award totals \$1,000.
DOCUMENT NAME 20111020pdmk01 POLICE DEPARTMENT ADMIN (0606-02-00) RESOLUTION NO. 2011.97

AGENDA ITEM(S) REMOVED FOR SEPARATE CONSIDERATION:

- A3. Approved a Capital Improvement Program appropriation increase to complete the construction of additions to the East Valley Bus Operations and Maintenance Facility (EVBOM).

COMMENTS To complete the construction contract for the EVBOM Additions project, a \$1,833,935 increase to CIP project No. 6003589 is necessary using the following funding sources: \$1,467,180 from GRANT FUNDS provided by the Federal Transit Administration's (FTA) Bus and Bus-Related Facilities Program, 49 U.S.C. § 5309 through Grant AZ-04-0011; \$366,755 from the TRANSIT FUND's fund balance as local match for Grant AZ-04-0011.

DOCUMENT NAME 20111020jcpw01 TRANSPORTATION PLANNING (1101-01)

Councilmember Ellis stated that federal grant funds have been received in order to make improvements to the East Valley Bus Operations and Maintenance Facility (EVBOM). Because this agenda item is a large expenditure, staff was asked to provide an explanation of what the funds will be used for. Greg Jordan, Interim Deputy Public Works Director – Transportation, stated that the action being requested is to increase the budget amount for the EVBOM construction project. \$1.5 million in grant funding has been received which requires \$366,000 in local matching funds. This grant allows the City to complete the EVBOM additions project, which includes security, upgrading fuel, delivery capacity, diesel fuel capacity, and various maintenance improvements throughout the facility.

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

- B3. Approved one-year contract renewals with Factory Motor Parts, Chapman Ford (formerly Five Star Ford), Arizona Rubber Company, Turbo & Electric Sales & Service, Courtesy Chevrolet, FleetPride, One Source Distributors, Performance Plus, Pro Auto Parts & Hardware, Carquest of Tempe, Mighty Auto Parts of Arizona, RWC International (formerly McCandless of Arizona), Watkins Specialists, North Valley Motor Sports, Tempe Power Equipment, RLS Services, American Filter Equipment, Lighthouse, Simpson-Norton, Valley Truck & Trailer Services, Brown & Brown Chevrolet, NAPA Auto Parts, Arizona Emergency Products and Arizona Refuse Sales for the purchase of repair parts for City vehicles and equipment used by the Public Works Department.

COMMENTS Total cost of these contracts will not exceed \$600,000 during the one-year contract renewal period.

DOCUMENT NAME 20111020fsta06 PURCHASES (1004-01)

Mayor Hallman declared a conflict of interest on agenda item 5B3.

Motion by Councilmember Woods to approve agenda item 5B3; second by Councilmember Shekerjian. Motion passed on a roll call vote 6-0-1, with Mayor Hallman abstaining.

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- B7. Awarded a construction contract with D.L. Withers Construction, L.C. and approval of a project contingency for the federally grant funded additions to the East Valley Bus Operations and Maintenance Facility (EVBOM). **(Contract #2011-154)**

COMMENTS Total cost for the construction contract is \$6,090,384. The amount of the project contingency is \$609,000.

DOCUMENT NAME 20111020pwr04 TRANSPORTATION PLANNING (1101-01)
PROJECT NO. 6003581

Councilmember Woods requested that this item be removed for separate consideration because it exceeds \$1 million; he asked staff to explain its funding source and why the deductibles were removed from the agenda item. Greg Jordan, Interim Deputy Public Works Director – Transportation, stated that there is a combination of funding for this project. \$6.5 million from Federal American Recovery and Reinvestment Act (ARRA) funds, \$1.5 million in Federal discretionary funds and \$366,000 from Tempe local sales tax funds. Aside from the design costs, the bulk of funding goes towards construction costs.

Andy Goh, Deputy Public Works Director - Engineering, stated that the deductibles (elective options) were removed because they would have increased the contract amount beyond the budgeted amount. Staff is not recommending awarding the elective options portion of the contract at this time.

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

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- B8. Awarded job order construction contracts to Foresite Design & Construction, Inc., **(Contract #2011-155)** Caliente Construction, Inc. **(Contract #2011-156)** and Builders Guild, Inc. **(Contract #2011-157)** to perform on-call general construction services.

COMMENTS The maximum annual contract amount for each one of the job order contracts is not to exceed \$2,000,000, for a combined annual not to exceed amount of \$6,000,000. Each individual job order under

these contracts is defined by staff and negotiated with the job order contractor. Each job order price averages \$30,000 to \$200,000, with the maximum price not to exceed \$1,000,000. Any individual job order exceeding \$50,000 will be brought to Mayor and Council for consideration.

DOCUMENT NAME 20111020pwdr01 ENGINEERING ADMINISTRATION (0803-02)

Councilmember Shekerjian requested that this item be removed for separate consideration because it exceeds \$1 million; she asked staff to explain the item and its funding source. Andy Goh, Deputy Public Works Director - Engineering, stated that this agenda item represents the master contract for on-call contractors to conduct repair and replacement work on City facilities. The contract sets the terms, conditions and contract limits; no actual work is being awarded at this time. Councilmember Shekerjian sought clarification of the on-call nature of this contract. Mr. Goh stated that this contract allows staff to retain a contractor, on short notice, to address repairs of a life and safety nature. A lengthy procurement process will not be needed for repair work that is of an urgent nature. Mayor Hallman clarified that this contract relates to prequalifying contractors for emergency work and noted that contracts exceeding \$50,000 must be brought back to the City Council.

Motion by Councilmember Shekerjian to approve agenda item 5B8; second by Vice Mayor Navarro. Motion passed on a roll call vote 7-0.

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- B9. Awarded one-year contracts with four, one-year renewal options to M Group Constructors, SDB Contracting Services, Building Technologies, Hernandez Companies, A & H Painting, Michael Riddle Painters, Fabiani Painting, GTI Contractors, G & G Specialty Contractors, Star Roofing, Straight Arrow Contracting, Crawford Mechanical Services, Southwest Trane, Pueblo Mechanical & Controls, Roto Rooter Services & Plumbing, Valley Wide Companies, Spectra Electrical Services, KSK Electric, Commonwealth Electric, Natural State Landscaping and Vic's welding for trade services that maximizes resources and supplements Public Works facility staff in the maintenance and repair of City buildings, facilities and assets. **(Contract #2011-158)**

COMMENTS Total combined value of these contracts will not exceed \$1,300,000 during the initial one-year contract period.

DOCUMENT NAME 20111020fsta07 PURCHASES (1004-01)

Councilmember Shekerjian requested that this item be removed for separate consideration because it has the potential of costing over \$1 million; she asked staff to explain this item, its funding source and why these particular services and businesses have been grouped as presented. Don Bessler, Public Works Director, stated that this contract is for capital maintenance projects ranging from window glazing to painting and carpentry. This contract provides an on-call list of preapproved businesses to provide supplementary services that are beyond the capacity of current staff levels.

Motion by Councilmember Shekerjian to approve agenda item 5B9; second by Councilmember Woods. Motion passed on a roll call vote 7-0.

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- *C2. Introduced and held the first public hearing to adopt an ordinance for an Amended Planned Area Development Overlay for 323 VETERANS WAY located at 323 East Veterans Way. The second and final public hearing was scheduled for November 3, 2011.

COMMENTS Request for 323 VETERANS WAY (PL100181) (Core Campus

Communities Tempe I LLC, property owner; Gammage & Burnham, applicant) consisting of an 18-story and 16-story mixed-use building with two towers, including 423 dwelling units, 23,400 square feet of commercial/retail/restaurant space, 6,171 square feet of amenity space, and two levels of structured parking. Total gross floor building area of approximately 500,000 square feet. The site is 1.62 acres in size and is located at 323 East Veterans Way, in the MU-4, Mixed-Use High Density District with a Planned Area Development Overlay and within the Transportation Overlay. The request includes the following:

PAD11009 (ORDINANCE NO. 2011.45) – Amended Planned Area Development Overlay modifying the development standards for Phase I and II, for, an increase in the maximum allowed density from 364 to 423 units, an increase in the maximum allowed height for Phase II, Tower II from 170 feet to 183 feet, a reduction in required parking from 820 to 166 spaces, and deletion of previous conditions #5, #6, #9 and modification to condition #7 for PAD06005, located on 1.62 acres.

DOCUMENT NAME 20111020cdrl02 PLANNED DEVELOPMENT (0406) ORDINANCE NO. 2011.45

Manjula Vas, Gammage and Burnam, stated that she is waiving the presentation on this agenda item until the second public hearing.

Bruce Genzburg stated that he owns a business across the street from the proposed business located at 323 East Veterans Way. Mr. Genzburg made the following comments:

- He has been at his business location since 1984
- Supportive of project, but concerned with parking
- Traffic will be backed up; difficult to find disability parking spaces
- Does not believe that students will not need cars for food, clothing and other necessities
- In the current society, students cannot get around the metro area without a car
- The number of parking spaces planned is not enough; conversely, if there are too many cars, traffic jams will occur.
- Currently, there is not enough parking for the building to the north at 502 South College; a variance was given to that business and the overflow parking has affected the neighboring lot
- There will not be enough parking with this development, but this development will be good for the economy, Tempe and the downtown area
- An Arizona State University (ASU) report states the same results.

Mayor Hallman stated that ASU built a dormitory that had no parking spaces, so that students would not drive cars. This has caused other issues downtown. Mayor Hallman stated that Mr. Genzburg raised a good point that will be discussed with the developer.

No vote was taken on agenda item 5C2 as this is the first public hearing on this agenda item.

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- *C3. Introduced and held the first public hearing to adopt an ordinance for a Planned Area Development Overlay, including Use Permits and Development Plan Review for DISCOVERY BUSINESS CAMPUS located at 2100 East Elliot Road. The second and final public hearing was scheduled for November 17, 2011.

COMMENTS

Request for DISCOVERY BUSINESS CAMPUS (PL110130) (Tempe Campus SPV LLC, property owner; Gammage & Burnham, applicant) consisting of one (1) two-story office/industrial building, one (1) four-story office building, one (1) five-story office building, one (1) six-story office building, one (1) eight-story office building, two (2) six-story hotels with a combined total of 400 guest rooms, three (3) one-story restaurant/retail shop pads, one (1) three level parking structure, and eleven (11) existing industrial buildings with approximately 1,000,000 square feet of building area. The proposal has a total gross floor building area of approximately 2,580,000 square feet. The site is 135.62 net acres in size and is located at 2100 East Elliot Road, in the GID, General Industrial District and within the General Industrial Overlay District. The request includes the following:

PAD11007 (ORDINANCE NO. 2011.47) – Planned Area Development Overlay modifying the general development standards for an increase in the maximum allowed building heights from 35 feet for Site #1 to 80 feet, for Site #2 to 80 feet, for Site #3 to 132 feet, and for Site #4 to 92 feet.

ZUP11063 – Use Permit request to allow Hotel uses on Site #1 and Site #2.

ZUP11064 – Use Permit request to allow general Retail/Restaurant uses on Site #5.

DPR11122 – Development Plan Review including site plan, building elevations and landscape for Sites #3, #4, and #6.

DOCUMENT NAME

20111020cdri03 PLANNED DEVELOPMENT (0406) ORDINANCE NO. 2011.47

Stephen Anderson, with Gammage & Burnham PLC, representing Wentworth, introduced himself as well as Manjula Vas, Rob Lang, Mr. Wentworth Sr., and Mr. Wentworth Jr. Discussion highlights include:

- Discovery Campus is also known as the Freescale site; consists of 135 acres
- Quarter section of land with a freeway carved out of its eastern perimeter; on the north side of the property is the western canal, single family residential community as well as a City of Tempe water facility; to the west is the Oasis Community; to the south is Elliot Road
- Wentworth is a forty-year old locally based company; successful purchasers of this site through a Request for Proposals (RFP) process
- Freescale has become a long term tenant of this site
- Wentworth has invested \$54 million in acquiring this site
- Interior loop road will be improved as well as landscaping is being planned in excess of 900 trees representing a \$10 million investment
- Total investment on the site when completed will exceed \$200 million
- Existing site has approximately 1 million square feet of industrial space
- Site is currently zoned as general industrial district
- Applicant is not seeking a re-zoning of this property. Seeking Council approval of 4 items: Planned Area Development (PAD), two use permits (hotel and retail), and a Development Review application. Staff recommends approval, subject to 40 stipulations, as does the Development Review Commission
- Extensive community outreach on this project; 7 meetings to date
- Full service business park master plan
- Office towers in the southeast corner of the site
- Northeast corner of the site will house two hotels; adjacent to the freeway
- Southwest corner will house retail, along Elliot Road
- Once completed, there will be a total of 2.5 million square feet of space

- Height is being located to the east and south portions of the site; adjacent to the freeway and ASU business park
- Landscaping being proposed is 30% of the project site
- Before/after renderings of site landscaping were displayed
- Phase I includes planting trees now so that landscaping is mature when construction occurs
- A business project of this size requires free standing retail to support the community as an accessory use; it will give on-site employees options and draw from the general public
- Retail buildings are one-story in height; existing zoning allows for two stories in height
- Raise wall on west side of project from 6' to 8'
- Divided from neighbors by two right of ways
- Separation of retail building from its perimeter wall to the closest residential property line is 143'
- Developer must return to the City Council for any additional uses, which the developer is not seeking at this time. Examples include: gas, liquor, drive-thru uses
- Developer must return to the City Council for approval of anything that is built on the retail portion of the site
- The developer will continue to work with concerned neighbors as this moves forward
- This project represents a substantial investment during such an economic downturn
- Mr. Anderson deferred to his clients regarding changing the second public hearing date from November 3, to November 17, 2011.

Gary Meyer made the following comments:

- He is supportive of the development except for the retail use
- Approximately 40 neighbors have signed a letter outlining concerns about the retail use
- The planned retail space is just 35' from the property line and 140' from nearby residences
- Potential retail uses could have negative impacts with regard to noise, car doors, music, increased traffic, food smells, lighting
- Property values and quality of life could be adversely impacted
- The developer states that the retail is to support the business park, but there is skepticism that the developer would sell the retail space to another party in order to recoup some of their initial investment
- The developers profile and record does not indicate that they are in the business of operating and leasing retail space after the property develops
- It was requested that the developer change the retail to single story office or offset the entire retail development further east, creating a greater landscape buffer zone for the residential area

Mayor Hallman stated that under the current zoning, the developer has the right to build two story buildings. It is important that residents understand the risks associated with their request and how this development could impact the neighborhood.

David Mills made the following comments:

- He is one of the 40 individuals that signed the letter Mr. Meyer referenced
- He is not in favor of the retail portion of this project
- Council needs to understand the magnitude of this project
- There could be between 8, 000 – 10, 000 people at this location

Mayor Hallman clarified that the entire surface lot would include 7,500 parking spaces.

- Development will add a tremendous amount of traffic to the area
- Traffic congestion does not include the unoccupied office space in the ASU Research Park to the south
- Property values in the Oasis neighborhood will not benefit from this project; property values will fall
- He requested that Council ask the developer to scale back the development.

Mayor Hallman reiterated that this property is currently zoned for a certain level of density. The question is what can the developer offer that will add value to the City of Tempe and to the Oasis neighborhood. With density, there are tradeoffs for square footage; higher buildings versus a greater number of lower story buildings. The Council is ensuring that the neighborhood is protected fully and completely.

Ed Grabowski made the following comments:

- Lived in the Oasis neighborhood for 17 years
- The Oasis was never supposed to be a subdivision; it was supposed to be a high end commercial area with a lake
- The developer has gone to great lengths to make this a quality development
- There are over 350 Oasis residents; some of which are in favor of this project
- The developer has conducted public outreach and is working on being a good neighbor
- This project is one of the largest Tempe has seen in a long time

Lisa Zyriek made the following comments:

- She has owned her home for 17 years
- The proposed industrial park is very different than the existing business occupying this site
- There is economic pressure for the Council to accept the proposed development
- She requested that Council seek concessions for homeowners that live closest to the development, as follows:
 - Stipulate that the corner of Elliot and Country Club Way remains vacant; do not permit any retail adjacent to Country Club Way. Site 5, PAD 1, can be repositioned closer to the campus tenants; having retail near the Oasis neighborhood will have a larger traffic and noise impact on the neighborhood than having industrial next door.
 - Stipulate that no buildings over two stories high, 35' in height, be built west of River Parkway Road. Taller heights near neighborhoods establishes a precedent
 - Stipulate that the developer build a pedestrian pathway connecting the canal to Country Club Way. The Oasis cannot close or put in a gate to the opening to Country Club Way unless another pathway exists.
 - Construct an 8' wall from Dava Drive to the canal as a barrier
- There have been problems with watering systems plugging pipes, making it difficult for trees to survive

Mayor Hallman stated that it is the responsibility of the landowner to maintain their landscaping.

Doug King made the following comments:

- He is one of the original homeowners in the Oasis; his home is directly adjacent to the proposed retail site; he is a 33-year Tempe resident.
- He and others have met several times with the developer
- This boils down to business versus residential concerns
- He is in favor of the project other than the retail portion of the project

Mayor Hallman stated that Council could potentially stipulate types of retail that would not be suitable for this development. For example, if a drive-thru is not allowed for a liquor store, then a Starbucks drive-thru, which might be acceptable to residents, would not be allowed. Another example is a tattoo parlor, which requires a use permit. Residents should determine what they would like Council to stipulate in terms of retail.

Mayor Hallman summarized the main issues from the neighbors, as follows:

- Retail on the corner
- Type of acceptable retail

- Proximity, limitations and restrictions on use
- Traffic signal needed at Elliot Road and Country Club Way
- Wall placement

Dave Fetherston made the following comments:

- The letter signed by residents was about concerns with the retail project component

Mayor Hallman asked Mr. Fetherston to work with his neighbors to determine what type of retail would be acceptable.

Stephen Anderson, with Gammage & Burnham PLC, clarified that the 8' wall is for the two story building located at the northwest corner of the site. The 6' wall is located south of Country Club Way to Elliot Road. Mayor Hallman asked if the developer would be willing to construct an 8' wall as requested earlier. Mr. Anderson stated that the developer's preference would be to use landscaping instead, to create a tree canopy.

Mayor Hallman recapped additional concerns raised by the speakers, as follows:

- Increased noise from retail activity
- Leave proposed retail lot vacant
- Construct an 8' wall as a buffer along Dava Drive
- Pedestrian gate access to the canal

Placing the buildings with height to the east and adding landscaping buffers will add significant value to the neighborhood. Zoning density already exists at this location.

Mike Edwards, Landscape Architect, stated that there is an existing wall that will remain and allow residents canal access. Mayor Hallman stated that further investigation will occur on this concern.

Stephen Anderson, with Gammage & Burnham PLC, made the following comments:

- 7,500 is the total number of parking spaces being proposed; 672 parking spaces are in a parking structure; currently there are 3,400 on-site parking spaces
- Traffic information raised by speakers is accurate; proposing to connect at the northeast corner to the Elliot Road frontage road
- Traffic signal needed at Country Club Way and Elliot Road; provides ingress and egress for the site
- Appreciation was expressed for the concerns raised by the residents
- There will be continual efforts made to find common ground with residents

Mayor Hallman stated that Mr. Fetherston has offered to discuss the issues raised with fellow residents and try to reach a consensus regarding retail site tradeoffs. Perhaps the second public hearing could be postponed from the November 3, 2011 Formal Council Meeting to the November 17, 2011 Formal Council Meeting.

Mr. Anderson stated that both Mr. Wentworth Sr. and Mr. Wentworth Jr. agree with the recommendation to hold the second hearing on November 17, 2011.

Clarification was sought about the public notification requirements for this agenda item. Andrew Ching, City Attorney, stated that staff will research the issue; this has occurred before.

Councilmember Woods asked if the tree maintenance is included for the trees planted on the property. Mr. Anderson stated that the developer will be responsible for trees located on the developer's portion of the property.

Councilmember Woods asked how many employees will be working at this location daily. Mr. Anderson stated that there will be approximately 22,000 trips per day. This number accounts for the total number of people coming and going from the site, including visitors and delivery trucks.

Councilmember Woods asked why the retail portion of the development was structured as a stand-alone site. Mr. Anderson stated that the stand-alone retail will have a better opportunity for success. Ground floor retail space can be successful, but freestanding will be more attractive to a broader segment of the retail market.

No vote was taken on agenda item 5C3 as this is the first public hearing on this agenda item. The second public hearing will be held on November 17, 2011.

6. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

Councilmember Ellis

- October 23, 2011 – Tour de Tempe at Kiwanis Park
- October 22, 2011 – Getting Arizona Involved in Neighborhood (GAIN) events
- October 29, 2011 – Halloween Carnival at Kiwanis Park
- Thanked staff and contractors involved with new Town Lake pedestrian bridge

Councilmember Arredondo-Savage

- Happy Birthday to Vice Mayor Navarro

Councilmember Shekerjian

- Happy Birthday to Vice Mayor Navarro
- Thanked coordinators of the Old Settlers Program
- Thanked her daughter and son-in-law who are expecting a second child

Vice Mayor Navarro

- Congratulations to Councilmember Shekerjian on the announcement of her new grandchild
- Old Settlers Program was a successful event
- Lakes Community 40th Anniversary was a successful event

Councilmember Woods

- Happy Birthday to Vice Mayor Navarro
- GAIN night was a successful event

7. PUBLIC APPEARANCES

A. Scheduled

1. Citizens concerns regarding policing – no one spoke.
2. Katelyn Anaradian - keeping Tempe beautiful. Ms. Anaradian made the following comments:
 - Paper, glass, plastic and cardboard should be recycled
 - Recycled products can be reused many times
 - Plastic water bottles are not recyclable
 - Try not to litter

B. Unscheduled

Kim Baker made the following comments:

- He described the situation concerning his arrest; he maintains his innocence
- A search warrant was served and his Bible was taken.
- His case was scratched by the Maricopa County Superior Court.
- He requested that his Bible be returned.

The meeting adjourned at 10.01 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 October 20, 2011, by the Tempe City Council, Tempe, Arizona.

Hugh Hallman, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk