



MAYOR & COUNCIL MEETING NOTICE & AGENDA

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Mayor and Council and to the general public that the Mayor and Council will hold the following meeting, which will be open to the public:

REGULAR AGENDA

**MONDAY, NOVEMBER 9, 2009 – 5:30 P.M.
MAYOR AND COUNCIL CHAMBERS
(CITY HALL, 255 W. ALAMEDA, TUCSON, AZ)**

1. ROLL CALL

2. INVOCATION AND PLEDGE OF ALLEGIANCE

INVOCATION – Reverend Chewee Hughley of the Water of Life Metropolitan Community Church

PLEDGE OF ALLEGIANCE – Mayor, Council and public in attendance

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

a. Report from City Manager NOV9-09-562 CITY-WIDE

4. CITY MANAGER’S REPORT: SUMMARY OF CURRENT EVENTS

a. Report from City Manager NOV9-09-563 CITY-WIDE

5. LIQUOR LICENSE APPLICATIONS

- a. Report from City Manager NOV9-09-564 CITY-WIDE
- b. Liquor License Application(s)

New License(s)

- 1. Boca, Ward 6
828 E. Speedway Blvd.
Applicant: Bryan Thomas Mazon
Series 12, City 70-09
Action must be taken by: November 9, 2009

Tucson Police Department and Revenue Department have indicated the applicant is in compliance with city requirements.

Planning & Development Services Department has indicated the applicant is not in compliance with city requirements.

City Clerk's Office has indicated the applicant is not in compliance with city requirements.

- 2. Nimbus American Bistro N' Brewery, Ward 2
6464 E. Tanque Verde Rd.
Applicant: Robert Brian McMahon
Series 12, City 71-09
Action must be taken by: November 7, 2009

Staff has indicated the applicant is in compliance with city requirements.

- 3. Seoul Kitchen Korean BBQ, Ward 2
4951 E. Grant Rd., #115
Applicant: Chong Kyu Knosp
Series 12, City 72-09
Action must be taken by: November 12, 2009

Staff has indicated the applicant is in compliance with city requirements.

4. Prince Pizza & Family Restaurant, Ward 3
1763 E. Prince Rd.
Applicant: Andrew Hyeon Yun
Series 12, City 73-09
Action must be taken by: November 19, 2009

Staff has indicated the applicant is in compliance with city requirements.

Public Opinion: Written Argument in Favor Filed

5. Burger City, Ward 6
5350 E. Broadway Blvd., #128 & #130
Applicant: Fletcher Jay McCusker
Series 12, City 74-09
Action must be taken by: November 19, 2009

Staff has indicated the applicant is in compliance with city requirements.

NOTE: State law provides that for a new license application, “In all proceedings before the governing body of a city...the applicant bears the burden of showing that the public convenience requires and that the best interest of the community will be substantially served by the issuance of a license”. (A.R.S. Section 4-201)

Person/Location Transfer(s)

6. Mulligan's Sports Grill, Ward 4
9403 E. Golf Links Rd.
Applicant: Mark Richard Baker
Series 7, City 75-09
Action must be taken by: November 21, 2009

Staff has indicated the applicant is in compliance with city requirements.

NOTE: State law provides that for a person and location transfer, Mayor and Council may consider both the applicant’s capability, qualifications, reliability and location issues. (A.R.S. Section 4-203; R19-1-102)

c. Special Event(s)

1. Southern Arizona Aids Foundation, Ward 6
1303 E. University Blvd.
Applicant: Michele Lorraine Bart
City T94-09
Date of Event: November 22, 2009
(Fundraiser)

Staff has indicated the applicant is in compliance with city requirements.

2. Downtown Tucson Partnership, Ward 1
101 N. Stone Ave.
Applicant: Brandi Renee Haga
City T96-09
Date of Event: November 21, 2009
(Celebrating cycling & a healthy lifestyle - El Tour de Tucson)

Staff has indicated the applicant is in compliance with city requirements.

- d. Agent Change/Acquisition of Control/Restructure

NOTE: There are no agent change(s) scheduled for this meeting.

6. CALL TO THE AUDIENCE

At this time, any member of the public is allowed to address the Mayor and City Council on any issue except for items scheduled for a public hearing at the meeting. Speakers are limited to three minute presentations. Speakers must state their name, whether they reside in the City of Tucson, whom they represent, and the subject matter. Any person who is representing a person other than themselves and is receiving compensation to influence an action by the Mayor and Council, shall, before speaking, identify themselves as a “retained speaker.” Pursuant to the Arizona Open Meeting Law, individual Council Members may ask the City Manager to review the matter, ask that the matter be placed on a future agenda, or respond to criticism made by speakers. However, the Mayor and Council may not discuss or take legal action on matters raised during “call to the audience.”

7. CONSENT AGENDA – ITEMS A THROUGH E

FOR COMPLETE DESCRIPTION OF ITEMS
SEE ATTACHED CONSENT AGENDA

Matters listed under the Consent Agenda are considered to be routine and will be enacted by one motion and one vote. There will be no separate discussion of these items. If discussion is desired by members of the governing body, that item will be removed from the Consent Agenda and will be considered separately.

8. PUBLIC HEARING: (C9-09-07) FELDMAN'S NEIGHBORHOOD PRESERVATION ZONE, R-1, R-2, R-3 TO NR-1, NR-2, AND NR-3, CITY MANAGER'S REPORT, DIRECT ORDINANCE ADOPTION

- a. Report from City Manager NOV9-09-575 WARDS 3 AND 6
- b. Report from Zoning Examiner dated August 28, 2009
- c. Hearing on a request to rezone the residential zones in the Feldman's Neighborhood to include the Neighborhood Preservation Zone (NPZ) overlay.

This public hearing request was made by Michael A Goodman, an owner of property located within the proposed rezoning district.

The proposed neighborhood preservation zone overlay for the Feldman's Neighborhood is supported by both the *General Plan* and the more specific *University Area Plan*.

The Zoning Examiner and staff recommend approval of the zoning request after the public hearing and subject to the conditions in the ordinance provided.

Forty-nine written approvals and seventeen written protests were received for this case prior to the Zoning Examiner's public hearing. Eleven additional written approvals and four written protests were received subsequent to the Zoning Examiner's public hearing. The protests generally allude to the restriction of property rights and the diminution of value.

- d. Ordinance No. 10727 relating to zoning: amending zoning district boundaries in the area bounded by E. Lee Street on the north, E. Speedway Boulevard on the south, N. Park Avenue on the east, and N. Stone Avenue on the west in Case C9-09-07, Feldman's Neighborhood Preservation Zone, from R-1, R-2, and R-3 to NR-1, NR-2, and NR-3; and setting an effective date.

Because the protest level in the south quadrant exceeds twenty percent by area, a three-fourths majority vote will be necessary to approve the rezoning ordinance.

9. PUBLIC HEARING: AMENDING THE NEIGHBORHOOD PRESERVATION ZONE

- a. Report from City Manager NOV9-09-572 CITY-WIDE
- b. Hearing on the proposed amendments to the Neighborhood Preservation Ordinance to establish a Design Review Board appeal procedure and to establish fees relating to various appeals processes.

- c. Ordinance No. 10726 relating to Development Compliance Code; clarifying the process for appeal of decisions by the Director and Design Review Board concerning Neighborhood Preservation Zone applications by amending Tucson Code Chapter 23A Article II Sections 23A-32.1 and 23A-61 to clarify parties having a right to appeal decisions of the Director; and providing Board of Adjustment appeals process; adding a new Section 23A-64 providing appeal process to the Design Review Board from decisions of the Director; amending fees charged by the Planning and Development Services Department to add fees for compatibility review by the Design Professional and appeal to the Design Review Board; and declaring an emergency.

10. ZONING: (C9-09-06) TEMPERATURE CONTROL – WEST LESTER STREET, C-1 TO C-2, CITY MANAGER’S REPORT

- a. Report from City Manager NOV9-09-571 WARD 3
- b. Report from Zoning Examiner dated August 28, 2009
- c. Request to rezone approximately 0.37 acres from C-1 to C-2 zoning. The rezoning site is located on the south side of Lester Street, west of Tenth Street. Applicant: Vance MacLeod, property and business owner of Temperature Control, Inc.

The applicant is requesting C-2 zoning to allow continued operation of the construction services use, and to correct several zoning violations on the property. The existing business occupies two lots with building and parking area. The applicant does not propose any additional structural development on the site.

The rezoning proposal is consistent with and supported by the policy direction in the *General Plan*.

The Zoning Examiner and staff recommend authorization of C-2 zoning subject to the conditions listed in Attachment A to Mayor and Council Communication NOV9-09-571.

One written approval and one written protest were received prior to the Zoning Examiner’s public hearing. Subsequent to the Zoning Examiner’s public hearing no additional written approvals or protests were received, or rescinded. The single protest lies outside of the 150 foot protest area, representing a zero percent protest area in all four quadrants. The protest generally alludes to keeping the neighborhood residential for families.

A simple majority vote will be necessary to adopt an ordinance rezoning the subject property once the conditions of rezoning are met.

11. ZONING: (C9-07-02) MARSON – RIVER ROAD, O-2 TO C-1, ORDINANCE ADOPTION

- a. Report from City Manager NOV9-09-566 WARD 3
- b. Ordinance No. 10724 relating to zoning: amending zoning district boundaries in the area located on the south side of River Road, approximately one half mile east of Campbell Avenue in Case C9-07-02, Marson – River Road, O-2 to C-1; and setting an effective date.

A simple majority vote will be necessary to adopt the ordinance.

12. ZONING: (C9-08-16) SALPOINTE CATHOLIC HIGH SCHOOL – GLENN STREET, R-2 TO PAD-17, CITY MANAGER’S REPORT AND DIRECT ORDINANCE ADOPTION

- a. Report from City Manager NOV9-09-568 WARD 3
- b. Report from Zoning Examiner dated September 11, 2009
- c. Request to rezone the property from R-2 to PAD-17 zoning to allow the existing buildings and campus layout to be reconfigured and updated to today’s standards, enhance the physical/spatial relationship between the school and the surrounding neighborhoods, and improve internal and external traffic circulation and on-site parking. The rezoning site is located on the southeast corner of Glenn Street and Mountain Avenue. The applicant is Michael Grassinger of the Planning Center on behalf of the property owner, Society of Mount Carmel, Inc.

The *General Plan* and the *Cragin-Keeling Area Plan* provide relevant policy guidance for the requested rezoning.

The Zoning Examiner and staff recommend the approval of PAD-17 zoning.

Eight written approvals and one written protests were received for this case prior to the Zoning Examiner’s public hearing. Two additional approvals have been received subsequent to the public hearing. The single protest lies outside of the 150 foot protest area resulting in a protest area of zero percent protest on all quadrants. Per state law, the protest remains valid.

- d. Ordinance No. 10725 relating to zoning: amending zoning district boundaries in the area located on the southeast corner of Glenn Street and Mountain Avenue in Case C9-08-16, Salpointe Catholic High School – Glenn Street, from R-2 to Planned Area Development 17 (PAD-17); and setting an effective date.

A simple majority vote will be necessary to adopt the ordinance.

13. ELECTIONS: CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE CITY GENERAL AND SPECIAL ELECTIONS HELD NOVEMBER 3, 2009

- a. Report from City Manager NOV9-09-576 CITY-WIDE
- b. Resolution No. 21435 relating to elections; canvassing the returns and declaring the results of the General Election held in the City of Tucson, Arizona on November 3, 2009.
- c. Resolution No. 21436 relating to elections; canvassing the returns and declaring the results of the Special Election on Proposition 200 held in the City of Tucson, Arizona on November 3, 2009.
- d. Resolution No. 21437 relating to elections; canvassing the returns and declaring the results of the Special Election on Proposition 400 held in the City of Tucson, Arizona on November 3, 2009.

14. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

- a. Report from City Manager NOV9-09-565 CITY-WIDE

15. ADJOURNMENT

The next regularly scheduled meeting of the Mayor and Council will be held on Tuesday, November 17, 2009, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.