

September 10, 2008

The Phoenix City Council convened in formal session on Wednesday, September 10, 2008, at 3:00 p.m. in the Council Chambers.

INVOCATION

The invocation was given by Mr. Vernon Vasquez, City of Phoenix Employees for Christ.

PLEDGE

The Pledge of Allegiance to the Flag was led by Vice Mayor Peggy Neely.

ROLL CALL

Present: Council Members Maria Baier, Michael Johnson, Claude Mattox, Michael Nowakowski, Greg Stanton, Vice Mayor Peggy Neely, and Mayor Phil Gordon
Absent: Council Members Tom Simplot and Thelda Williams
Also
Present: City Manager Frank Fairbanks, City Attorney Gary Verburg, City Clerk Mario Paniagua, Management Assistant II Ben Lane, and Detective Larry Santa Cruz

The minutes of this meeting were submitted to Ms. Baier for review.

Mayor Gordon acknowledged the presence of Mr. Luis Hinojosa, a Spanish interpreter. In Spanish, Mr. Hinojosa announced his availability to the audience.

BOARDS AND COMMISSIONS

There were no appointments/reappointments to Boards and Commissions.

September 10, 2008

CONSIDERATION OF BIDS

MOTION was made by Ms. Neely, **SECONDED** by Mr. Mattox, that Items 1 and 2 be accepted as recommended. **MOTION CARRIED UNANIMOUSLY.**

ITEM 1

CITYWIDE

IFB 08-259 - HEAVY DUTY TRUCK BRAKE SERVICE AND REPAIR - REQUIREMENTS CONTRACT

The Council heard report of eight bids received by Purchasing on June 27, 2008, to provide heavy duty truck brake service and repairs on an as-needed basis for a three-year period beginning on or about September 1, 2008. Following is an outline of the recommended bids:

<u>Recommended Primary Bidder</u>		<u>Fixed Labor Rate for Drum Brake Repairs</u>
Arizona Brake and Clutch Supply		Drive Axle \$424.53 each
Phoenix, Arizona		Steer Axle \$330.14 each
<u>Parts Price Discounts</u>		<u>Fixed Labor Rate for Disc Brake Repairs</u>
BCA/National	65%	Drive Axle \$408.85 each
Meritor	60%	Steer Axle \$346.10 each
Euclid	60%	
Bendix	59%	<u>Hourly Labor Rate for Miscellaneous</u>
Haldex/Midland	61%	Repairs if required. \$62.75 per hour
Webb	64%	
Gunit	64%	
ABC Shoes	65%	
<u>Recommended Secondary Bidder</u>		<u>Fixed Labor Rate For Drum Brake Repairs</u>
Betts Truck Parts		Drive Axle and Steer Axle \$548.05 each
Phoenix, Arizona		
<u>Parts Price Discounts</u>		<u>Fixed Labor Rate For Disc Brake Repairs</u>
BCA/National	67%	Drive Axle and Steer Axle \$373.45 each
Meritor	58%	
Dayton	67%	
Webb	64%	<u>Hourly Labor Rate For Miscellaneous</u>
Motor Wheel	64%	Repairs if required. \$48.50 per hour
Stemco	53%	
Timken	70%	

September 10, 2008

It was recommended by the Deputy Finance Director and the Deputy Public Works Director that the bids of Arizona Brake and Clutch Supply, and Betts Truck Parts, as outlined above, be accepted as the lowest responsible bidders. Provisions of the solicitation allowed for the award to multiple vendors to ensure timely vehicle repairs and eliminate costly vehicle down time.

The estimated annual contract expenditure would be \$250,000.

Provisions of the agreement included an option to extend the contract up to two additional year(s), in one-year increments, which would be exercised by staff if considered in the City's best interest to do so.

ITEM 2

CITYWIDE

**IFB 09-005 - TRANSMISSION
REBUILD AND EXCHANGE -
REQUIREMENTS CONTRACT**

The Council heard report of eight bids received by Purchasing on July 25, 2008, to supply transmission rebuild and exchange services on an as-needed basis during the contract period beginning September 1, 2008 and ending August 31, 2011. Following is an outline of the lowest bids received:

<u>Bidder</u>	<u>Unit Bid Price Range</u>
Polk-Stafford of Glendale dba AAMCO Transmission Phoenix, Arizona	\$195 to \$2,100*
Total Automotive, LLC dba TMI Services Phoenix, Arizona	\$269 to \$3,197
Cottman Transmission Phoenix, Arizona	\$725 to \$2,100

It was recommended by the Deputy Finance Director and the Deputy Public Works Director that the bid of Polk-Stafford of Glendale dba AAMCO Transmission, as asterisked, be accepted as the lowest responsible bidder.

The total annual contract expenditure would be approximately \$180,000.

Provisions of the agreement included an option to extend the contract up to two additional year(s), in one-year increments, which would be exercised by staff if considered in the City's best interest to do so.

September 10, 2008

LIQUOR LICENSE APPLICATIONS

MOTION was made by Ms. Neely, **SECONDED** by Mr. Mattox, that Items 3 through 13, and 15 be recommended for approval, except Item 5. **MOTION CARRIED UNANIMOUSLY.**

ITEM 3

DISTRICT 1

**LIQUOR LICENSE
APPLICATION - SPECIAL
EVENT - OUR LADY OF
CZESTOCHOWA CHURCH**

The Council heard request for a Special Event liquor license for temporary sale of all liquors. There were no departmental objections and no protests.

<u>District</u>	<u>Applicant Name and Address</u>	<u>Event Information</u>
1	Andrew Furga Our Lady of Czestochowa Church 2828 West Country Gables Drive (Dinner/Dance)	<u>Event Location:</u> 2828 West Country Gables Drive <u>Day/Date/Time:</u> Saturday, September 20, 2008 7:00 p.m. to 1:00 a.m. <u>Total Expected Attendance:</u> 160

Staff Recommendation

Staff recommended approval of this application.

The above information was submitted for Council consideration of this application.

ITEM 4

DISTRICT 2

**LIQUOR LICENSE
APPLICATION - SPECIAL
EVENT - JUST FOR THE KIDS
FOUNDATION, INC.**

The Council heard request for a Special Event liquor license for temporary sale of all liquors. There were no departmental objections and no protests.

September 10, 2008

<u>District</u>	<u>Applicant Name and Address</u>	<u>Event Information</u>
2	Heath McCarter Just for the Kids Foundation, Inc. 3831 West Fallen Leaf Lane (Silent Auction/Art Show)	<u>Event Location:</u> 5350 East Marriott Drive <u>Day/Date/Time:</u> Thursday, October 9, 2008 5:00 p.m. to 12 midnight <u>Total Expected Attendance:</u> 300 <u>Day/Date/Time:</u> Friday, October 10, 2008 12 noon to 12 midnight <u>Total Expected Attendance:</u> 6,500 <u>Day/Date/Time:</u> Saturday, October 11, 2008 10:00 a.m. to 12 midnight <u>Total Expected Attendance:</u> 6,500 <u>Day/Date/Time:</u> Sunday, October 12, 2008 10:00 a.m. to 12 midnight <u>Total Expected Attendance:</u> 6,500

Staff Recommendation

Staff recommended approval of this application.

The above information was submitted for Council consideration of this application.

ITEM 6

DISTRICT 2

**LIQUOR LICENSE
APPLICATION - INDIAN
PARADISE**

The Council heard request for a Series 12, Restaurant-All Liquor on Premises, liquor license in an area zoned C-1. Arizona State Application 12077702.

September 10, 2008

Applicant: Atul Chopra, Agent
Indian Paradise
1546 West Bell Road

The following information was submitted for Council consideration of this application:

Application Description

This request was for a new Series 12 liquor license for a restaurant. This location was previously licensed for liquor sales as Chuy's Mesquite Broiler until November 2007 and did not have an interim permit. The operation plan filed with the application showed that the restaurant area seated 120 and there was no bar area.

Public Opinion

No petitions or protests were received.

Applicant's Statement

The applicant submitted the following statement in support of this application. Spelling, grammar, and punctuation in the statement are shown exactly as written by the applicant on the City Questionnaire:

- A. I have the capability, qualifications, and reliability to hold a liquor license because: "I am in restaurant industry for last 5 yrs."
- B. The public convenience requires and the best interest of the community will be substantially served by the issuance of the liquor license because: "Relaxed person by day to day life goes well with food."

Staff Recommendation

Staff recommended approval of this application.

ITEM 7

DISTRICT 4

**LIQUOR LICENSE
APPLICATION - SPECIAL
EVENT - BROPHY COLLEGE
PREPARATORY**

The Council heard request for a Special Event liquor license for temporary sale of all liquors. There were no departmental objections and no protests.

September 10, 2008

<u>District</u>	<u>Applicant Name and Address</u>	<u>Event Information</u>
4	Ann Thomson Brophy College Preparatory 4701 North Central Avenue (Dinner)	<u>Event Location:</u> 4701 North Central Avenue <u>Day/Date/Time:</u> Monday, October 27, 2008 6:00 p.m. to 9:00 p.m. <u>Total Expected Attendance:</u> 200

Staff Recommendation

Staff recommended approval of this application.

The above information was submitted for Council consideration of this application.

<u>ITEM 8</u>	DISTRICT 4	<u>LIQUOR LICENSE APPLICATION - SPECIAL EVENT - BROPHY COLLEGE PREPARATORY</u>
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The Council heard request for a Special Event liquor license for temporary sale of all liquors. There were no departmental objections and no protests.

<u>District</u>	<u>Applicant Name and Address</u>	<u>Event Information</u>
4	Ann Thomson Brophy College Preparatory 4701 North Central Avenue (Holiday Party)	<u>Event Location:</u> 4701 North Central Avenue <u>Day/Date/Time:</u> Saturday, December 6, 2008 7:00 p.m. to 11:00 p.m. <u>Total Expected Attendance:</u> 400

Staff Recommendation

Staff recommended approval of this application.

The above information was submitted for Council consideration of this application.

September 10, 2008

ITEM 9

DISTRICT 6

**LIQUOR LICENSE
APPLICATION - SPECIAL
EVENT - AHWATUKEE BOARD
OF MANAGEMENT**

The Council heard request for a Special Event liquor license for temporary sale of all liquors. There were no departmental objections and no protests.

<u>District</u>	<u>Applicant Name and Address</u>	<u>Event Information</u>
6	Robert Blakesley Ahwatukee Board of Management 4700 East Warner Road (Carnival)	<u>Event Location:</u> 4700 East Warner Road <u>Day/Date/Time:</u> Saturday, September 27, 2008 5:00 p.m. to 11:00 p.m. <u>Total Expected Attendance:</u> 250

Staff Recommendation

Staff recommended approval of this application.

The above information was submitted for Council consideration of this application.

ITEM 10

DISTRICT 6

**LIQUOR LICENSE
APPLICATION - SPECIAL
EVENT - VALLEY HOTEL &
RESORT ASSOCIATION**

The Council heard request for a Special Event liquor license for temporary sale of all liquors. There were no departmental objections and no protests.

<u>District</u>	<u>Applicant Name and Address</u>	<u>Event Information</u>
6	Debbie Johnson Valley Hotel & Resort Association 1240 East Missouri Avenue (Reception/Silent Auction)	<u>Event Location:</u> 2400 East Missouri Avenue <u>Day/Date/Time:</u> Thursday, October 23, 2008 5:30 p.m. to 8:30 p.m. <u>Total Expected Attendance:</u> 300

September 10, 2008

Staff Recommendation

Staff recommended approval of this application.

The above information was submitted for Council consideration of this application.

ITEM 11

DISTRICT 7

**LIQUOR LICENSE
APPLICATION - SPECIAL
EVENT - ARIZONA CENTER
FOR GERMANIC CULTURES**

The Council heard request for a Special Event liquor license for temporary sale of all liquors. There were no departmental objections and no protests.

<u>District</u>	<u>Applicant Name and Address</u>	<u>Event Information</u>
7	Wolfgang Klien Arizona Center for Germanic Cultures 23002 North Las Lavatas Road (Cultural Celebration)	<u>Event Location:</u> 67 West Culver Street <u>Day/Date/Time:</u> Saturday, October 11, 2008 10:00 a.m. to 10:00 p.m. <u>Total Expected Attendance:</u> 2,500

Staff Recommendation

Staff recommended approval of this application.

The above information was submitted for Council consideration of this application.

ITEM 12

DISTRICT 8

**LIQUOR LICENSE
APPLICATION -
CVS/PHARMACY #3500**

The Council heard request for a Series 9, Off Sale-All Liquor, liquor license in an area zoned PSC. Arizona State Application 09070465.

Applicant: Jason Morris, Agent
CVS/pharmacy #3500
1625 North 44th Street

September 10, 2008

The following information was submitted for Council consideration of this application:

Application Description

This request was for an ownership and location transfer of a Series 9 liquor license from Mesa for a drug store. This location was currently licensed for liquor sales with a Series 10, Off Sale-Beer and Wine, liquor license and did not have an interim permit. This business would have a drive-thru window for prescription drug orders only.

Public Opinion

No petitions or protests were received.

Applicant's Statement

The applicant submitted the following statement in support of this application. Spelling, grammar, and punctuation in the statement are shown exactly as written by the applicant on the City Questionnaire:

- A. I have the capability, qualifications, and reliability to hold a liquor license because: "CVS/pharmacy # holds approximately 3000 licenses to sell alcoholic beverages throughout the United States and has comprehensive measures in place, including training programs, to ensure compliance with all alcohol related laws and regulations."
- B. The public convenience requires and the best interest of the community will be substantially served by the issuance of the liquor license because: "CVS/pharmacy is committed to providing high quality goods and services to their customers, the ability to sell alcoholic beverages assures that customers are conveniently and substantially served."

Staff Recommendation

Staff recommended approval of this application.

ITEM 13

DISTRICT 8

**LIQUOR LICENSE
APPLICATION - GATEWAY
HILTON GARDEN INN**

The Council heard request for a Series 11, Hotel/Motel-All Liquor on Premises, liquor license in an area zoned C-3 H-R TOD-1. Arizona State Application 11073173.

Applicant: Kenneth Edwards, Agent
Gateway Hilton Garden Inn
3838 East Van Buren Street

September 10, 2008

The following information was submitted for Council consideration of this application:

Application Description

This request was for a new Series 11 liquor license for a hotel. This location was not previously licensed for liquor sales and did not have an interim permit. This business was currently under construction with plans to open in December 2008.

Public Opinion

No petitions or protests were received.

Applicant's Statement

The applicant submitted the following statement in support of this application. Spelling, grammar, and punctuation in the statement are shown exactly as written by the applicant on the City Questionnaire:

- A. I have the capability, qualifications, and reliability to hold a liquor license because: "Applicant is committed to the responsible sale of liquor as prescribed by the laws of the State of Arizona. Applicant's managers and staff have been, or will be, trained in the techniques of alcohol management and/or service."
- B. The public convenience requires and the best interest of the community will be substantially served by the issuance of the liquor license because: "Gateway Hilton Garden Inn is part of the Hilton Family, which has been a popular hotel for both local and out-of-state visitors for many years. Applicant intends to offer the availability to serve alcoholic beverages to their guests."

Staff Recommendation

Staff recommended approval of this application.

ITEM 15

DISTRICT 3

**LIQUOR LICENSE
APPLICATION - THE PLAYA II**

The Council heard request for a Series 6, On Sale-All Liquor, liquor license in an area zoned C-2. Arizona State Application 06070702.

Applicant: Sharen Setka, Agent
The Playa II
3217 East Shea Boulevard

September 10, 2008

The following information was submitted for Council consideration of this application:

Application Description

This request was for an acquisition of control of a Series 6 liquor license for a bar. This location was currently licensed for liquor sales and did not have an interim permit.

Public Opinion

No petitions or protests were received.

Applicant's Statement

The applicant submitted the following statement in support of this application. Spelling, grammar, and punctuation in the statement are shown exactly as written by the applicant on the City Questionnaire:

- I have the capability, qualifications, and reliability to hold a liquor license because: "ARS Code 204-1 – I have been in the bar business since 1986. I have been thoroughly trained and have stayed updated with the liquor laws in the State of Arizona by attending B.C.A.E classes since 1992. I have been under management agreements with the state since 1992. I take pride in my work and have been with The Playa II Inc. since 1986 – on & off. I thoroughly understand the responsibilities I have with my establishment, my customers, the Police Dept., and the members of my community. If you need a personal reference please contact Ted Kuhn – B.C.A.E trainer. Your cooperation in this matter is greatly appreciated."

Staff Recommendation

Staff recommended disapproval of this application based on a Development Services Department recommendation for disapproval, which was due to the applicant failing to submit the required Certificate of Occupancy. However, if the applicant obtained the required Certificate of Occupancy, staff recommended the City withdraw its opposition.

ITEM 5

DISTRICT 2

**LIQUOR LICENSE
APPLICATION - GAME DAY
SPORTS GRILL**

The Council heard request for a Series 6, On Sale-All Liquor, liquor license in an area zoned C-2. Arizona State Application 06070350.

Applicant: Joseph Martini, Agent
Game Day Sports Grill
2827 East Bell Road

September 10, 2008

The following information was submitted for Council consideration of this application:

Application Description

This request was for an ownership transfer of a Series 6 liquor license from Gameday Sports Grill, LLC to J. & R. Martini, LLC for a bar. This location was previously licensed for liquor sales and was currently operating with an interim permit. This business would have live entertainment.

Public Opinion

No petitions or protests were received.

Applicant's Statement

The applicant submitted the following statement in support of this application. Spelling, grammar, and punctuation in the statement are shown exactly as written by the applicant on the City Questionnaire:

- I have the capability, qualifications, and reliability to hold a liquor license because: "I feel I have the capability & qualification & reliability to hold a liquor license because, I have worked in retail management as a store manager & asst. mgr. for Home Depot for 20 years and have been responsible for a 57 million in sales a year store & 250 to 300 employees and work very well with people. Thank you for your consideration. Joe Martini."

Staff Recommendation

Staff recommended approval of this application.

MOTION was made by Ms. Neely, **SECONDED** by Mr. Mattox, that Item 5 be continued to the formal meeting of October 1, 2008, noting the applicant signed the 60-day waiver. **MOTION CARRIED UNANIMOUSLY.**

ITEM 14

DISTRICT 1

**LIQUOR LICENSE
APPLICATION - STREETS OF
NEW YORK**

The Council heard request for a Series 12, Restaurant-All Liquor on Premises, liquor license in an area zoned C-2 DVAO. Arizona State Application 12077703.

Applicant: Roy Auten, Agent
Streets of New York
1985 West Happy Valley Road

September 10, 2008

The following information was submitted for Council consideration of this application:

Application Description

This request was for a new Series 12 liquor license for a restaurant. This location was not previously licensed for liquor sales and did not have an interim permit. The operation plan filed with the application showed that the restaurant area seated 99 and the bar area seated 4. This business would have outdoor alcohol consumption and outdoor dining. This location required a Use Permit for outdoor alcohol consumption and outdoor dining. This business was currently under construction with plans to open in October 2008.

Public Opinion

No petitions or protests were received.

Applicant's Statement

The applicant submitted the following statement in support of this application. Spelling, grammar, and punctuation in the statement are shown exactly as written by the applicant on the City Questionnaire:

- A. I have the capability, qualifications, and reliability to hold a liquor license because: "I have owned several successful businesses and have been very responsible in doing so. I have had several areas of responsible positions and I feel that this would continue in the liquor license as well."
- B. The public convenience requires and the best interest of the community will be substantially served by the issuance of the liquor license because: "We are opening a well established franchise "Streets of New York" and customers enjoy wine and beer with this kind of environment. We would like to continue to offer this with this new establishment."

Staff Recommendation

Staff recommended disapproval of this application based on recommendations from the Development Services Department, due to the applicant failing to submit the required Certificate of Occupancy, and the Planning Department, due to the applicant failing to obtain the required Use Permit. However, if the applicant obtained the required Certificate of Occupancy and Use Permit, staff recommended the City withdraw its opposition.

September 10, 2008

MOTION was made by Ms. Neely, **SECONDED** by Mr. Mattox, that Item 14 be recommended for technical disapproval; noting if the applicant resolved the issues, the City would withdraw its opposition.

Roll Call:	Ayes:	Baier, Johnson, Mattox, Nowakowski, Stanton, Vice Mayor Neely, and Mayor Gordon
	Nays:	None
	Absent:	Simplot and Williams

MOTION CARRIED.

ITEM 16

DISTRICT 2

**LIQUOR LICENSE
APPLICATION - JAX MARKET**

The Council heard request for a Series 9, Off Sale-All Liquor, liquor license in an area zoned C-2. Arizona State Application 09070461.

Applicant: Sahar Arekat, Agent
Jax Market
4001 East Bell Road, #100

The following information was submitted for Council consideration of this application:

Application Description

This request was for an acquisition of control of a Series 9 liquor license for a liquor store. This location was currently licensed for liquor sales and did not have an interim permit. This business would have a drive-thru window.

Public Opinion

No petitions or protests were received.

Applicant's Statement

The applicant submitted the following statement in support of this application. Spelling, grammar, and punctuation in the statement are shown exactly as written by the applicant on the City Questionnaire:

- I have the capability, qualifications, and reliability to hold a liquor license because: "I am a U.S. citizen, I am honest, responsible, law abiding person with perfectly clean record. I have been in business for several years and I am aware of all the laws rules and regulations and I have completed the liquor training course."

September 10, 2008

Staff Recommendation

Staff recommended disapproval of this application based on Police Department and Development Services Department recommendations for disapproval.

The Police Department disapproval was based on concerns with the applicant's qualifications. This business was recently cited for sale to an underage person. Additionally, the applicant sold a large selection of items termed "smoking accessories." These accessories included pipes, bongs, and rolling papers and were recognized by law enforcement officers as paraphernalia used to consume illegal drugs.

The Development Services Department disapproval was based on the applicant's failure to submit the required Certificate of Occupancy.

Management Assistant II Ben Lane stated this was a request for an acquisition of control of a Series 9 license for a liquor store. The business would have a drive-thru window. Staff recommended disapproval based on Police Department and Development Services Department recommendations for disapproval.

Detective Larry Santa Cruz spoke on behalf of the Phoenix Police Department in opposition. He conveyed this establishment was directly across the street from Paradise Valley High School. Upon investigation of this application he discovered there were issues with the business selling to underage customers with the most recent incident on June 14, 2008. He remarked the Arizona State Lottery did an emergency revocation at the business and removed all lottery machines.

Detective Santa Cruz visited the establishment and noticed a large selection of smoking accessories such as water pipes, hand-held custom made glass pipes, scales, and the like. He commented these items were used predominantly by drug abusers but was not alleging the business was selling this particular product to such customers.

Detective Santa Cruz understood the current owner, Mr. Hazem Arekat, was attempting to give control of the business to his wife, Mrs. Sahar Arekat. Detective Santa Cruz confirmed Mr./Mrs. Arekat had been married for over eight years, just recently had a child, and were not experiencing any marital issues. There did not seem to be a reason for this acquisition of control other than Mr. Arekat was distancing himself from the business. Mr. Arekat conveyed the smoking accessories accounted for 40 percent of the store's sales.

September 10, 2008

Detective Santa Cruz further confirmed that Mr. Arekat would occasionally operate the business. Detective Santa Cruz conveyed he could not get a satisfactory answer from Mr. Arekat as to the sudden acquisition of control. Detective Santa Cruz noted on the application that Mr. Arekat referred to being cited and/or placed under arrest but did not offer an explanation on the application nor over the phone. Detective Santa Cruz stated all these factors led one to believe Mr. Arekat was simply trying to distance himself on paper from the business and put it in his wife's name.

Mayor Gordon confirmed Mr. Jerry Lewkowitz was waiving his right to speak on behalf of his client.

Vice Mayor Neely requested staff repeat testimony on the situation regarding the lottery. Detective Santa Cruz responded the Arizona Lottery Commission did an emergency inspection of the business and removed the lottery machines. In response to Vice Mayor Neely, Detective Santa Cruz stated he did not have information on the occurrence.

Vice Mayor Neely was concerned the business was directly across the street from a high school. Staff confirmed the establishment was 700 feet from the high school, but she wanted the Liquor Department to take this into consideration when looking at this application. She had frequented the business and noticed pornography was sold. She confirmed with Detective Santa Cruz that the establishment still sold pornography.

MOTION was made by Ms. Neely, **SECONDED** by Mr. Mattox, that Item 16 be recommended for disapproval based on a Police Department recommendation for disapproval, the applicant's qualifications, no Certificate of Occupancy, a high school within 700 feet of the establishment, and citations for selling to underage customers.

In response to Mayor Gordon, Mr. Lane stated there was an existing license at the business. He clarified this was an acquisition of control from the husband to the wife.

Mayor Gordon questioned how the business could continue operations without a Certificate of Occupancy. Mr. Lane indicated the State did not revoke liquor licenses based on these grounds at this time. In further response to Mayor Gordon, City Attorney Gary Verburg advised if a complaint was registered with the Development Services Department staff could investigate the matter and refer it to the Law Department for prosecution. Mr. Verburg confirmed anyone could be a complainant including the Council.

September 10, 2008

Vice Mayor Neely clarified the motion did not include testimony about the pornography as she only wanted it on the record. She specifically noted the vicinity of the high school to the establishment as it was an attractive nuisance.

Roll Call:	Ayes:	Baier, Johnson, Mattox, Nowakowski, Stanton, Vice Mayor Neely, and Mayor Gordon
	Nays:	None
	Absent:	Simplot and Williams

MOTION CARRIED.

Vice Mayor Neely requested Mr. Verburg note that this business did not have a Certificate of Occupancy and refer the matter as appropriate.

<u>ITEM 17</u>	DISTRICT 8	LIQUOR LICENSE APPLICATION - MOBIL ON THE RUN #19103
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The Council heard request for a Series 10, Off Sale-Beer and Wine, liquor license in an area zoned CP/GCP. Arizona State Application 10075668.

Applicant: Randy Nations, Agent
Mobil on the Run #19103
3140 East Broadway Road

The following information was submitted for Council consideration of this application:

Application Description

This request was for a new Series 10 liquor license for a convenience store that sold gas. This location was not previously licensed for liquor sales and did not have an interim permit.

Public Opinion

One letter protesting the issuance of this license was received and on file in the Office of the City Clerk.

The letter was from the People United Fight Back organization. This group felt this area had a history of high crime rate, including shootings, illegal drug sales, and prostitution, and often required the intervention of the Police Department.

September 10, 2008

Applicant's Statement

The applicant submitted the following statement in support of this application. Spelling, grammar, and punctuation in the statement are shown exactly as written by the applicant on the City Questionnaire:

- A. I have the capability, qualifications, and reliability to hold a liquor license because: "We train all of our employees in responsible liquor service."
- B. The public convenience requires and the best interest of the community will be substantially served by the issuance of the liquor license because: "This will be an added convenience for our customer so they can get common household grocery items and beer or wine in one location if they choose to."

Staff Recommendation

Staff recommended disapproval of this application based on neighborhood protest.

If denied, the applicant would continue operations without a liquor license and the previous owner would not resume ownership.

Mr. Johnson requested this item be continued to the formal meeting of September 17, 2008. Mayor Gordon confirmed with staff that the applicant did not need to sign a waiver.

MOTION was made by Mr. Johnson, SECONDED by Ms. Neely, that Item 17 be continued to the formal meeting of September 17, 2008. MOTION CARRIED UNANIMOUSLY.

PETITIONS, COMMUNICATIONS, AND PUBLIC HEARINGS

ITEM 18

DISTRICT 7

PUBLIC HEARING -
PROPOSED 67TH AVENUE
AND BASELINE ROAD NW
ANNEXATION

The Council heard request for a public hearing, as required by Arizona Revised Statutes, Section 9-471, on the proposed 67th Avenue and Baseline Road NW Annexation. This public hearing allowed the City Council to gather community comment regarding this annexation proposal. The City Council would not act on the proposed annexation at this public hearing. Formal adoption of this proposed annexation would be considered at a later date.

September 10, 2008

This annexation was requested by the property owner to obtain City services and conformed to current City policies regarding annexation of property prior to extension of City services. The proposed annexation area included 9.236 acres (0.014 square miles) and the population was estimated to be 2. The area was located at the northwest corner of 67th Avenue and Baseline Road.

Mayor Gordon declared the public hearing open. Noting there was no one present wishing to speak, Mayor Gordon declared the public hearing closed.

ORDINANCES AND RESOLUTIONS

An affidavit was presented to the Council by the City Clerk stating that 24 hours prior to the Council meeting, copies of the titles of Ordinances S-35429 through S-35451, and Resolutions 20716 through 20717 were available in the office of the City Clerk and therefore, the ordinances and resolutions could be read by title or agenda item only, pursuant to the 1969 Code as amended.

MOTION was made by Ms. Neely, **SECONDED** by Mr. Mattox, that Items 19 through 43 be adopted.

Roll Call:	Ayes:	Baier, Johnson, Mattox, Nowakowski, Stanton, Vice Mayor Neely, and Mayor Gordon
	Nays:	None
	Absent:	Simplot and Williams

MOTION CARRIED.

<u>ITEM 19</u>	CITYWIDE	<u>ORDINANCE S-35429 - PAYMENT ORDINANCE</u>
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The Council heard request to authorize the expenditure of public money for payment of claims against the City of Phoenix.

Total payment was \$12,936,325.04.

<u>ITEM 20</u>	CITYWIDE	<u>ORDINANCE S-35430 - PAYMENT ORDINANCE</u>
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The Council heard request to authorize the expenditure of public money for payment of claims against the City of Phoenix.

Total payment was \$16,683,693.43.

September 10, 2008

ITEM 21

CITYWIDE

**ORDINANCE S-35431 -
PAYMENT ORDINANCE**

The Council heard request to authorize the expenditure of public money for payment of claims against the City of Phoenix.

Total payment was \$59,960.

ITEM 22

CITYWIDE

**ORDINANCE S-35432 -
PAYMENT ORDINANCE**

The Council heard request to authorize the expenditure of public money for payment of claims against the City of Phoenix.

Total payment was \$37,500.

ITEM 23

DISTRICT 8

**ORDINANCE S-35433 -
AMEND CONTRACT 121451
WITH RED CITYSCAPE
DEVELOPMENT, LLC**

The Council heard request to authorize the City Manager to amend Contract 121451, Disposition and Redevelopment Agreement, with RED CityScape Development, LLC (an affiliate of RED Development, LLC) (the Developer). The amendment would allow the City to treat Blocks 22 and 77 independently in the terms and conditions and payment obligations rather than combined as in the current agreement. In addition, the amendment would remove a City option to convey the Jefferson Street Garage in lieu of cash for \$20 million of the City's payment obligations due upon the completion of certain Phase I improvements for the CityScape project.

Phase I construction on both blocks commenced in December 2007. Financing for each block was being provided by separate lenders. As a condition of the financing, each lender was requiring that the City's payments be made independently upon completion of the minimum development for each block.

In June 2008, the City entered into an agreement to convey the Jefferson Street Garage to Suns Legacy Properties and AZPB Limited Partnership for \$20 million. The terms of that transaction provided for a \$2 million deposit, which was paid, with the balance of \$18 million to be paid in July of 2009. The \$20 million in proceeds from the transaction would be used to fulfill the City's

September 10, 2008

payment obligations to the CityScape Developer contingent upon the City receiving the final payment from the garage transaction. Accordingly, the provision to convey the garage to the CityScape Developer was no longer necessary. The amendment would contain such other terms and conditions as necessary and appropriate to secure the City's payment obligation in the event that the conveyance of the garage was not completed by July 2009.

In consideration, the minimum development for the Phase I mixed use tower would be increased by an additional 50,000 square feet. Additionally, the Developer's right to receive its portion of any interest from Jefferson Street Garage proceeds would only apply to interest accrued through December 31, 2009. Interest accrued after that date would be retained by the City.

All other material terms and conditions of the agreement would remain the same and in full force.

ITEM 24

DISTRICT 7

**ORDINANCE S-35434 -
PA75300025 - JAPANESE
FRIENDSHIP GARDEN -
CONSTRUCTION
ADMINISTRATION**

The Council heard request to authorize the City Manager to enter into an agreement with Studio4Design to provide construction administration services for the Japanese Friendship Garden Phase III. The architect's fee for all services under this contract would not exceed \$59,044, including all subconsultant and reimbursable costs. Further authorizing the City Controller to disburse the funds.

Studio4Design was chosen for this project using the direct selection process as authorized by Paragraph D, Subsection 34-103 of the Arizona Revised Statutes. Studio4Design was currently under contract for the construction drawings for the restroom building and was familiar with the project. This previous experience made this firm uniquely qualified to perform these services.

On July 2, 2008, City Council approved Construction Manager at Risk (CM@Risk) construction contract award for \$400,000 on this project. City Council approved award of Design Contract 119051 and CM@Risk Design Phase Contract 119052 on June 14, 2006.

September 10, 2008

ITEM 25

CITYWIDE

**ORDINANCE S-35435 -
MARICOPA COUNTY
CONTRACT 03032 - DIGITAL
LIBRARY MATERIALS FLOW
MANAGEMENT SYSTEM**

The Council heard request for the City Manager, or his designee, to authorize additional expenditures on Maricopa County Contract 03032, with 3M Library Systems, St. Paul, Minnesota. This expenditure was to provide the Library Department with digital library materials flow management system radio-frequency identification (RFID) workstations. Further authorization for the City Controller to disburse funds of up to \$1,034,446 was also requested. This request was made by the Deputy Finance Director and the Deputy Library Director for Technical Services.

ITEM 26

DISTRICT 2

**ORDINANCE S-35436 -
ACQUIRE EASEMENTS OVER
PORTIONS OF ONE STATE
LAND PARCEL FOR STREET
IMPROVEMENT PROJECT**

The Council heard request to authorize the City Manager, or his designee, to acquire right-of-way easements over portions of one vacant Arizona State Land Department (ASLD) parcel for the realignment of Paloma Parkway between Dove Valley Road and Bronco Butte Trail for the Paloma Parkway Street Improvement Project.

Acquisition was to be by donation or purchase within the appraised value.

Further authorizing the City Controller to disburse funds to purchase the easements at the approved appraised value, plus usual and customary closing costs.

September 10, 2008

<u>ITEM 27</u>	DISTRICTS 3 AND 8	ORDINANCE S-35437 - AMEND ORDINANCE S-35301 - ACQUISITION OF PROPERTIES IN NEIGHBORHOOD INITIATIVE AND REDEVELOPMENT AREAS
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The Council heard request to amend Ordinance S-35301, adopted July 2, 2008, which authorized the acquisition of all or some of ten improved or vacant residential parcels located in the Village Center Neighborhood Initiative Area (NIA)/Target Area F Redevelopment Area (RDA) and in the South Phoenix Village and Garfield NIAs/RDAs.

This amendment was needed to include one additional parcel located in the Village Center Neighborhood Initiative and Redevelopment Area. The additional parcel was being added due to the contiguous ownership and continuity of use with the parcel located at 8842 North 2nd Way (which was included in the original ordinance). The parcel being added was located at 8838 North 2nd Way, (Assessor Parcel Number (APN) 160-50-146E).

In addition, APNs 122-57-116A and 122-57-116B in the Property Identification needed to be changed to 122-57-016A and 122-57-016B.

<u>ITEM 28</u>	DISTRICT 4	ORDINANCE S-35438 - DEDICATION OF A PUBLIC UTILITY EASEMENT ACROSS CITY-OWNED LAND - 3402 WEST CAMPBELL AVENUE
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The Council heard request to authorize the dedication of a public utility easement across City-owned land and further ordering the ordinance recorded. This easement was needed in conjunction with the Cielito Park Project. The location of the property was 3402 West Campbell Avenue.

September 10, 2008

ITEM 29

DISTRICT 7

**ORDINANCE S-35439 -
ACQUISITION OF EIGHT
PARCELS FOR A STREET
IMPROVEMENT PROJECT -
43RD AVENUE - BASELINE
ROAD TO SOUTHERN AVENUE**

The Council heard request to authorize the City Manager, or his designee, to acquire fee title or lesser interest in all or portions of eight improved or vacant parcels located along 43rd Avenue, Baseline Road to Southern Avenue. Further request authorization to enter into short-term protective leases to minimize relocation costs and temporary occupancy agreements to all occupants to relocate as might be necessary to, and in furtherance of, this ordinance.

Acquisition was to be by donation, purchase within the City's appraised value, or by the power of eminent domain.

Further authorizing the City Controller to disburse funds to purchase the property at the City's appraised value, plus usual and customary closing costs, and to accept and disburse funds for the referenced leases and agreements.

ITEM 30

OUT OF CITY

**ORDINANCE S-35440 -
ACQUISITION OF VACANT
LAND FOR SONORAN
PRESERVE - CENTRAL
AVENUE AND PAINT YOUR
WAGON TRAIL**

The Council heard request to authorize the City Manager, or his designee, to acquire fee title in all or portions of an improved or vacant parcel located at the southwest corner of Central Avenue and Paint Your Wagon Trail. The property consisted of approximately 14.95 acres more or less and was to be incorporated as part of the Sonoran Preserve. Further request authorization to enter into short-term protective leases to minimize relocation costs and temporary occupancy agreements to allow occupants time to relocate as might be necessary to, and in furtherance of, this ordinance.

Acquisition was to be by donation or purchase within the appraised value.

Further authorizing the City Controller to disburse funds to purchase the property within the City's appraised value, plus usual and customary closing costs, and to accept and disburse funds for the referenced leases and agreements.

September 10, 2008

ITEM 31

DISTRICT 7

**ORDINANCE S-35441 -
ACCEPT GRANT AWARD
FROM ARIZONA DEPARTMENT
OF ENVIRONMENTAL QUALITY**

The Council heard request to authorize the City Manager to enter into a contract for Arizona Department of Environmental Quality (ADEQ) funding in the amount of \$251,400, with a grant period ending June 30, 2010, to conduct a previous concrete demonstration project at the new Southwest Family Services Center to be constructed near the northwest corner of 51st Avenue and Lower Buckeye Road.

Authorization was requested for the City Manager to enter into an intergovernmental agreement with Arizona State University for up to \$40,000 of the \$251,400 to conduct a study of the effects of the pervious concrete parking lot on storm water pollution and heat island effects.

Authorization was also requested for the City Controller to accept and disburse the necessary funds and pay all claims against the City associated with this intergovernmental agreement.

A match requirement of \$167,600 would be met from funding in the amount of \$5,595,062 for the remainder of construction of the Southwest Family Services Center project.

ITEM 32

DISTRICT 8

**ORDINANCE S-35442 -
TRANSFER SCHOOL BUS
TITLE TO THE WILSON HEAD
START DELEGATE AGENCY**

The Council heard request to authorize the City Manager to transfer the title of one school bus to the Wilson School District Head Start Delegate Agency.

The City of Phoenix Head Start Program had been providing comprehensive child development services to 3,154 low-income pre-school children. Due to decreasing federal funds and increasing program costs, the Head Start program received approval for a reduction of 164 slots while retaining current funding. This reduction occurred in the City's Grantee Operated program and reduced the total program to 2,990 children.

September 10, 2008

Based on this reduction, the school bus that was utilized to transport children in the Grantee Operated program was no longer needed. All Delegate Agencies were contacted about the potential need for the bus and the only interested program was the Wilson School District, which served 154 children. The school bus would replace the one they currently operated that was old and required extensive operational maintenance costs.

The school bus was purchased with Head Start funding and transferring its title to the Wilson District Head Start Delegate Agency would ensure that related Head Start transportation needs were met utilizing existing resources. The City, as the Grantee, would provide ongoing monitoring of the contract to ensure that the agency was in compliance with all requirements stipulated in the federal regulations, including proper vehicle maintenance.

ITEM 33

CITYWIDE

**ORDINANCE S-35443 -
ACCEPT HEAD START
TRAINING AND TECHNICAL
ASSISTANCE SUPPLEMENTAL
GRANT FUNDING**

The Council heard request to authorize the City Manager to enter into a contract for \$76,200 of Head Start Training and Technical Assistance Supplemental Grant funding from the Department of Health and Human Services for the period of July 1, 2008 through June 30, 2009. The City of Phoenix Head Start Program would utilize this funding for the Education Improvement Program to assist Head Start staff from delegate agencies to further their education.

Authorization was also requested for the City Controller to accept and disburse the necessary funds and pay all claims against the City associated with this grant.

The Training and Technical Assistance Supplemental Grant required a non-federal 20 percent in-kind match. The Human Services Department would utilize existing General funds and other community resources in an amount up to \$20,000.

September 10, 2008

ITEM 34

CITYWIDE

**ORDINANCE S-35444 -
RETROACTIVE
AUTHORIZATION TO APPLY
FOR INTERNAL REVENUE
SERVICE GRANT**

The Council heard request to retroactively authorize the City Manager to apply for funding from the Internal Revenue Service (IRS) Volunteer Income Tax Assistance Grant in the amount of \$96,128. The grant application was due September 2, 2008; if awarded, funds would become available December 1, 2008.

Since 2003, the Human Services Department had successfully conducted five major Earned Income Tax Credit (EITC) campaigns and managed free tax preparation services at 18 sites Citywide. During the 2007-2008 campaign, a total of 9,176 households received \$7.2 million in tax refunds (\$2,415,046 in EITC refunds) at the 18 City-managed sites and the 11 sites managed by the American Association of Retired Persons.

If awarded, the grant dollars would enable the City of Phoenix EITC program to extend services to underserved populations in hard to reach areas, increase capacity to file returns electronically, heighten quality control, enhance training of volunteers and improve the accuracy rate of returns prepared at City of Phoenix managed sites.

ITEM 35

CITYWIDE

**ORDINANCE S-35445 -
DISBURSE HOUSING
REHABILITATION,
WEATHERIZATION, AND LEAD
FUNDS**

The Council heard request to authorize the City Manager to fund individual grants and loans for agreements with the contractors listed below, the sum of which would not exceed the Housing Rehabilitation, Weatherization, and Lead Hazard Control programs' allocations. Further request authorization for the City Controller to receive and disburse, through a continuing payment authority, the necessary funds up to the total Program allocation.

September 10, 2008

Housing Rehab Contractor	Affirmative Action Expiration Date
B.R. Edmonds Enterprises, LLC	August 11, 2010
GXS Construction	February 19, 2010
LHW Contracting, LLC	May 8, 2010
Embala Corp.	January 22, 2009
Sagrado Custom Homes, LLC	August 1, 2010
Horizon Contracting	January 30, 2009
Cals Custom Concepts, LLC	August 20, 2010
A to Z Restoration Construction, Inc.	August 20, 2010
Quickturn, LLC	August 19, 2010
Bee Electric, Co.	August 21, 2010

ITEM 36

CITYWIDE

**ORDINANCE S-35446 -
PURCHASE CESSNA P210R
AND TRADE-IN OF
CESSNA 172**

The Council heard request to authorize the City Manager to enter into a purchasing agreement with Mr. Jim Lafferty, Modesto, California, to purchase a Cessna P210R airplane, tail number N55BE, for the cost of \$329,100. The operating and maintenance costs were estimated to be \$63,900, per year for 300 flight hours. Further request the City Controller to receive and disburse funds.

Mr. Lafferty agreed to take the Police Department's (Department) Cessna 172, tail number 73321, as a trade-in and would take the trade-in value off of the base price of the Cessna P210R. This would be a cost savings of \$33,000. This would also free-up hangar space for the newly arriving aircraft and would eliminate the cost of maintenance and gas on the Cessna 172, allowing the Department to use those funds towards the upkeep of the Cessna P210R.

September 10, 2008

ITEM 37

CITYWIDE

**ORDINANCE S-35447 -
FIRST TRANSIT FIXED-ROUTE
CONTRACT CHANGE ORDER**

The Council heard request to authorize the City Manager, or his designee, to enter into a contract change order on Agreement 122510 with First Transit, Inc., Cincinnati, Ohio, for the provision of fixed-route bus services by increasing the contract price by \$1,253,696; and authorizing the City Controller to disburse funds consistent with the total increase to the contract price.

The contract was originally approved by City Council on October 10, 2007, with First Transit, Inc. to provide fixed-route bus service operating from the Public Transit Department's West Division facility.

This proposed change order was due to increased labor rates for First Transit, Inc. as a result of a new union contract. The increase was estimated to be \$169,597 for 2008-2009, \$431,774 for 2009-2010, and \$652,325 for 2010-2011. The contract with First Transit, Inc. was a cost-per-mile contract and these additional costs resulted in an increase in the cost per mile of \$.0293 for 2008-2009, \$.0746 for 2009-2010, and \$.1127 for 2010-2011 for local fixed route, Rapid/Express, and neighborhood circulator services.

The cost of this change order to the First Transit, Inc. contract for the current fiscal year was estimated to be \$169,597.

ITEM 38

CITYWIDE

**ORDINANCE S-35448 -
VALLEY METRO RAIL
OVERHEAD COSTS**

The Council heard request to authorize the City Manager, or his designee, to enter into an agreement with Valley Metro Rail, Inc. (METRO) for payment of its annual Agency Overhead Cost for the period from July 1, 2003 to June 30, 2009, for a total amount of \$1,347,098. Further authorizing the City Controller to disburse the sums in an amount of \$794,149. The explanation for the amounts requested was provided below.

September 10, 2008

METRO and the City were in final negotiations for the specific terms and conditions applicable to an interim agreement for payment of METRO's agency overhead costs. It was anticipated that a long-term agreement would be negotiated by the parties while this interim agreement was in effect. The following sums were tentatively agreed upon by the parties for each of the listed fiscal years:

Period	Amount
July 1, 2003 – June 30, 2004	\$ 100,000
July 1, 2004 – June 30, 2005	\$ 120,421
July 1, 2005 – June 30, 2006	\$ 149,315
July 1, 2006 – June 30, 2007	\$ 149,256
July 1, 2007 – June 30, 2008	\$ 494,401
July 1, 2008 – June 30, 2009	\$ 333,705
Total	\$1,347,098

For 2003-2004 through 2007-2008, amounts were previously paid to METRO in the amount of \$552,949 as part of the light rail project costs. These costs would be reclassified as agency overhead costs once this agreement was approved. This left \$794,149 to be paid (the remaining 2007-2008 amount of \$460,444, plus 2008-2009 amount of \$333,705).

Once final negotiations were complete, it was necessary to authorize the City Manager, or his designee, to enter into the agreement on such terms and conditions as believed to be in the best interest of the City.

ITEM 39

CITYWIDE

**ORDINANCE S-35449 -
TRANSFER RETIREMENT
FUNDS TO ARIZONA STATE
RETIREMENT SYSTEM**

The Council heard request to authorize the transfer of credited service and disbursement of amount (employees and employer contributions) from the retirement funds as follows:

Andrea Cummings	\$102,844.60
Anne DeChance	\$ 45,670.00
Sheila Jocewicz	\$135,281.04
Annette Pena	\$ 22,412.31
Kathaleen Von Seeburg	\$ 11,371.21

September 10, 2008

ITEM 40

DISTRICT 1

**ORDINANCE S-35450 -
AMEND
INTERGOVERNMENTAL
AGREEMENT - ARIZONA
DEPARTMENT OF
TRANSPORTATION - CACTUS
ROAD**

The Council heard request to authorize the City Manager, or his designee, to enter into an amendment to an existing intergovernmental agreement with the Arizona Department of Transportation (ADOT) to acquire reimbursement funds for signal modification work as requested by the State.

The City had previously entered into an agreement with ADOT for additional roadway improvements associated with the Cactus Road and I-17 Traffic Interchange (TI) project. The amendment to this agreement would allow ADOT to reimburse the City for signal modification work at Cactus Road and 28th Drive that was requested during the construction of the TI project.

ITEM 41

DISTRICT 5

**ORDINANCE S-35451 -
AMEND
INTERGOVERNMENTAL
AGREEMENT - ARIZONA
DEPARTMENT OF
TRANSPORTATION - GRAND
AVENUE**

The Council heard request to authorize the City Manager, or his designee, to enter into an amendment to an existing intergovernmental agreement with the Arizona Department of Transportation (ADOT) to acquire reimbursement funds for signal modification work as requested by the State.

The City had previously entered into an agreement with ADOT for art enhancements associated with the 43rd Avenue, Camelback Road and Grand Avenue project. The amendment to this agreement would allow ADOT to reimburse the City for signal modification work at Camelback Road and 43rd Avenue that was requested during the construction of the project.

September 10, 2008

ITEM 42

DISTRICT 4

**RESOLUTION 20716 -
ABANDONMENT OF
EASEMENT - V-080040A**

The Council heard request to abandon the easements described below as they were no longer needed.

On April 21, 2008, The Law Office of David Cisiewski, PLLC requested the abandonment of the public utility easement adjacent to the private access way across the properties addressed 1350, 1360, 1450, 1460, 1470, 1530, and 1540 North 43rd Avenue, and the water/sewer easement within the same private access way.

This application did not have the Abandonment Hearing Officer recommendation, as the formal application procedure did not apply. (REF: City Code Section 31-68)

ITEM 43

DISTRICT 8

**RESOLUTION 20717 -
ABANDONMENT OF RIGHT-
OF-WAY - V-080003A**

The Council heard request to abandon the right-of-way described below as it was no longer needed.

On February 13, 2008, the Abandonment Hearing Officer considered the application of DeMuro Enterprises, Inc. to abandon the 21st Place right-of-way (50 feet wide) between the parcels addressed 2010 and 2012 South 21st Place.

The Hearing Officer recommended approval of the adoption of the abandonment subject to stipulations, which were satisfied.

A fee was also collected as part of this abandonment in the amount of \$5,477.20.

Following established review procedures, no objections to the Hearing Officer's recommendation were received from City Council or other parties.

September 10, 2008

NEW BUSINESS

MOTION was made by Ms. Neely, **SECONDED** by Mr. Mattox, that Items 44 through 60 be approved. **MOTION CARRIED UNANIMOUSLY.**

ITEM 44

CITYWIDE

**AMEND MEMORANDUM OF
AGREEMENT FOR USE OF
FLIGHT TRACK DATA FOR
AIRCRAFT NOISE
MONITORING**

The Council heard request to authorize the City Manager to negotiate and execute an amendment to Memorandum of Agreement 119877 (MOA) between the City of Phoenix, the Federal Aviation Administration, the City of Tempe, and Williams Gateway Airport Authority to allow the parties access to Standard Terminal Automation Replacement System (STARS) flight track data in support of Phoenix Sky Harbor International Airport's noise compatibility plan under the Title 14 Code of Federal Regulations Part 150.

The purpose of this amendment was to modify the term for another two years. The City Council approved the last MOA on October 11, 2006. The current MOA expired on October 12, 2008. This amendment extended the term of the Agreement until October 12, 2010. All other agreement terms remained the same.

ITEM 45

DISTRICT 7

**PROPOSED TRES RIOS
ANNEXATION - FILING**

The Council heard request to authorize the City Manager to file with the Office of the County Recorder a blank petition containing a map of an area proposed to be annexed, designated as the proposed Tres Rios Annexation.

This annexation was requested by the City of Phoenix Water Services Department to incorporate this portion of the Tres Rios Environmental Rehabilitation Project into the City. The proposed annexation area included approximately 277.74 acres (0.46 square miles) and the population was estimated to be 0. The general boundaries of the area were Southern Avenue on the north, Salt River alignment on the south, 95th Avenue on the east, and 107th Avenue on the west.

September 10, 2008

ITEM 46

CITYWIDE

**DEVELOPMENT SERVICES
DEPARTMENT FINANCIAL
UPDATE**

The Council heard request by the Development Services and Personnel Departments for approval to offer employee severance plans to help minimize potential layoffs as a result of budget reductions in force. As a result of a continuing decline in construction activity, 39 positions were being eliminated in the Development Services Department effective September 22, 2008. Of the 39 positions eliminated, 15 were vacant, leaving 24 employees who would be impacted.

This plan called for the use of voluntary retirements and voluntary severance to be paid if a layoff was avoided. Voluntary retirement payments included two percent of base salary up to \$40,000; one percent for the next \$40,000, and .5 percent for any additional salary for each year of full-time, regular, continuous City service. (Voluntary retirements could only be made available to employees already eligible to retire.) Voluntary and involuntary severance would include two percent of pay for each year of full-time, continuous, regular City service with a minimum of two weeks pay guaranteed. The proposed severance package also included, for employees who were laid off, a continuation for two months of the City portion of medical and dental insurance and assistance with resume preparation, job searches, unemployment claims, and recall rights.

ITEM 47

DISTRICT 1

**WS85260022 - DVWTP EAST
BASINS RECONSTRUCTION -
CM@RISK - CONSTRUCTION
CONTRACT AMENDMENT**

The Council heard request to authorize the City Manager, or his designee, to amend Construction Manager at Risk (CM@Risk) Contract 122354 with McCarthy Building Companies, Inc. to provide additional construction phase services for the Deer Valley Water Treatment Plant (DVWTP) East Basins Reconstruction project. Approval of additional funds in the amount of \$6,307,160 was requested for Guaranteed Maximum Price (GMP) 4 for construction of new water treatment facilities to replace failed structures on the east side of the process area. Construction included new Pre-Sed basins, Rapid Mixer basins, ClO₂ facilities, GAC Filter Absorber basins, and other requisite construction activities such as earthwork piping, etc. The CM@Risk's total estimated construction cost for this project would be increased to \$117,207,160.

September 10, 2008

McCarthy Building Companies, Inc. was chosen for this project using a qualifications-based selection process, as authorized by Title 34-603 of the Arizona Revised Statutes, and managed by the City Engineer.

The CM@Risk's construction cost included all subconsultant, subcontractor, and reimbursable costs.

ITEM 48

DISTRICT 1

**WS85260024 -
INSTRUMENTATION AND
CONTROLS SYSTEMS
INSPECTIONS AND TESTING -
DEER VALLEY WATER
TREATMENT PLANT**

The Council heard request to authorize the City Manager to enter into an agreement with Black & Veatch Corporation to provide instrumentation and control system testing and inspection services at the Deer Valley Water Treatment Plant. The Engineer would participate in design, construction, and would assist the Operations and Maintenance staff on testing and training needs.

Black & Veatch Corporation was chosen for this project using a qualifications-based selection process authorized by Title 34-603 of the Arizona Revised Statutes. Based on this selection process, Black & Veatch Corporation was determined to be the most qualified firm to provide the required services in support of the Water Services Department.

The Engineer's fee would not exceed \$252,115, including all subconsultant and allowable costs.

ITEM 49

DISTRICT 5

**PA75300046 - CONSTRUCTION
SERVICES AGREEMENT WITH
SOUTHWEST GAS
CORPORATION FOR NATURAL
GAS FACILITIES**

The Council heard request to authorize the City Manager to enter into a construction services agreement with Southwest Gas Corporation. The purpose of this agreement was to allow for the construction of natural gas facilities associated with City of Phoenix Project PA75300046 at the Maryvale Pool, 4444 North 51st Avenue.

Funding in the amount of \$1,833 for this project was available through the City of Phoenix Parks and Recreation Department's 2006 Parks General Obligation Bonds fund.

September 10, 2008

ITEM 50

DISTRICT 5

**WS85500358 - WATER MAIN
REPLACEMENT DESIGN -
MISSOURI AVENUE TO
BETHANY HOME ROAD -
31ST AVENUE TO
35TH AVENUE**

The Council heard request to authorize the City Manager to enter into an agreement with CSA Engineering, Inc. to prepare design plans, specifications, and cost estimates for the construction of approximately 28,680 linear feet of water main and approximately 610 water services connections. This project was located in the area bounded by Missouri Avenue to Bethany Home Road, 31st Avenue to 35th Avenue. The construction cost estimate was \$3.1 million.

The Engineer's fee would not exceed \$301,861, including all subconsultant and reimbursable costs.

CSA Engineering, Inc. was chosen for this project using a qualifications-based selection process as authorized by Title 34-603 of the Arizona Revised Statutes. Based on this selection process, CSA Engineering, Inc. was determined to be the most qualified firm to provide the required services for this project.

ITEM 51

DISTRICT 7

**PA75200236 - CONSTRUCTION
LICENSE - SALT RIVER
PROJECT FOR IRRIGATION
SYSTEM IMPROVEMENTS AT
KUBAN PARK**

The Council heard request for authorization and acceptance to enter into a construction license agreement with Salt River Project at Kuban Park located at 33rd Avenue and Sherman Street. The purpose of this construction license was to allow for irrigation system construction within the right-of-way of Salt River Project for City of Phoenix Project PA75200236.

September 10, 2008

<u>ITEM 52</u>	DISTRICT 7	ST85100035 - DESIGN AND CONSTRUCTION AGREEMENTS WITH SALT RIVER PROJECT FOR ELECTRICAL FACILITIES
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The Council heard request to authorize the City Manager, or his designee, to enter into two design and construction service agreements with Salt River Project. The purpose of these agreements was to allow for the design and construction of electrical facilities associated with City of Phoenix Project ST85100035 at the following two locations: 209 South 67th Avenue and 6661 West Grant Street.

The two agreements required \$1,775 each, for a total of \$3,550.

<u>ITEM 53</u>	DISTRICT 7	ST85100130 - DESIGN AND CONSTRUCTION SERVICES AGREEMENT WITH SALT RIVER PROJECT FOR A NEW SERVICE PEDESTAL
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The Council heard request to authorize the City Manager to enter into a design and construction agreement with Salt River Project. The purpose of this agreement was to allow for the design and construction of a new service pedestal associated with City of Phoenix Project ST85100130 at 6305 West Van Buren Street.

Funding in the amount of \$1,775 for this project was available through the City of Phoenix Street Transportation Department's Capital Improvement Program budget using Arizona Highway User Revenue.

<u>ITEM 54</u>	DISTRICT 7	ST85100171 - CONSTRUCTION SERVICES AGREEMENT WITH SALT RIVER PROJECT FOR CONSTRUCTION OF ELECTRICAL FACILITIES
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The Council heard request to authorize the City Manager, or his designee, to enter into a construction services agreement with Salt River Project. The purpose of this agreement was for the construction of electrical facilities associated with City of Phoenix Project ST85100171 on Southern Avenue from 19th Avenue to 27th Avenue.

September 10, 2008

The \$20,141 funding for this project was available through the City of Phoenix Street Transportation Department's Capital Improvement budget.

ITEM 55

DISTRICT 7

**WS90160080 - REGIONAL
CAPACITY MANAGEMENT
FACILITIES PHASE 1 -
CM@RISK - CONSTRUCTION
CONTRACT AWARD**

The Council heard request to authorize the City Manager, or his designee, to enter into an agreement with Sundt Construction, Inc. to provide Construction Manager at Risk (CM@Risk) construction phase services for the initial phase of the Regional Capacity Management Facilities (RCMF) project. Approval of funds in the amount of \$18.3 million was requested for Guaranteed Maximum Price (GMP) Numbers 1 and 2. The CM@Risk's total estimated construction cost for phase 1 construction was \$18.3 million.

The CM@Risk was chosen for this project using a qualifications-based selection process, as authorized by Section 34-603 of the Arizona Revised Statutes, and managed by the City Engineer.

The CM@Risk's construction cost included all subconsultant, subcontractor, and reimbursable costs.

ITEM 56

DISTRICT 8

**ARCHAEOLOGICAL
CONSULTING ON-CALL
SERVICES FOR FISCAL YEARS
2008-2009 AND 2009-2010 -
CONTRACT AMENDMENT**

The Council heard request to authorize the City Manager to execute Contract Amendment 1 with Desert Archaeology, Inc. to increase the limit of on-call archaeological consulting services under Contract 123403 by \$500,000. This on-call services contract was approved by City Council on April 16, 2008, to provide for on-call archaeological services to City departments. Amendment 1 increased the contract amount by \$500,000, which increased the total contract fee from \$275,000 to \$775,000.

The archaeological firm would be compensated in accordance with the City-approved fee schedule, and all charges would be made to the specific project assignments as assigned by the Parks and Recreation Department.

September 10, 2008

Desert Archaeology, Inc. was selected through a qualifications-based selection process in accordance with Section 34-603 of the Arizona Revised Statutes, and managed by the City Engineer.

ITEM 57

DISTRICT 8

**LS71200067 - HARMON
LIBRARY REPLACEMENT -
CONSTRUCTION
ADMINISTRATION**

The Council heard request to authorize the City Manager, or his designee, to enter into an agreement with richärd+bauer, LLC to provide construction administration services for the Harmon Library Replacement Project. The estimated cost of construction was approximately \$4.34 million.

richärd+bauer, LLC was chosen for this project using a qualifications-based selection process authorized by Title 34-603 of the Arizona Revised Statutes. Based on this selection process, richärd+bauer, LLC was determined to be the most qualified firm to provide the required services for this project.

The architect's fee for all services under this contract would not exceed \$210,040, including all subconsultant and reimbursable costs.

ITEM 58

CITYWIDE

**IFB 07-048A - LINEN
SERVICES - REQUIREMENTS
CONTRACT**

The Council heard request to authorize additional expenditures on IFB 07-048 to add linen services for the new Convention Center North Building. The contract was a result of IFB 07-048 awarded by formal Council action on December 20, 2006, with AlSCO, Inc. in the amount of \$44,000, annually. The initial Request for Council Action did not include the costs for linen services for the North Building because the facility was still under construction.

The North Building was near completion and was scheduled to open in January 2009. Therefore, the Convention Center was requesting additional funds of \$58,500, annually, for services at the North Building. The revised annual contract amount was \$102,500, per year.

September 10, 2008

ITEM 59

DISTRICT 8

**TERMINATION OF
COVENANTS, CONDITIONS,
AND RESTRICTIONS**

The Council heard request to authorize the City Manager, or his designee, to consent to the termination of the existing Covenants, Conditions, and Restrictions (CC&Rs) recorded against the City-owned warehouse property located at 1330 North 29th Drive, Phoenix, Arizona.

The CC&Rs were recorded in 1981 and had outlived their usefulness. The CC&Rs were unnecessarily restrictive and compliance was costly and problematic. The CC&Rs would be terminated if a majority of the affected property owners concurred.

ITEM 60

DISTRICT 8

**FINAL PLAT - THE WERKS
C & C, INC. - 080083**

The following final plat was reviewed by the Development Services Department in accordance with the provisions of Section 32-21 of the Phoenix City Code of the City of Phoenix, and was approved on August 21, 2008:

Plat 080083

Project 03-2009

Name of Project: The Werks C & C, Inc.

A One-Lot Commercial Plat

Located at 1301 East Gibson Lane, Phoenix, Arizona 85034

Owner(s): RFTC 2, LLC

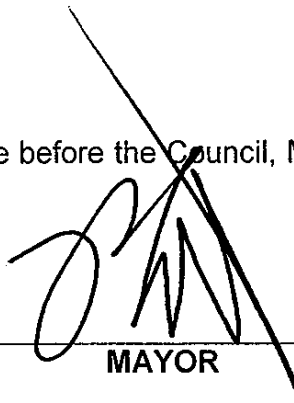
Engineer(s): Travis C. Steele

It was recommended that the above plat be approved by the City Council and certified by the City Clerk.

September 10, 2008

ADJOURNMENT

There being no further business to come before the Council, Mayor Gordon declared the meeting adjourned.



MAYOR

ATTEST:



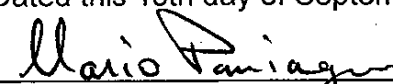
ACTING CITY CLERK

0910min.doc/SS

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the formal session of the City Council of the City of Phoenix held on the 10th day of September, 2008. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 15th day of September, 2008.



City Clerk

