

# MAYOR AND COUNCIL – REGULAR MEETING

## LEGAL ACTION REPORT AND SUMMARY

TUESDAY, SEPTEMBER 10, 2013

MAYOR AND COUNCIL CHAMBERS

CITY HALL, 255 W. ALAMEDA, TUCSON, AZ

1. ROLL CALL: 5:32 p.m.

OFFICIAL MEMBERS PRESENT: Mayor Jonathan Rothschild, Vice Mayor Shirley C. Scott, Council Members Regina Romero, Paul Cunningham, Karin Uhlich, Richard G. Fimbres and Steve Kozachik

OFFICIAL MEMBERS ABSENT/EXCUSED: None

STAFF MEMBERS: Richard Miranda, City Manager; Michael Rankin, City Attorney; and Roger W. Randolph, City Clerk

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Pastor Eric Fritz, Or Valley Church of the Nazarene, after which the Pledge of Allegiance was presented by the entire assembly.

PRESENTATIONS:

- a. Proclaiming September as "National Preparedness Month"
- b. Presentation to Recognize the Accomplishments of the 2013 Little League World Series Champions

AGENDA ITEM / MAYOR AND COUNCIL ACTION	STAFF ACTION
<p>3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS (CITY WIDE) SEP10-13-346</p> <p>Current event reports were provided by Vice Mayor Scott, and Council Members Romero, Cunningham, Uhlich, Fimbres, and Kozachik.</p>	
<p>4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS (CITY WIDE) SEP10-13-347</p> <p>No report was provided.</p>	

AGENDA ITEM / MAYOR AND COUNCIL ACTION

STAFF ACTION

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5. LIQUOR LICENSE APPLICATIONS (CITY WIDE)  
SEP10-13-364

b. Liquor License Application(s)

New License(s)

1. Plaza Bonita Family Mexican Restaurant, City 11-13
2. Ali Baba Restaurant and Grill, City 20-13
3. McGraw's Cantina, City 44-13
4. Walgreens #09953, City 50-13
5. Los Beto's Tacos y Burros, City 51-13

Person Transfer(s)

6. Christie's Cabaret, City 43-13  
This item was considered separately.
7. Las Brasas Grill, City 49-13
8. Banana's Bar and Grill, City 53-13
9. Ramada Inn & Suites Foothills, City 54-13
10. Beyond Bread, City 38-13
11. World of Beer Tucson, City 46-13
12. Walgreens #15030, City 47-13

c. Special Event(s)

1. Our Mother of Sorrows Church, City T84-13
2. Equine Voices Rescue & Sanctuary, City T85-13
3. Tucson Children's Museum Inc., City T86-13
4. Tucson Breakfast Lions Club, City T87-13
5. Our Lady Queen of All Saints, City T88-13
6. Many Mouths One Stomach, City T92-13
7. National MS Society, Arizona Chapter, City T93-13
8. Tucson Museum of Art, City T94-13
9. Assistance League of Tucson, City T97-13
10. Sun Sounds Foundation, City T100-13
11. Gangplank Collective, City T101-13
12. Greater Tucson Fire Foundation, City T102-13

AGENDA ITEM / MAYOR AND COUNCIL ACTION	STAFF ACTION
<p>d. Agent Change/Acquisition of Control</p> <p>1. ALJ's Tavern, City AC8-13</p> <p>It was moved by Council Member Uhlich, duly seconded and CARRIED by a voice vote of 7 to 0, to forward Items 5b1 – 5b12, 5c1 – 5c12, and 5d1, with the exception of 5b6 which was considered separately, to the State Liquor Board with a recommendation for approval.</p>	
<p>b. Liquor License Application(s)                      Person Transfer(s)</p> <p>6. Christie's Cabaret, City 43-13</p> <p>This item was considered separately.</p> <p>Michael Rankin, City Attorney, responded to a question regarding the deadline for Mayor and Council to take action on the application.</p> <p>It was moved by Council Member Fimbres, duly seconded and CARRIED by a voice vote of 7 to 0, to forward Item 5b6 to the State Liquor Board with a recommendation for approval.</p>	
<p>6. CALL TO THE AUDIENCE:</p> <p>The following individuals spoke at the Call to the Audience:</p> <p>Beryl Baker, Ken Johnson, Keith Van Heyningen, Shawn Earl, Peggy Hutchison, John Kromko, Robert Clark, and Lupe Borrios.</p>	
<p>7. CONSENT AGENDA</p> <p>a. APPROVAL OF MINUTES (CITY WIDE) SEP10-13-348</p> <p>b. FINAL PLAT: (S12-043) CIVANO II, COMMON AREA "E", AN AMENDMENT OF LOTS 129, 130, 165, AND 166 (WARD 4) SEP10-13-353</p> <p>c. TRANSPORTATION: APPROVING THE FARE EQUITY ANALYSIS FOR THE PROPOSED SUN VAN FARE INCREASE (CITY WIDE AND OUTSIDE CITY) SEP10-13-361</p>	<p><u>CITY CLERK</u></p> <p><u>PLANNING AND DEVELOPMENT SERVICES</u></p> <p><u>TRANSPORTATION</u></p>

AGENDA ITEM / MAYOR AND COUNCIL ACTION

STAFF ACTION

- d. WATER: ADOPTING POLICY CRITERIA FOR DETERMINATION OF GROUNDWATER RECHARGE (CITY WIDE AND OUTSIDE CITY) SEP10-13-356

WATER

This item was considered separately.

- e. BOARDS, COMMITTEES, AND COMMISSIONS: CREATING A WATER SERVICE AREA REVIEW BOARD AND ESTABLISHING PROCEDURES (CITY WIDE AND OUTSIDE CITY) SEP10-13-363

WATER

Ordinance No. 11106

- f. AGREEMENT: APPROVING A SITE-SPECIFIC SUPPLEMENTAL AGREEMENT TO THE MASTER AGREEMENT WITH PIMA COUNTY FOR JOINT USE OF FACILITY SPACE AT THE TUMAMOC HILL SITE (CITY WIDE) SEP10-13-360

POLICE

Resolution No. 22133

- g. GRANT AGREEMENT: WITH THE ARIZONA ATTORNEY GENERAL'S OFFICE FOR THE VICTIMS' RIGHTS PROGRAM (CITY WIDE) SEP10-13-357

CITY ATTORNEY

Resolution No. 22131

It was moved by Vice Mayor Scott, duly seconded and PASSED by a roll call vote of 7 to 0, that Consent Agenda Items a – g, with the exception of Item d which was considered separately, be approved and/or adopted and proper action taken.

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AGENDA ITEM / MAYOR AND COUNCIL ACTION

STAFF ACTION

- d. WATER: ADOPTING POLICY CRITERIA FOR DETERMINATION OF GROUNDWATER RECHARGE (CITY WIDE AND OUTSIDE CITY) SEP10-13-356

WATER

This item was considered separately.

It was moved by Vice Mayor Scott, duly seconded and PASSED by a roll call vote of 6 to 0 (Council Member Kozachik recused due to a conflict of interest), that Consent Agenda Item d be approved and/or adopted and proper action taken.

(Council Member Kozachik departed at 6:43 p.m.)

8. PUBLIC HEARING: ZONING (C9-08-05) MESQUITE VALLEY GROWERS – SPEEDWAY BOULEVARD, C-1 AND RX-2 TO C-2, REACTIVATION, FIVE-YEAR TIME EXTENSION, CHANGE OF CONDITIONS (WARD 2) SEP10-13-352

PLANNING AND DEVELOPMENT SERVICES

(Council Member Kozachik returned at 6:45 p.m.)

The applicant and property owner agreed to removal of the billboard before issuance of a building permit, but no later than October 31, 2014.

It was moved by Council Member Romero, duly seconded and CARRIED by a voice vote of 7 to 0, to close the public hearing.

Michael Rankin, City Attorney, stated the Recommended Revised Condition 33 would be revised to read:

“Owner shall remove, or cause to be removed, the existing billboard on Tax Parcel ID#133-09-0610 and shall provide notice of the termination of any existing lease to the Tenant, with a copy to Planning & Development Services, prior to approval of a development plan or building permit for any expansion of the nursery on Tax Parcel ID# 133-09-0610, 133-09-0620, or 133-09-0630, or October 31, 2014, whichever comes first.”

It was moved by Council Member Cunningham, duly seconded and CARRIED by a voice vote of 7 to 0, to approve the request with the Conditions amended as read into the record.

The applicant agreed to provide a copy of the contract signed by Clear Channel for the record.

AGENDA ITEM / MAYOR AND COUNCIL ACTION

STAFF ACTION

<p>10. ZONING: (C9-12-10) VALENCIA (GALINDO) – 36TH STREET, C-1 TO C-2, CITY MANAGER'S REPORT (WARD 5) SEP10-13-349</p> <p>This item was taken out of order.</p> <p>It was moved by Council Member Fimbres, duly seconded and CARRIED by a voice vote of 7 to 0, to authorize the request for rezoning as recommended by the Zoning Examiner.</p>	<p><u>PLANNING AND DEVELOPMENT SERVICES</u></p>
<p>13. REAL PROPERTY: APPROVING A GOVERNMENT PROPERTY LEASE EXCISE TAX LEASE AGREEMENT WITH TUCSON PROPERTIES I, LLC FOR THE CADENCE AND PLAZA CENTRO RETAIL PROJECT (WARD 6) SEP10-13-358</p> <p>This item was taken out of order.</p> <p>Resolution No. <u>22132</u></p> <p>Michael Rankin, City Attorney, announced the following corrections to the Land and Improvements Lease (Exhibit 1 to the Resolution):</p> <ul style="list-style-type: none"><li>• Recital B says the parcel consists of four parcels; that would be corrected to read three parcels. Additionally, the reference to a three floor garage would be corrected to a four floor garage.</li><li>• Section 5.1.2 would include an additional sentence at the end to read: “Additionally, Tenant shall not change the use of the Premises, including the Parcel 1 Commercial Development and Parcel 2 Commercial Development, without an amendment to this Lease, and any such amendment shall comply with the provisions of A.R.S. Section 42-6209(C).”</li></ul> <p>It was moved by Council Member Kozachik, duly seconded and PASSED by a roll call vote of 7 to 0, to pass and adopt Resolution No. <u>22132</u>, with the corrections as read into the record.</p>	<p><u>ECONOMIC INITIATIVES</u></p>

AGENDA ITEM / MAYOR AND COUNCIL ACTION

STAFF ACTION

9. PUBLIC HEARING: AMENDING TUCSON CODE (CHAPTER 2) RELATING TO A PROPOSED FARE INCREASE FOR SUN VAN ECONOMY FARE PASSENGERS (CITY WIDE AND OUTSIDE CITY) SEP10-13-362

TRANSPORTATION

Ordinance No. 11107

It was moved by Council Member Kozachik, duly seconded and CARRIED by a voice vote of 7 to 0, to close the public hearing.

Michael Rankin, City Attorney, clarified that a smaller rate increase could be implemented without restarting the public process.

It was MOVED by Vice Mayor Scott, duly seconded, to delay acting on the proposed rate increase, and direct staff to return with better information on an expedited timeframe.

A SUBSTITUTE MOTION was made by Council Member Kozachik, duly seconded, to continue the present practice at the current rates and direct staff to work with Pima Council on Aging, Beacon Group, and DIRECT Center for Independence, and come up with ways to build efficiencies.

Vice Mayor Scott clarified that her motion incorporated the substitute motion, as well as points made by State Representative Ethan Orr, and was not to approve the rate increase at that time, but to move in an expedited way to get verifiable recommendations in less than four months, if possible, to help make a better informed decision.

Council Member Kozachik said his substitute motion was to take the fare increase off the table.

Discussion ensued.

Michael Rankin, City Attorney, clarified that the substitute motion was to reject the proposed fare increase.

The substitute motion CARRIED by a voice vote of 7 to 0.

It was moved by Vice Mayor Scott, duly seconded and CARRIED by a voice vote of 7 to 0, to direct staff to research available sources of revenue and their potential effect on fares for all transit populations, and return in 45 days if possible.

AGENDA ITEM / MAYOR AND COUNCIL ACTION	STAFF ACTION
<p>10. ZONING: (C9-12-10) VALENCIA (GALINDO) – 36TH STREET, C-1 TO C-2, CITY MANAGER'S REPORT (WARD 5) SEP10-13-349</p> <p>This item was taken out of order and considered after Item 8.</p>	<p><u>PLANNING AND DEVELOPMENT SERVICES</u></p>
<p>11. HOUSING AND COMMUNITY DEVELOPMENT: APPROVING A SUBSTANTIAL PLAN AMENDMENT FOR THE SECTION 108 ADA SIDEWALKS AND CURBS PROJECT (CONTINUED FROM THE MEETING OF AUGUST 6, 2013) (CITY WIDE) SEP10-13-350</p> <p>Resolution No. <u>22117</u></p> <p>It was MOVED by Council Member Romero, duly seconded, to pass and adopt Resolution No. <u>22117</u>, with the caveat that shade trees be incorporated in the planning of the sidewalks and curbs project.</p> <p>Council Member Uhlich offered a friendly AMENDMENT to the motion, ACCEPTED by the motion-maker, that staff reanalyze the program to make Section 108 funds available to meet intent of the program, either through economic development or affordable housing development.</p> <p>The motion, as amended, CARRIED by a voice vote of 7 to 0.</p>	<p><u>HOUSING AND COMMUNITY DEVELOPMENT</u></p>
<p>12. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH THE OWNER OF THE PROPERTY LOCATED AT 11141 E. TANQUE VERDE (OUTSIDE CITY) SEP10-13-351</p> <p>Resolution No. <u>22128</u></p> <p>It was moved by Council Member Cunningham, duly seconded and PASSED by a roll call vote of 7 to 0, to pass and adopt Resolution No. <u>22128</u>.</p>	<p><u>ECONOMIC INITIATIVES</u></p>
<p>13. REAL PROPERTY: APPROVING A GOVERNMENT PROPERTY LEASE EXCISE TAX LEASE AGREEMENT WITH TUCSON PROPERTIES I, LLC FOR THE CADENCE AND PLAZA CENTRO RETAIL PROJECT (WARD 6) SEP10-13-358</p> <p>This item was taken out of order and considered after Item 10.</p>	<p><u>ECONOMIC INITIATIVES</u></p>

AGENDA ITEM / MAYOR AND COUNCIL ACTION

STAFF ACTION

<p>14. LICENSE AGREEMENT: WITH TELEPORT COMMUNICATIONS AMERICA, LLC FOR TELECOMMUNICATIONS SERVICES (CITY WIDE) SEP10-13-354</p> <p>Resolution No. <u>22129</u></p> <p>It was MOVED by Council Member Cunningham, duly seconded, to pass and adopt Resolution No. <u>22129</u>.</p> <p>Questions were fielded and answered by Kelly Gottschalk, Assistant City Manager, and Michael Rankin, City Attorney.</p> <p>The motion PASSED by a roll call vote of 7 to 0.</p>	<p><u>INFORMATION TECHNOLOGY</u></p>
<p>15. ELECTIONS: CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE CITY PRIMARY ELECTION HELD AUGUST 27, 2013 (CONTINUED FROM THE MEETING OF SEPTEMBER 2, 2013) (CITY WIDE) SEP10-13-355</p> <p>Resolution No. <u>22130</u></p> <p>It was moved by Vice Mayor Scott, duly seconded and PASSED by a roll call vote of 7 to 0, to pass and adopt Resolution No. <u>22130</u>.</p>	<p><u>CITY CLERK</u></p>
<p>16. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS (CITY WIDE) SEP10-13-359</p> <p>It was moved by Council Member Fimbres, duly seconded and CARRIED by a voice vote of 7 to 0, to approve the appointments in the report.</p> <p>Council Member Cunningham announced his personal appointment of Davita Mueller to the Pedestrian Advisory Committee, and Don Goebel to Human Relations Commission.</p>	<p><u>CITY CLERK</u></p>
<p>17. ADJOURNMENT 8:48 p.m.</p>	

The next regularly scheduled meeting of the Mayor and Council will be held on Tuesday, September 24, 2013, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.