



Minutes Formal City Council Meeting April 18, 2013

Minutes of the Formal Council Meeting of Thursday, April 18, 2013, held at 7:30 p.m. in the Harry E. Mitchell Government Center, Tempe City Hall, City Council Chambers, 31 E. Fifth Street, Tempe, Arizona.

COUNCIL PRESENT:

Mayor Mark W. Mitchell

Councilmember Robin Arredondo-Savage

Councilmember Shana Ellis

Councilmember Joel Navarro

Vice Mayor Onnie Shekerjian (*participated telephonically; joined the meeting at 7:55 p.m.*)

Councilmember Kolby Granville

Councilmember Corey D. Woods

STAFF PRESENT:

Andrew Ching, Interim City Manager

Judi Baumann, Interim City Attorney

Various Department Heads or their representatives

Jeff Kulaga, Assistant City Manager

Brigitta M. Kuiper, City Clerk

Mayor Mitchell called the meeting to order at 7:36 p.m.

1. Councilmember Granville gave the invocation.
2. Councilmember Navarro led the audience in the **Pledge of Allegiance**.

3. MINUTES

A. Approval of Council Meeting and Council Committee Meeting Minutes

Motion by Councilmember Navarro to approve the following COUNCIL MEETING AND COUNCIL COMMITTEE MEETING MINUTES; second by Councilmember Woods. Motion passed unanimously on a voice vote 6-0.

1. Formal City Council Meeting - April 4, 2013
2. Executive Session - April 4, 2013
3. Finance and Effective Infrastructure Council Committee - January 11, 2013

B. Acceptance of Committee, Board & Commission Meeting Minutes

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

1. Commission on Disability Concerns - March 7, 2013
2. Hearing Officer - March 19, 2013
3. Human Relations Commission - February 12, 2013
4. Mayor's Youth Advisory Commission - March 19, 2013
5. Municipal Arts Commission - March 13, 2013
6. Tempe Police Public Safety Personnel Retirement System Board Meeting - March 7, 2013
7. Transportation Commission - March 12, 2013

4. REPORTS AND ANNOUNCEMENTS

A. Mayor's Announcements

1. *Law Day*

Mayor Mitchell announced Law Day; this year's theme is Realizing the Dream: Equality for All. He spoke about the Law Day program, and invited Presiding Judge MaryAnne Majestic, Tempe Municipal Court, to the podium. Judge Majestic presented awards to the winners of the Law Day art competition.

2. *Arson Awareness Week*

Mayor Mitchell called Greg Ruiz, Fire Chief, and John Valenzuela, Assistant Fire Chief, to the podium and read a proclamation declaring May 5 through May 11, 2013 as Arson Awareness Week.

3. *Arbor Day 5K/Tree City USA Proclamation*

Mayor Mitchell announced that Tempe won the Arbor Day Foundation's Tree City USA certification. Steve Amolette, Executive Boardmember of the Arizona Community Tree Council, presented the award; Mayor Mitchell announced that Tempe is hosting the fourth annual Arbor Day 5K on April 26, 2013 at Giuliano Park, and read a proclamation declaring April 26, 2013 as Arbor Day.

4. *Tempe Police Dispatch/Telecommunicator Appreciation*

Mayor Mitchell called representatives from Tempe's Police Dispatch/Communications to the podium, and read a proclamation declaring April 14 through April 20, 2013 as Public Safety Telecommunicator Week.

B. Manager's Announcements – None.

5. AGENDA

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

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

Vice Mayor Shekerjian joined the meeting at 7:55 p.m.

Motion by Councilmember Woods to approve the Agenda with the exception of items 5A6, 5D1, 5E4, 5E6 and 5E8, which were removed for separate consideration and item 5C7, which was 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 March 2013 Report of Claims Paid to be filed for audit.

Fiscal Impact: Total payments in March: \$12,493,958.11

- A2. Approved the Final Subdivision Plat for DESERT CROSS LUTHERAN CHURCH, located at 8600 South McClintock Drive. The applicant is the City of Tempe.

Fiscal Impact: There is no fiscal impact on City funds for this request.

The following conditions of approval apply:

1. The Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Community Development Department on or before March 26, 2014. Failure to record the plat on or before March 26, 2014 shall make the plat null and void.

2. All property corners shall be set and verified with staff upon final recordation of the subdivision plat, no later than three (3) months from the date of County recordation or as determined by staff.
 - A3. Approved the Final Subdivision Plat for ASU RESEARCH PARK, located at 8750 South Science Drive. The applicant is Survey Innovation Group.

Fiscal Impact: There is no fiscal impact on City funds.

The following conditions of approval apply:

1. The Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Community Development Department on or before March 7, 2014. Failure to record the plat within one year of City Council approval shall make the plat null and void.
2. All property corners shall be set and verified with staff upon final recordation of the subdivision plat, no later than three (3) months from the date of County recordation or as determined by staff.

- *A4. Held a public hearing and recommended the approval of a Series 06 bar liquor license for Waterfront Holdings, LLC, dba The Waterfront, 5350 South Lakeshore Drive.

Fiscal Impact: N/A

- *A5. Approved May 30, 2013 as the date for the public hearing on the Downtown Tempe Enhanced Services District Assessments for fiscal year 2013-14.

Fiscal Impact: No fiscal impact to the City.

- A6. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Approve the appointment of and employment agreement for Andrew B. Ching as City Manager.

B. Award of Bids/Contracts

- B1. Approved the one-year renewal of contracts with United Concordia Insurance Company for a dental preferred provider organization plan, and CIGNA Dental Health, Inc. for a dental health maintenance organization plan, for eligible City employees and their dependents.

Fiscal Impact: Total combined cost of the two contracts will not exceed \$1,300,000 during the one-year contract period beginning July 1, 2013. Sufficient funds will be appropriated in the Health Fund – cost centers 4167 & 4169 – for the anticipated expenditures in the upcoming fiscal year. The City pays only a portion of the cost related to the dental plans, estimated at \$650,000, with the balance paid by employees for any additional coverage beyond that provided by the City.

- B2. Approved the utilization of one-year State of Arizona contracts with Corporate Job Bank and Kelly Services for temporary staffing services utilized throughout the City.

Fiscal Impact: The total combined cost of these two contracts shall not exceed \$1,250,000 during the one-year contract period. Sufficient funds have been appropriated in various funds and cost centers for the anticipated expenditures in the current fiscal year.

- B3. Approved a one-year contract renewal with IT Partners for the purchase of Hewlett Packard enterprise servers and related products, accessories and services that are used by the Finance and Technology Department to support numerous applications for various City departments.

Fiscal Impact: Total cost of this contract shall not exceed \$1,000,000 during the one-year contract renewal period. Sufficient funds have been appropriated in various City-wide cost centers for the anticipated expenditures in the current fiscal year.

- B4. Approved the award of a one-year contract with two, two-year renewal options to F2 Industries, LLC for powdered activated carbon used by the Public Works Department. (**Contract #2013-64**)

Fiscal Impact: Total combined cost of this contract will not exceed \$2,000,000. Sufficient funds have been appropriated in cost centers 3013 and 3014 (Water/Wastewater Fund) for the anticipated expenditures in the current fiscal year.

- B5. Approved the utilization of a one-year City of Peoria contract with Metering Services, Inc. for water meter testing, installation, repair and replacement services for the Finance and Technology and Public Works departments.

Fiscal Impact: Total cost of this contract shall not exceed \$70,000 during the one-year contract period. Sufficient funds have been appropriated in cost centers 1841 and 3022 (Water fund) for the anticipated expenditures in the current fiscal year.

- B6. Approved the utilization of seven-month State of Arizona contracts with Apsen Technologies and Premise One Inc. for data and telecommunications cabling and fiber optic installation and repair services in City buildings and streets overseen by the Finance and Technology Department.

Fiscal Impact: Total combined cost of these two contracts will not exceed \$150,000 during the seven-month contract period. Sufficient funds have been appropriated in various City-wide cost centers for the anticipated expenditures in the current fiscal year.

- B7. Approved the issuance of a two-year contract with two, two-year renewal options to Xylem Water Solutions for Wedeco Technologies ultra violet water disinfection system maintenance and repair services as needed for the Public Works Department. (**Contract #2013-65**)

Fiscal Impact: Total cost of this two-year contract will not exceed \$500,000. Sufficient funds have been appropriated in cost centers 3013 and 3014 (Water fund) for the anticipated expenditures in the current fiscal year.

- B8. Approved a seven-week sole source contract renewal with Professional Medical Transport for emergency medical transportation services to support the Fire Department.

Fiscal Impact: There is no cost to the City for this contract. Professional Medical Transport collects payment for services directly from the customer.

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

- *C1. Introduced and held the first public hearing to adopt an ordinance for a Zoning Map Amendment and an Amended Planned Area Development Overlay for a building expansion for L&H INDUSTRIAL located at 1710 West Broadway Road. The applicant is Archicon Architecture & Interiors, L.C. The second and final public hearing was scheduled for May 9, 2013. (Ordinance No. 2013.19)

Fiscal Impact: While this ordinance change does not directly impact revenue, the planned development will result in collection of the standard development fees, calculated according to the approved fee structure at the time of permit issuance.

- *C2. Introduced and held the first public hearing to adopt a resolution for a General Plan Amendment, an ordinance for a Zoning Map Amendment and a Planned Area Development Overlay for RESIDENCES AT FOUNTAINHEAD CORPORATE PARK located at 2520 S. Plaza Drive. The Applicant is Manjula Vaz, Gammage & Burnham. The second and final public hearing was scheduled for May 9, 2013. (Ordinance No. 2013.20)

Fiscal Impact: While this ordinance change does not directly impact revenue, the planned development will result in collection of the standard development fees, calculated according to the approved fee structure at the time of permit issuance.

- *C3. Introduced and held the first public hearing to adopt an ordinance abandoning a portion of an existing public utility easement located at 9245 South Terrace Road. The second and final public hearing was scheduled for May 9, 2013. (Ordinance No. 2013.21).

Fiscal Impact: No impact on City funds.

- *C4. Introduced and held the first public hearing to adopt an ordinance granting a power distribution easement to Salt River Project Agricultural Improvement and Power District for a new underground power line located in the parking area of the Apache Boulevard Police Substation at 1855 East Apache Boulevard. The second and final public hearing was scheduled for May 9, 2013. (Ordinance No. 2013.22)

Fiscal Impact: No impact on City funds.

- *C5. Introduced and held the first public hearing to adopt an ordinance authorizing the granting of a *building overhang easement* to the Arizona Board of Regents for a new building, College Avenue Commons, in Block 12 at 660 South College Avenue. The second and final public hearing was scheduled for May 9, 2013. (Ordinance No. 2013.23)

Fiscal Impact: No impact on City funds.

- *C6. Introduced and held the first public hearing to adopt an ordinance authorizing the granting of a *building footing easement* to the Arizona Board of Regents for a new building, College Avenue Commons, in Block 12 at 660 South College Avenue. The second and final public hearing was scheduled for May 9, 2013. (Ordinance No. 2013.24)

Fiscal Impact: No impact on City funds.

- *C7. **AGENDA ITEM REMOVED/DELETED** ~~Introduce and hold the first public hearing to adopt an ordinance authorizing a second amendment to a rooftop lease with option and addendum with T-Mobile West Corporation for cellular communication facilities located at 525 South Mill Avenue, Tempe, Arizona; and authorizing the Mayor to execute the second amendment and attendant documents. The second and final public hearing is scheduled for May 9, 2013. (Ordinance No. 2013.25)~~

D. Ordinances and Items for Second Hearing/Final Adoption

- *D1. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Hold the second and final public hearing to adopt an ordinance approving the conveyance of certain real property owned by the City, which is located near Fifth Street and Farmer Avenue, to Farmer Arts, LLC, and authorizing the Mayor to execute the requisite documents. (Ordinance No. 2013.18)

E. Resolutions

- *E1. Held the second and final public hearing to receive public comment on, and adopted **RESOLUTION NO. 2013.19** authorizing the Community Development Block Grant and HOME Program Action Plan for Fiscal Year 2013-2014.

Fiscal Impact: Funding for the activities proposed in the Action Plan is federal. There is no fiscal impact on City funds.

- *E2. Held a public hearing to obtain citizen comment pursuant to federal law and adopted **RESOLUTION NO. 2013.34** approving the City of Tempe Housing Authority's Annual Plan for Fiscal Year 2013-14.

Fiscal Impact: All funding associated with the preparation and administration of the City of Tempe Housing Authority's Annual Plan and Section 8 Housing Assistance Program is federal funds. Funds have been appropriated in cost center 2772.

- E3. Adopted **RESOLUTION NO. 2013.35** authorizing the mayor to execute a Development Agreement with Wasatch Advantage Group, LLC, with respect to a project to be located at 2148 East Apache Boulevard. (**Contract #2013-66**)

Fiscal Impact: The Development Agreement provides for the waiver or refund of certain City-imposed fees up to a maximum of \$62,000 in support of a new low income senior housing tax credit project.

- E4. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Adopt a resolution authorizing the selection and exclusive negotiations with Cardinal Capital Management, Inc. for the sale of, and subsequent development of affordable housing on, two irregularly-shaped parcels of land located at 1120 East Apache Boulevard, containing approximately 39,600 square feet (0.9 acres). (Resolution No. 2013.36)

- E5. Adopted **RESOLUTION NO. 2013.37** authorizing the Mayor to execute the Grant Award Agreements between the State of Arizona, Governor's Office of Highway Safety and the City of Tempe to enhance the Driving Under the Influence Enforcement Program and Education throughout Tempe. (**Contract #2013-67**)

Fiscal Impact: The amount of the total grant award is \$80,000. Sufficient budget appropriation for expenditure of this grant was authorized in the Police Department RICO and Grants Fund (Fund 45) as part of the fiscal year 2012-13 adopted budget.

- E6. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Adopt a resolution authorizing an abatement by demolition of a public nuisance consisting of an unsafe, partially demolished commercial property located at 216 East University Drive. (Resolution No. 2013.38)

Fiscal Impact: The estimated cost of \$20,488 for demolition, removal and asbestos abatement will be funded with CDBG money, charged to the owner, and then collected by the Community Development Department.

- E7. Adopted **RESOLUTION NO. 2013.39** and approved an intergovernmental agreement transferring Arizona Department of Homeland Security grant equipment to the City of Glendale. (**Contract #2013-68**)

Fiscal Impact: The City of Tempe provided initial funding for the purchase of the equipment identified in this Intergovernmental Agreement, but the City of Tempe will be reimbursed for all expenses from the Arizona Department of Homeland Security.

- *E8. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Hold a Truth in Taxation public hearing to adopt a resolution by roll call vote as required under the state Truth in Taxation statute, indicating the City's intention to adopt a primary property tax levy that, excluding amounts related to new construction, will be greater than last year's primary levy. (Resolution No. 2013.40)

Fiscal Impact: Increase in primary tax levy will generate \$270,258 over last year's primary tax levy.

- E9. Adopted **RESOLUTION NO. 2013.41** and approved an intergovernmental agreement transferring Arizona Department of Homeland Security grant equipment to the City of Phoenix. (**Contract #2013-69**)

Fiscal Impact: The City of Tempe provided initial funding for the purchase of the equipment identified in this Intergovernmental Agreement, but the City of Tempe will be reimbursed for all expenses from the Arizona Department of Homeland Security.

AGENDA ITEM(S) REMOVED FOR SEPARATE CONSIDERATION:

- A6. Approved the appointment of and employment agreement for Andrew B. Ching as City Manager. (**Contract #2013-70**)

Fiscal Impact: The starting annual base salary for the City Manager position is \$175,000. Monies are budgeted for this position.

Councilmembers Woods, Navarro, Arredondo-Savage, Ellis and Vice Mayor Shekerjian stated their support for the appointment of Mr. Ching as City Manager.

Motion by Councilmember Granville to approve item 5A6; second by Councilmember Arredondo-Savage. Motion passed on a roll call vote 7-0.

Mr. Ching thanked the City Council, his family, and others who have supported him, for this opportunity.

- *D1. Held the second and final public hearing and adopted **ORDINANCE NO. 2013.18** approving the conveyance of certain real property owned by the City, which is located near Fifth Street and Farmer Avenue, to Farmer Arts, LLC, and authorizing the Mayor to execute the requisite documents. (**Contract #2007-98D**)

Fiscal Impact: The City will receive various public amenities described in the Development Agreement (enhanced streetscape and linear park). The Developer is required to pay all costs, expenses and fees associated with the opening and closing of Escrow and be responsible for the perpetual maintenance of all public amenities.

Councilmember Ellis declared a potential conflict of interest and abstained from voting.

Motion by Councilmember Navarro to approve item 5D1; second by Councilmember Arredondo-Savage. Motion passed on a roll call vote 6-0-1, with Councilmember Ellis abstaining.

Vice Mayor Shekerjian left the meeting at 8:10 p.m.

- E4.** Adopt a resolution authorizing the selection and exclusive negotiations with Cardinal Capital Management, Inc. for the sale of, and subsequent development of affordable housing on, two irregularly-shaped parcels of land located at 1120 East Apache Boulevard, containing approximately 39,600 square feet (0.9 acres). (Resolution No. 2013.36)

Fiscal Impact: The property will be sold at its appraised value; the financial details will be set forth in a Development and Disposition Agreement which will be approved by Council. The City's portion of the proceeds from the sale of the land will be deposited into the Transit Fund.

Mayor Mitchell announced that agenda item E4 will be pulled from the agenda for later consideration.

- E6.** Adopted **RESOLUTION NO. 2013.38** authorizing an abatement by demolition of a public nuisance consisting of an unsafe, partially demolished commercial property located at 216 East University Drive.

Fiscal Impact: The estimated cost of \$20,488 for demolition, removal and asbestos abatement will be funded with CDBG money, charged to the owner, and then collected by the Community Development Department.

Councilmember Granville expressed appreciation for this agenda item.

Motion by Councilmember Arredondo-Savage to approve item 5E6; second by Councilmember Woods. Motion passed on a roll call vote 6-0.

- *E8.** Held a Truth in Taxation public hearing and adopted **RESOLUTION NO. 2013.40** by roll call vote as required under the state Truth in Taxation statute, indicating the City's intention to adopt a primary property tax levy that, excluding amounts related to new construction, will be greater than last year's primary levy.

Fiscal Impact: Increase in primary tax levy will generate \$270,258 over last year's primary tax levy.

Mayor Mitchell announced that this item was removed to allow for a separate roll call vote. He opened the public hearing; no one spoke. Mayor Mitchell closed the public hearing.

Motion by Councilmember Woods to approve item 5E8; second by Councilmember Navarro. Motion passed on a roll call vote 6-0.

6. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

Councilmember Granville

- Pat's Run, Saturday, April 20, 2013.

Councilmember Navarro

- My Nana's Best Tasting Salsa Challenge, Saturday April 27, 2013 at 11:00 a.m. at Tempe Beach Park.

Councilmember Woods

- Tempe Community Council celebration for volunteers who worked on the Financial Stability Initiative, Thursday April 18, 2013.
- Thoughts and prayers to victims and families in Boston and Texas.

Councilmember Arredondo-Savage

- Arbor Day 5K and Fun Run, Friday, April 26, 2013 at Giuliano Park.

Councilmember Ellis

- Organizations in Tempe celebrating milestones include: La Boca, I Help Program, Tempe Convention and Visitors Bureau.
- Thoughts and prayers to Amanda, a City of Tempe employee that was injured over the weekend.
- Thoughts and prayers to victims and families in Boston and Texas.

Mayor Mitchell

- Congratulated Andrew Ching in his appointment as City Manager.

7. PUBLIC APPEARANCES

A. Scheduled

1. Citizens' concerns regarding policing
No one spoke.

2. Marc Stevens – Complaint about Tempe Municipal Court

Marc Stevens, Mesa, made the following comments: Judi Baumann, Interim City Attorney, did not keep an appointment with Mr. Stevens; expressed concerns about Ms. Baumann; spoke about evidence and jurisdiction; stated that City Councilmembers did not respond to him; asked for proof that codes apply to him and that Tempe has jurisdiction over him.

Mayor Mitchell referred Mr. Stevens to Ms. Baumann. Councilmember Granville stated that he had responded to Mr. Stevens, discussed responses versus responsiveness with Mr. Stevens, and guaranteed that Ms. Baumann will meet with Mr. Stevens.

3. John David Dale – Crosswalk Complaint

Mayor Mitchell announced that Mr. Dale cancelled.

B. Unscheduled

Brian Maldonado, Mesa, spoke about his father, James Maldonado, a former City of Tempe employee that passed away in October, 2011, and about his personal history.

Eleanor Holguin, Tempe, spoke about concerns with behavior issues from the last City Council meeting and stated that she was taunted; spoke about issues with Andrew Ching, City Manager; spoke about the public appearances portion of the agenda not being televised; spoke about Citizens' concerns regarding policing being placed on the agenda; wants discussion from Councilmembers to be about Police issues; requested individual meetings with Councilmembers; announced that she is owner and operator of the Tempe Police Closet website.

Councilmember Granville and Mayor Mitchell briefly discussed slanderous remarks at City Council meetings.

The meeting adjourned at 8:39 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 April 18, 2013, by the Tempe City Council, Tempe, Arizona.

Mark W. Mitchell, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk