

MAYOR AND COUNCIL – STUDY SESSION

ADMINISTRATIVE ACTION REPORT AND SUMMARY JANUARY 23, 2008

FROM: CITY MANAGER



Mayor Pro-Tempore Nina J. Trasoff called the Study Session to order at 3:33 P.M. in the Mayor and Council Chambers, City Hall Tower, Tucson, Arizona.

COUNCIL MEMBERS PRESENT: Pro-Tempore Nina J. Trasoff, (Ward 6)
Council Member Regina Romero, (Ward 1)
Council Member Rodney Glassman, (Ward 2)
Council Member Karin Uhlich, (Ward 3)
Council Member Shirley C. Scott, (Ward 4)
Council Member Steve Leal, (Ward 5)

ABSENT/EXCUSED: Mayor Robert E. Walkup

STAFF: Mike Hein, City Manager
Mike Rankin, City Attorney
Deborah Rainone, Assistant City Clerk

AGENDA ITEM/MAYOR AND COUNCIL ACTION	STAFF ACTION
<p>1. Discussion of Sustainable Building Requirements (City-Wide) – SS/JAN23-08-18</p> <p>Council Member Romero MOVED and it was duly seconded to direct staff to expand the planning process for the creation a green building program to include all properties within the Tucson City limits and to develop a process for creating a citywide sustainable building program and to return to the Environment, Planning and Resource Management Subcommittee with the draft process in 90 days.</p> <p>Motion PASSED by a vote of 6 to 0 (Mayor Walkup absent/ excused).</p>	<p><u>DIR. OF CONSERVATION AND SUSTAINABLE DEVELOPMENT</u> is responsible</p>

AGENDA ITEM/MAYOR AND COUNCIL ACTION	STAFF ACTION
<p>2. Discussion of State of Arizona Department of Liquor License and Control (DLLC) Procedures; Direction to Staff to Provide DLLC with the City's Top Concerns and Priorities Relating to Liquor Laws and DLLC Practices (City-Wide) – SS/JAN23-08-19</p> <p>Council Member Leal MOVED and it was duly seconded that the recommendations provided in the attached memorandum (memorandum from Asst. Chief Villasenor dated January 19, 2008), modified as discussed, and adding local teleconferencing opportunities to the list of recommendations.</p> <p>Motion PASSED by a vote of 6 to 0 (Mayor Walkup absent/ excused).</p>	<p><u>CITY ATTORNEY</u> is responsible</p>
<p>3. Pima Association of Governments (PAG) Management Committee’s Recommendations to Regional Council and the RTA Board (City-Wide) – SS/JAN23-08-22</p> <p>Council Member Scott MOVED and it was duly seconded to endorse the PAG Management Committee’s Recommendations to the Regional Council and the RTA Board.</p> <p>Motion PASSED by a vote of 6 to 0 (Mayor Walkup absent/ excused).</p>	<p><u>DIR. OF TRANS.</u> is responsible</p>
<p>4. 2008 Gem, Mineral, and Fossil Showcase Update (Citywide) – SS/JAN23-08-21</p> <p>Presentation was made, no formal direction was given.</p>	
<p>5. Mayor and Council Subcommittee Reports (City-Wide) – SS/JAN23-08-14</p> <p>Council Member Glassman announced that the next Neighborhoods & Public Safety Subcommittee Meeting will be held at Sahuaro High School on February 29th from 11:30 a.m. – 1:00 p.m. and there will be a presentation on homeland security resources.</p>	

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<p>5. Mayor and Council Subcommittee Reports (City-Wide) – SS/JAN23-08-14 (Continued from previous page)</p> <p>Mayor Pro-Tempore Trasoff announced that the next Rio Nuevo: Downtown, Arts, Culture & History Subcommittee is meeting on Thursday January 24th at 5:00 p.m. in Mayor and Council Chambers. On the agenda is a Review of the Status of Downtown Projects, and also an Affordable and Workforce Housing Presentation and Discussion.</p>	
<p>6. Mayor and Council Regional and National Committee Reports (City-Wide) – SS/JAN23-08-15</p> <p>Council Member Scott provided an overview on the duties and functions of the National League of Cities (NLC) and announced that the 2008 lobbying agenda of the NLC is: full funding for federal transportation programs, strengthening stabilizing housing finance system, help local communities by supporting federal crime intervention and prevention programs and law enforcement programs, full funding for the new energy and environment block grant program, and comprehensive immigration reform.</p> <p>Council Member Uhlich announced that the Arizona Town Hall topic for this year is Land Use, Challenges and Choices for the 21st Century. The Tucson community meeting will be held Tuesday January 29th at noon at the Pima Community College downtown campus.</p>	
<p>7. Mayor and Council Discussion of Regular Agenda – SS/JAN23-08-16</p> <p>Council Member Romero requested that Regular Agenda Item #5.b.3 be pulled for separate consideration.</p> <p><u>5.b.3. - Liquor License Applications - Person/Location Transfer(s); Circle K Store #1798, City 90-07</u></p> <p>Council Member Leal requested that Consent Agenda Item 7-H be continued to a date uncertain.</p> <p><u>7-H. - Memorial: Urging The President And Congress Of The United States To Terminate The War In Iraq Immediately</u></p>	

AGENDA ITEM/MAYOR AND COUNCIL ACTION

STAFF ACTION

<p>8. Mayor and Council Discussion of Future Agendas – SS/JAN23-08-17</p> <p>There were no requests for future agenda items.</p>	
<p>ADJOURNMENT: 5:12 p.m.</p> <p><i>VERBATIM TAPE RECORD AVAILABLE UPON REQUEST FROM THE CITY CLERK'S OFFICE</i></p>	



MEMORANDUM

DATE: January 19, 2008

TO: City Clerk's Office

FROM: Asst. Chief Villasenor
Investigative Services Bureau

SUBJECT: Concerns Regarding Title IV Laws and Procedures

In addition to the enforcement of liquor laws under Arizona Revised Statutes Title IV, the Tucson Police Department Special Investigations Division is responsible for processing liquor license applications for the City of Tucson. As a result of enforcing Title IV laws and processing liquor license applications, the following points would increase the efficiency and effectiveness for regulating liquor laws within the City of Tucson.

- **Time Frame for Investigation and Recommendation** - The procedure currently requires the appropriate governing body to hold a meeting and make a recommendation to approve, disapprove or offer a "no-recommendation" decision on the application. This action must take place within sixty (60) days of the filing of the application. During the time the governing body is processing the application, the Department will conduct a background check of the applicant.

Once the application has been filed, copies sent to the governing body to distribute to their investigative branches, an investigation thoroughly completed and a decision from the governing body to be rendered on the application requires additional time. According to DLLC in Phoenix, the returns from DPS criminal history checks are over a month due to the backlog for the entire state.

The proposal would start the 60-day time clock from the date the DPS fingerprint and criminal history returns are completed and made available to the local agency.

- **Over Saturation of Liquor Licenses** – ARS. 4-201(G) requires that in all proceedings before the governing body of a city or town, the board of supervisors of a county or the board, the applicant bears the burden of showing that the public convenience requires that the best interest of the community will be substantially served by the issuance of a license.

Therefore, with that in mind, it should be unreasonable to expect that a depressed area of the community would not be substantially served with 40 or more liquor licenses within a mile square. In contrast, a more affluent area of the community is deemed to be substantially served with maybe one-quarter of the amount of licenses.

Currently, the importance of over saturation in a particular area of a community is not received favorably especially if it is an application for an existing license.

- **Mandatory Quarterly Audits of Restaurant Licenses** – ARS. 4-205.02(G2) defines a "Restaurant" as an establishment that derives at least forty per cent of its gross revenue from the sale of food, including sales of food for consumption off the licensed premises if the amount of these sales included in the calculation of gross revenue from the sale of food does not exceed fifteen per cent of all gross revenue of the restaurant.
The current practice requires that receipts are only required if and when DLLC decides to conduct a random audit of the restaurant.

Therefore, with the computer capability of modern registers being able to separate the sales derived from food from those of liquor, it would not be difficult to require a restaurant to submit quarterly receipts as proof they have remained in compliance.

- **Access to Interstate Identification Index (III) Checks of Applicants** - This is a database of records for offenders who have been arrested, and whose fingerprints were sent to the FBI. Currently, there are 47 states participating in III submissions. However, the Arizona Revised Statutes only allow DPS to run criminal checks of applicants for liquor licenses. The City of Tucson has adopted an ordinance that allows the applicant's fingerprints to be sent directly from the City of Tucson to DPS for the criminal history check. The Police Department is not involved in the initial filing of the application, so it is incumbent upon the City Clerk's Office to direct the applicant to the Tucson Police Department for fingerprinting.

This procedure will still run into the backlog of fingerprints being submitted to DPS for the criminal history check. If the state statute was amended to allow for local police agencies to run the Interstate Identification Index (III) check of liquor applicants this would greatly increase the efficiency of the criminal background investigations being completed in a timely manner.

- **Enforcement of Non-Contiguous Patio** - ARS. 4-101 defines "Premises" or "licensed premises" as the area from which the licensee is authorized to sell, dispense or serve spirituous liquors under the provision of the license. Premises or licensed premises includes a patio that is not contiguous to the remainder of the premises or licensed premises if the patio is separated from the remainder of the premises or licensed premises by a public or private walkway or driveway not to exceed thirty feet, subject to rules the director may elect to establish criteria for noncontiguous premises. Also, the direct transport of the alcohol to the patio is lawful.

At issue is the ease for an underage person to exit their vehicle in the parking lot and meet a friend in the patio area where they could consume spirituous liquor without being checked. Also, an individual may choose to take their drink to the patio area, but continue to their vehicle with the drink.

The recommendation would be to not allow non-contiguous patios.