



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
On August 4, 2003_____

Date of Meeting: February 10, 2003

The Mayor and Council of the city of Tucson met in regular session, in the Mayor and Council Chambers in City Hall, 255 West Alameda, Tucson, Arizona, at 7:44 p.m., on Monday, February 10, 2002, all members having been notified of the time and place thereof.

1. ROLL CALL

The meeting was called to order by Mayor Walkup, and upon roll call those present and absent were:

Present:

José J. Ibarra	Council Member Ward 1
Carol W. West	Council Member Ward 2
Kathleen Dunbar	Council Member Ward 3
Shirley C. Scott	Vice Mayor Ward 4
Steve Leal	Council Member Ward 5
Fred Ronstadt	Council Member Ward 6
Robert E. Walkup	Mayor
Kathleen S. Detrick	City Clerk

Absent/Excused:

None

Staff Members Present:

James Keene	City Manager
Mike Letcher	Deputy City Manager
David Modeer	Tucson Water Director
Ernie Duarte	Development Services Acting Director
Michael House	City Attorney
Veronica Sainz	City Clerk's Office
Nora Dunn	Recording Secretary
Rebecca Partin	Recording Secretary

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Chaplain John A. Zinck, Veteran's Hospital Chapel, after which the pledge of allegiance was presented by the entire assembly.

Presentations: Post-Polio Awareness Week

Mayor Walkup proclaimed the week of March 23 to March 30, 2003 to be "Post – Polio Awareness Week."

Frank Fristina said it was good that post – polio sequelae was being recognized with honor and compassion rather than disbelief and disdain, as was the case in the past. Many of its sufferers were not aware of what was happening to them. He works at city hall and needed naps more often than is allowed. People are discovering late that there is still something wrong and he was grateful that this awareness was coming about.

Lucy Anderson said she wanted "Post – Polio Awareness Week" to have meaning not only to the city council, but also to the public. Fifteen to twenty years ago, after the on-set of polio, most survivors started feeling symptoms. Most of the polio survivors had made peace with it; they thought polio was in the past and had made the adjustments that needed to be made and gone on with their lives. However, polio had not made its peace with them. The symptoms returned and reminded them that they had had polio. It caught the victims and their families unprepared, it caught the medical field unprepared, and it caught the insurance companies unprepared. They want to reach out not only to other polio survivors, but also to the public. They want to educate others so that polio survivors will know what is happening to them and so that other people will be more sensitive to the fact that although polio is a disease of the past, for its survivors it is very much a part of the present.

Ed Boyles said one of the things post – polio sequelae does is make its victims lose a word, or a name, but he is buffered against that. He knows that the mayor and council have a lot of problems and post – polio survivors have their own problems. He submitted copies of a letter from Mia Farrow and urged the council to read it thoroughly. He said there are about two million polio survivors in America. That did not really register with him, so he reduced it to some numbers that he thinks can be understood. America has two million and Tucson has 6,000 polio survivors in its midst. That is about 3 of every 500 people. It is more prevalent; there are more polio survivors than survivors of Parkinson's, spinal cord injuries, or multiple sclerosis combined. It is not just some rare disease. All polio survivors have had brain damage that manifests itself in sleeplessness and fatigue. Many people who are fatigued are probably polio survivors and do not realize that that is the cause. Anyone above age 45 is a potential polio survivor.

His group, Polio Epic, consists of about 300 people and their job with this proclamation is to find those 6,000 people in Tucson and acquaint them with the horrible demon they are facing in the future. He said they have had trouble with doctors. Some refuse to even acknowledge that such a thing exists. A lot of the time they say patients are imagining it. Mr. Boyles said they are not. In the last year, his group has had some support. The West Nile Virus is a kissing cousin to polio and researchers are using the word polio. Suddenly doctors want to know about polio. Polio survivors are happy to let them know and they are benefiting from that, but the West Nile Virus will strike everyone,

whereas polio struck mainly children. The West Nile Virus will get everyone and anyone who gets it suffers symptoms similar to polio. Several of those who get it will die or be crippled. It is a virus, just like polio.

Mayor Walkup thanked everyone and said the proclamation would get the message out.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced that city manager's communication number 87, dated February 10, 2003, would be received into and made a part of the record. He also announced that this was time for members of the mayor and council to report on current events. He asked if there were any reports from any member of the council.

A. Recycling

Council Member West said on Saturday, she and 24 others visited the recycling plant and learned that one of the biggest impediments the workers have is that people put plastic bags into the blue barrels. The plastic bags cannot go into the blue barrels, they must be returned to the grocery store. They gum up the works at the recycling plant. In December, the city made \$60,000 from recycling, which is more than it made last year, so people are recycling, and she thanked them for that.

B. Ward II Senior Valentine's Tea

Council Member West announced that on Friday, February 14, 2003, which is Valentines Day, she would be hosting a senior valentine's tea at 7575 E. Speedway. All seniors and anyone else who wished were invited to attend.

C. Ward II Town Hall on Open Space

Also, Council Member West said a town hall meeting will be held on February 18, 2003, at Eastside City Hall on preserving open space. An outstanding panel of experts will be advising on how to preserve open space and the importance of doing so. The public was welcome to attend.

D. "Children of Alcoholics Week"

Council Member Ronstadt said that this morning Compass Health Care initiated its "Children of Alcoholics Week", February 9 - 15, 2003, which is a celebration of hope and healing. The organizers asked him to share some information with the community about children of alcoholics. Children of alcoholics live in every neighborhood at every social and economic level. The condition affects not only their lives, but also every school playground and community as a whole. In general, children of alcoholic parents do less well in academic measures, they also have high rates of school absenteeism, and are more likely to drop out. Sons of addicted parents perform worse on all of the domain measuring school achievement tests, using the Peabody Individual Achievement Test Revised, which includes general information, reading recognition, reading comprehension, total reading, mathematics and spelling. Signals of risk in the family include, but are not limited to, family history of substance abuse, tobacco or drug use and

alcohol abuse by family members, parental mental health problems, poor parent/child communication, low parental monitoring and support. One of the largest indicators is little quality time spent with children. These children are the future and they need to be strong and educated to be the workforce that everyone needs and depends on. The theme is "Lets Break the Cycle" and more information could be obtained by contacting Compass Health Care.

E. Birth Announcements

Council Member Ronstadt announced the birth of his niece, Mia Graciella Ruth Ronstadt, born at 5:14 a.m., this morning.

Hearing no other announcements, Mayor Walkup also announced the birth of a daughter to his chief of staff and wife.

F. Gem and Mineral Show

Mayor Walkup announced that things were going extraordinarily well with the city's gem and mineral show. He thought the report would be that it is bigger and better than ever, certainly better than last year's and asked all Tucson citizens to recognize the visitors and how important the gem and mineral show is to the city. He asked people to be kind to the gem and mineral people; Tucson wants them to come back every year forever.

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

Mayor Walkup announced that city manager's communication number 88, dated February 10, 2003, would be received into and made a part of the record and asked for the city manager's report.

A. Gem and Mineral Show Update

James Keene, city manager, following up on the Mayor's comments about the gem show, said he was getting reports from exhibitors that this year is a rebound year for them. The city installed its own in-house phone system over the last couple of months at the convention center and offered phone service for the first time during the American Gem Trade Association Show. Just the one at the convention center brought \$8,000 of new revenue to the TCC during the past week, so there is a lot of volume.

B. Economic Development Leadership Award

On February 6, 2003, the office of economic development was given the Southern Arizona Industry and Aerospace Alliance's Economic Development Leadership Award at its dinner, held in conjunction with the 4th Annual Trade Show Expo 2003. The award acknowledges that, "There is no question that the city of Tucson's Office of Economic Development has stepped up to the plate to make a difference in very tough times". It goes on to compliment Kendall Bert and the staff for the work they are doing on behalf of the more than 1,000 cluster companies, which represent 60,000 employees in the community.

C. Sun Tran Outreach Updates

Mr. Keene reminded the public that the outreach of Sun Tran into the community stretches far beyond public transit and shuttle service to the rodeo and University of Arizona football games. On February 1st Sun Tran gave handicapped and elderly residents of the Coronado Hotel and Apartments a warm place to stay while Tucson firefighters extinguished a fire at the downtown complex. On February 6 Sun Tran safely transported about 50 children and workers from a north side daycare center to a nearby school after a city employee found a pipe bomb near the daycare center. Sun Tran has been doing a lot of little things.

D. Diamondback Bridge

Lastly, Mr. Keene said the Diamondback bridge had captured two more awards, one from the Associated General Contractors, "Build America Award". The second was from the American Council of Engineering Companies', "National Honor Award". That brought the total of awards that the Diamondback bridge has won to five. It has been featured in three national publications.

11. ZONING: (C9-02-23) LEVIS/SUTTON – CAMP LOWELL DRIVE, SR/RX-1 TO C-1; CITY MANAGER’S REPORT (Taken out of order without objection)

Kathleen S. Detrick, city clerk, announced that she had received a written request that this item be continued.

14. PUBLIC HEARING: RINCON SOUTHEAST SUBREGIONAL PLAN AMENDMENT, MAP DETAIL #9, WILMOT/JULIAN WASH (Taken out of order without objection)

Kathleen S. Detrick, city clerk, advised that the applicant of the subject plan amendment had submitted a written request that it be withdrawn.

5. CALL TO THE AUDIENCE, for persons desiring to speak

Mayor Walkup announced that this was the time any member of the public was allowed to address the mayor and council on any issue that was not on the agenda and that there would also be a call to the audience at the end of this meeting. Speakers would be limited to five-minute presentations for a total of 20 minutes. He had received written requests from people wishing to speak and would call on them in the order in which he received their requests.

A. Contracting City Services

Richard Cook, representing the American Federation of State, County, and Municipal Employees, Local 449, again asked the council to take a long hard look at any contracting out it intended to do. It will cost the city more than it does to do the jobs in-house with city employees who will do a better job.

B. Cleanup of Debris in Washes

Rex Faucher, said on Tuesday, February 4th, workers from the streets division started to set up to do work on Atterbury Wash between Golf Links and Pantano Wash. On Wednesday, they began the work. He usually walks three and half to four miles through the area every morning, so he did not think anything of it, because last year they were clearing debris from the wash at the bridge on Golf Links. He noticed they were strip cutting about 300 yards of vegetation from the wash, which is approximately a third of a mile long and a 120 feet wide at the base. He asked the workers what the plan was and they said they had orders to remove everything from the wash. Mr. Faucher said that did not seem right and the worker agreed, saying he had asked his boss about it and he said that is what they were told to do. Mr. Faucher told him he was going to talk to the council member's office to see what they had on it. He spoke to Jim Fearon at ward four, Vice Mayor Scott's office, and he jumped on it right away. Mr. Faucher went home and within half an hour, everything stopped. He heard from one of the department supervisors at transportation and the man from streets who was in charge of the area, Manny Ortega. Mr. Ortega called him and said everything was stopped; they were going to take a look at it. Mr. Faucher said he was curious and after looking at it, he talked with some neighbors. Apparently what happened was that someone had complained about a debris build up and wanted something done. They were concerned about flooding.

Mr. Faucher said it is almost impossible for the area to flood because in the early 90's or late 80's, the bank was re-enforced. It is probably 25 feet from the base of the wash to the upper area and during the 1983 and 1995 floods there probably was not more than three feet of water in the wash. His basic concern was how something like this gets started. How does a group of opinions get into the system so that everybody can be happy, or at least a medium happy. He said he had submitted some brochures, a photograph of the area that was stripped and of the northern area that is still natural. He said that area is home to several different species of wildlife. There are two mating hawks in the area, which was a little bit of an exaggeration because he had only seen them fooling around, not mating. He said he was just curious and would like to see if he could get some input. He knows it is a big job. The workers from streets told him they had already taken out 14 truckloads of material. Mr. Faucher asked where they had taken it to and they told him the dump. He said that is another thing. They could probably take 150 loads. He understood the city could not go in and handpick the garbage out or move it around, but he would like to see a more definitive process, maybe some input from the neighbors. He would like to get an idea of what was going on because it did not seem that any sort of process was being followed in this situation.

C. Freedom of Information and Lists

Bill Katzel, said as a former freedom of information and privacy act officer for the federal government, FOI policy is pretty simple: 1) follow the law, and 2) error on the side of the public's right to know. Jane Amari, publisher of the *Arizona Daily Star*, gave the city of Tucson's administration poor marks on its policy, when compared to other government entities she deals with; and the city has to do better if it expects to get a passing grade with its policy. Regarding lists - the interim policy is, as he has testified before, a list in another form. The city has to do better with the final procedure. In a December 30, 2002 memorandum, he recommended a well thought out oversight committee to assist the city manager in formulating the final procedure and he stood by that recommendation. He said these two issues are very important and need to

be taken seriously if the city is to maintain credibility with the public at the ballot box in November. He thanked Council Member Leal for having the courage to fight for a majority of the mayor and council to get these two items on its study session and he looked forward to having an open public dialogue on both of them.

D. Property at the end of Fresno Street

Sharon Otstot, introduced Jill Harmon, same address, and said they were present to petition the mayor and council to have a portion of city property ceded to the Maxwell Neighborhood Association. Using a display, she pointed out a piece of city property south of Anklam, toward Broadway, saying it is in complete disarray. There is a small road, Carapan, that runs up through Pima Foothills Apartments and Fresno runs only from Shannon Road to a dead end. She pointed out an alley, the Haven Ridge Town Homes, and the home where she and her daughter live. There is a cul-de-sac at the end of Fresno under the aegis of the street department and it is a complete mess. Apparently, the city asked the Haven Ridge Association, when it was first formed, to give them that small piece for a cul-de-sac at the end of Fresno and it has been with the city since that time, but apparently, no one knew anything about it.

There have been two minor cleanups by people from Pima Foothills and her neighborhood association. They pulled out drug needles and an old sofa; the area is a magnet for crime. It is not possible to get into the cul-de-sac directly, a car cannot be driven there, and it is full of trees. The neighborhood would like to do something with it. There is a program called Pro Neighborhoods and they would like to submit a grant proposal and do something with the property. Various things have been suggested and the benefit to the city is that use of the property would discourage crime and save the city money because city workers would not have to maintain it, although they never have. It is an awful mess. Since the week before Christmas, there have been 12 peeping tom incidents and those are step one of sex crimes. Detective Kathi Kelley may be assigning a plainclothes officer. A peeping tom walked from her house, which is the end one of six in one building, jumped from her wall, which is on the level of the alley, and up onto her roof, then walked all the way down. He has not been caught. She asked the council to cede that property to the neighborhood, or let them buy it for a nominal price. They have no treasury; but they want to clean up the property and turn it into something.

Mayor Walkup asked if anyone else wished to address the council. There was no one.

6. CONSENT AGENDA – ITEMS A THROUGH I

Mayor Walkup announced that the reports and recommendations from the city manager on the consent agenda items would be received into and made a part of the record. He asked the city clerk to read the consent agenda items.

A. TELECOMMUNICATIONS: AUTHORIZING THE EXECUTION OF A SETTLEMENT AGREEMENT WITH ACSI OF PIMA COUNTY AND FOR THE TRANSFER OF THE FRANCHISE AGREEMENT TO XSPEDIUS MANAGEMENT COMPANY OF PIMA COUNTY

- (1) Report from City Manager FEB10-03-82 CITY-WIDE

- (2) Resolution No. 19500 relating to competitive telecommunications; authorizing and approving the execution of a settlement agreement between the City of Tucson and ACSI of Pima County, Inc.; approving the transfer of the Franchise Agreement from ACSI of Pima County, Inc., to Xspedius Management Company of Pima County, L.L.C.; and declaring an emergency.
- B. INDUSTRIAL DEVELOPMENT: AUTHORIZATION FOR THE ISSUANCE OF BONDS BY THE INDUSTRIAL DEVELOPMENT AUTHORITY REGARDING THE JEFFERSON COMMONS STAR RANCH PROJECT
- (1) Report from City Manager FEB10-03-81 CITY-WIDE
 - (2) Resolution No. 19501 relating to industrial development; approving and authorizing the issuance by the Industrial Development Authority of the City of Tucson, Arizona of its Index Rate Revenue Bonds (Jefferson Commons Star Ranch Project), Series 2003, in an aggregate principal amount not to exceed \$50,000,000 relating to the financing or refinancing of the acquisition, construction, rehabilitation, improvement, equipping and operation of an office building and the payment of certain costs incidental thereto; and declaring an emergency.
- C. TUCSON CODE: AMENDING (CHAPTER 2) REGARDING ADMINISTRATIVE CONTINUITY IN CITY DEPARTMENTS
- (1) Report from City Manager FEB10-03-85 CITY-WIDE
 - (2) Ordinance No. 9811 relating to administration; amending Section 2-2 of Article I, Chapter 2 of the Tucson Code, deleting paragraph and adding Section 2-2(1) absences of City appointive officers or heads of office, duty of senior employee or employee designated by appointive officer to act during absence and 2-2(2) vacancies in appointive officers and heads of office positions, duty of senior employee or employee designated by appointing authority to act; and declaring an emergency.
- D. GRANT AGREEMENT: WITH THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY FOR UNDERAGE DRINKING PREVENTION PROGRAM
- (1) Report from City Manager FEB10-03-83 CITY-WIDE
 - (2) Resolution No. 19502 relating to law enforcement; approving and authorizing execution of a Grant Agreement with the Governor's Office of Highway Safety for Underage Drinking Program; and declaring an emergency.
- E. REAL PROPERTY: RIGHT-OF-WAY ACQUISITION FOR THE HARRISON ROAD, SPEEDWAY BOULEVARD TO OLD SPANISH TRAIL DISTRICT PAVING IMPROVEMENT
- (1) Report from City Manager FEB10-03-84 WII

(2) Resolution No. 19503 relating to real property; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn, if necessary, certain real property for the Harrison Road, Speedway Boulevard to Old Spanish Trail District Paving Improvement; and declaring an emergency.

* F. FINANCE: SALE OF JUNIOR LIEN HIGHWAY USER REVENUE REFUNDING BONDS, SERIES 2003A (CONTINUED FROM MEETING OF FEBRUARY 3, 2003)

(1) Report from City Manager FEB10-03-94 CITY-WIDE

** G. FINANCE: CONTINGENCY FUND TRANSFER FOR LEAGUE OF UNITED LATIN AMERICAN CITIZENS

(1) Report from City Manager FEB10-03-95 CITY-WIDE

(2) Resolution No. 19504 relating to finance; approving and authorizing the transfer of Four Thousand Two Hundred Dollars (\$4,200) from the Contingency Fund to Organization 001-183-1838-268, for League of United Latin American Citizens; and declaring an emergency.

*** H. FINANCE: CONTINGENCY FUND TRANSFER FOR THE DIA-V PROJECT

(1) Report from City Manager FEB10-03-96 CITY-WIDE

(2) Resolution No. 19506 relating to finance; approving and authorizing the transfer of Two Thousand Five Hundred Dollars (\$2,500) from the Contingency Fund to Organization 001-183-1838-268, for Dia-V Project; and declaring an emergency.

I. FINANCE: CONTINGENCY FUND TRANSFER FOR THE TUCSON SIDEWINDERS' FIRST PITCH EVENT

(1) Report from City Manager FEB10-03-97 CITY-WIDE

(2) Resolution No. 19507 relating to finance; approving and authorizing the transfer of Three Thousand Fifty-Six Dollars and Eighty-Five Cents (\$3,056.85) from the Contingency Fund to Organization 001-183-1838-268, for Tucson Sidewinders' First Pitch Event; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

It was moved by Vice Mayor Scott, seconded by Council Member Leal, that consent agenda items A through I, with the exception of items F, G, and H, be passed and adopted and the proper action taken.

* Continued to February 24, 2003, at the request of staff

** See page 10

*** See page 11

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;
Vice Mayor Scott and Mayor Walkup

Nay: None

Absent/Excused: None

Consent agenda items A through I, with the exception of items F, G, and H, were declared passed and adopted by a roll call vote of 7 to 0.

6. CONSENT AGENDA – ITEM G

G. FINANCE: CONTINGENCY FUND TRANSFER FOR LEAGUE OF UNITED LATIN AMERICAN CITIZENS

Resolution No. 19504

Relating to finance; approving and authorizing the transfer of Four Thousand Two Hundred Dollars (\$4,200) from the Contingency Fund to Organization 001-183-1838-268, for League of United Latin American Citizens; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

Council Member West said she wanted to add \$2,200 to the League of United Latin American Citizens' event scheduled for March.

Vice Mayor Scott said she wished to add \$2,200 also.

Council Member Ibarra said he would donate \$2,200.

Council Member Ronstadt said his ward would contribute \$2,200.

Council Member Leal said that was good, it brought the total contribution to \$13,000.

It was moved by Vice Mayor Scott, seconded by Council Member Leal, that resolution no. 19504, with the above contributions, be passed and adopted.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;
Vice Mayor Scott and Mayor Walkup

Nay: None

Absent/Excused: None

Resolution no. 19504 was declared passed and adopted by a roll call vote of 7 to 0.

6. CONSENT AGENDA – ITEM H

H. FINANCE: CONTINGENCY FUND TRANSFER FOR THE DIA-V PROJECT

Resolution No. 19506

Relating to finance; approving and authorizing the transfer of Two Thousand Five Hundred Dollars (\$2,500) from the Contingency Fund to Organization 001-183-1838-268, for Dia-V Project; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

Council Member Leal said this request was for \$2,500 and he and Council Member Ibarra were going to do an even split at \$1,250 each.

It was moved by Council Member Leal, seconded by Council Member Ibarra, that resolution no. 19506, allocating \$1,250 each from wards one and five, be passed and adopted as amended.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members barra, West, Dunbar, Leal, and Ronstadt;
Vice Mayor Scott and Mayor Walkup

Nay: None

Absent/Excused: None

Resolution no. 19506 was declared passed and adopted by a roll call vote of 7 to 0.

7. LIQUOR LICENSE APPLICATIONS

Kathleen S. Detrick, city clerk, advised that there were no liquor license applications on the agenda.

8. PUBLIC IMPROVEMENTS: COUNTRY CLUB ROAD, BROADWAY BOULEVARD TO 22ND STREET DISTRICT LIGHTING IMPROVEMENT (CONTINUED FROM THE MEETING OF FEBRUARY 3, 2003)

Mayor Walkup announced that city manager's communication number 92, dated February 10, 2003, would be received into and made a part of the record. He asked the city clerk to read resolution no. 19470 by number and title only.

Resolution No. 19470

A resolution of the Mayor and Council of the City of Tucson, declaring its intention to improve by the construction of street lighting, approving assessment district diagram, determining that the proposed work or improvement is of more than local or ordinary public benefit, and determining that improvement bonds be issued by the City of Tucson to represent the costs and expenses thereof, under the provisions of Title 48, Chapter 4, Article 2, Arizona Revised Statutes and amendments and supplements thereto, said improvement to be known as the "Country Club Road, Broadway Boulevard to 22nd Street District Lighting Improvement," all being within the City of Tucson, Arizona.

Mayor Walkup asked the council's pleasure.

Council Member Leal said he thought there were people in the audience that wished to address the council.

Mayor Walkup said he had received a number of written requests from people who wished to speak and hoped they were not from people who spoke to the council at its meeting last week.

James Bentley, said he has worked for Tucson Electric Power for 18 years. He works as a lineman/cableman and considers himself to be an expert on wood poles and composite poles. Since the poles have to be raised, they will be changed from wooden structures to steel structures. He works many call-outs from drunken drivers that run into utility poles and he could honestly say that every automobile accident with a steel pole involved fatalities. Given that the poles have to be raised to accommodate the new light structures, they will be steel structures. He is a wood pole inspector for TEP and they do not have any wooden poles that are more than 60 feet tall. Raising them from 60 to 70 feet will require that they be steel poles.

Ed Hubert, distributed petitions asking the mayor and council to reject the proposed resolution signed by property owners representing 52% of the total property on Country Club between Broadway and 22nd Street and 75% of privately owned property. The city owns 32% of the property. He said 75% of the property owners, the lineal footage of property owners, are against the resolution. The reasons were many and he expressed some of them last week, as did other speakers. One of the primary reasons he was opposed to the resolution was that it not only created the district, but also adopted the plan proposed by city staff. He talked a little bit about that last week and wanted to refresh the council members' memory on a couple of things. One is that the plan involves a six-foot sidewalk immediately adjacent to the curb on the eastside of Country Club between Broadway and Camino Campestre, which is where Reid Park starts. The second part of the plan involves a sidewalk on the west side of the Street, which is set three feet back from the street to accommodate the power poles, as referred

to by the previous speaker. A third part of the plan involved tearing out along Broadway Village on Country Club the tile sidewalk that is also on Broadway in front of Broadway Village. That tile sidewalk was built as a part of Broadway Village when it was the out of town shopping center in the 1930's. As for the sidewalk on the eastside of Country Club, a six-foot wide sidewalk from the curb, extending inward to the property, his objection to that was very simple. First of all, it is not safe and second, it is not a sidewalk that fits in a residential neighborhood. The city built the sidewalk in Reid Park setback three feet from the curb.

Mr. Hubert said that since last week, in fact in this morning's paper, there was an article about the path around Randolph Park. Jim Conroy, parks superintendent and city employee, said that the city is trying to work out a new alignment for the path to move it further off 22nd Street. He said a realigned path would be worth the extra time and money, and it would be a much better environment for people. That is exactly the point Mr. Hubert and other speakers were making last week. Not only are they opposed to the plan, they do not want the streetlights and they do not necessarily want the sidewalk right next to the curb. However, if the council was going to adopt the proposal, he asked that they not do that at this meeting, and that they ask the city planning department to come back with a better plan for the neighborhood. The issue was raised last week by one of the council members that the city council and mayor were obligated to pass the resolution because it is named in promotional literature distributed by the city in a 2000 bond election. Mr. Hubert asked the city manager before this meeting if that was true, if it was information provided to the voters, but as yet, he had not gotten any response. If it is not, the council is not obligated to adopt the resolution. They have the right to turn it down.

Council Member Ibarra asked if the city attorney could respond.

Mayor Walkup asked if the proposed improvement was included in a public vote for the bonds. Did the council have to follow the process or could they dispense with the proposal at this meeting if they so chose?

James Keene, city manager, said the resolution, if the council did not reject it, presumably could go forward with the protests. The protest issue raised the question that if more than 51% protested the improvement it would automatically die. However, even if less than 51% protested it, when it came back to the council, the council could decide to deny it also, without having to have a majority vote of the protests. Obviously, that potential, included in the process itself, anticipates that the council has discretion in deciding whether to proceed with an approval. The facts are that the ballot question itself did not list this specific project. The promotional materials identified the project. However, because of the fact that it is always anticipated on these kinds of projects that they have to go through a process, it does allow for the potential for protests, or does allow the potential for the council to determine that it does not want to proceed. It was his opinion that if the council wanted to make the decision at this meeting not to proceed, they could do that and accept the petition and the perspective from the community.

Mayor Walkup asked if there were any further questions.

Council Member Leal said to put it differently, even if the language had been in the ballot, the way to understand it was not as creating an obligation to construct but merely creating the capacity to construct. He asked people to think about what it would mean if it

said do it. It would mean that the majority of the voters in town would have the right to force the residents of an improvement area to pay and that is not how it is supposed to be, so they know that is not the case. It clearly is just a question of capacity and the affected property owners have the right to say “no” the same as the council does, as the manager stipulated.

Council Member Ibarra said to see things go a lot faster, if there were four votes the council could reject the proposed improvement at this meeting.

Mayor Walkup noted that Council Member Leal had started this process and asked him to respond.

Council Member Leal said it was his intent to vote the proposed resolution down, but out of respect for the process, which has started, and not having been at the meeting last week, he wanted to hear from a few of the property owners. He did not see anyone saying there is a minority that want the improvement.

It was moved by Council Member Leal, seconded by Council Member West, that the council not adopt resolution no. 19470.

Council Member Ronstadt said he would provide a minority position. As he said last week, this was a voter approved issue and Council Member Leal’s statement about creating the capacity to do a project and then not doing that project really demonstrates a lack of integrity to the voters. The council puts these questions to the voters with the expectation that they will be built. The county’s 1997 bond program is a wonderful example where the voters voted on several transportation packages and the county has stolen the money from that bond package to pay for other things, to do other things, and not do what the voters were promised. He believes in the process and the process says that the council should go through a protest period and after that protest period they can vote whether or not to go forward with the project. He said they were not forcing projects down anyone’s throat; they were following a process generated by the voters. He said if there were four votes to kill the proposal at this meeting that was fine, but he was not going to support doing that, because he thought that would be a violation of the integrity of the ballot. The council would be violating the trust of the voters and that is not what the process is about.

Council Member West said she would support the motion, but she wondered if the issue would have to go to the bond oversight committee.

Mr. Keene said he did not think so, as far as any formal action is needed, but he would include it as an update in the next report to that committee. They would certainly have an opportunity to express their opinion, but he did not think it was a prerequisite to the council’s action.

Mayor Walkup asked if there was any further discussion.

Council Member Leal said he needed to take issue with Council Member Ronstadt’s comments. The council would be at loggerheads and acting in bad faith with the electorate when an item was listed if the bonds were paying for all of it. However, in the case of an improvement district where the cost goes directly on the backs of the

individual property owners on the street, he says it is a capacity question and a majority cannot act as tyrants and make individuals pay money in an improvement district. That is what was different about this issue. The council was not acting in bad faith with the voters.

Council Member West called the question.

Mayor Walkup said he would let Council Member Ronstadt respond.

Council Member Ronstadt said the reality is that most bond elections have improvement districts. The city just finished one on Pima Street that had protests. The council followed through with the process. There were not enough protests and the city moved forward on the project. That is the way things work and the dishonesty was saying that this was something special. It is not. Almost every single bond program has an improvement district attached to it. That is why the state law requires and provides for a protest period.

Mayor Walkup said that was very enlightening and asked for the roll call.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, and Leal; Vice Mayor Scott and Mayor Walkup

Nay: Council Member Ronstadt

Absent/Excused: None

The motion to deny resolution no. 19470 was declared carried by a roll call vote of 6 to 1.

9. WATER: ACQUISITION OF RESIDENTIAL WATER SERVICE IN 49ER COUNTRY CLUB ESTATES - AMENDED PURCHASE AGREEMENT

Mayor Walkup announced that city manager's communication number 93, dated February 10, 2003, would be received into and made a part of the record. He asked the city clerk to read resolution no. 19505 by number and title only.

Resolution No. 19505

Relating to water; authorizing the adoption of an agreement for purchase of certain assets of 49er Water Company, Inc.; and declaring an emergency.

Kathleen S. Detrick, city clerk, advised that she had a technical correction to the caption of the resolution. After the phrase, ". . . and declaring an emergency", the words "Repealing resolution 19143", should be added. The first sentence of section one of the resolution should read "Resolution 19143 adopted by the Mayor and Council March 4, 2002, hereby is repealed." The remaining portion of section one stays the same. The

subject resolution simply provides notice that the prior resolution is being repealed and replaced by this agreement.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member West, seconded by Council Member Ibarra, that resolution no. 19505, as corrected by the city clerk, be passed and adopted.

Council Member West asked staff to explain where the reclaimed line is coming from, the permit, and the timeline. She thought those were some basic facts that might be helpful to the council in making a decision.

David Modeer, director of Tucson water, said the origination of the reclaimed line would be in the Udall Park area, where the city has capacity in a large line and then will extend on out to the 49er's Country Club. Along the way, water department staff will spend time trying to market reclaimed water to other potential users along the system. He thought there were a couple of schools and some other users, perhaps some large lot owners with turf grass that might want to utilize capacity that could be built into the pipeline. Due to federal permits that need to be acquired in crossing the Tanque Verde Creek, 404 permits, it would probably take nearly two years to get through the permitting process. During that period of time staff will be contacting all of the potential users along the route to make sure the capacity is built into the pipeline to be able serve anyone else who would like to have reclaimed water for use.

Mayor Walkup asked if there was any further discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;
Vice Mayor Scott and Mayor Walkup

Nay: None

Absent/Excused: None

Resolution no. 19505 was declared passed and adopted by a roll call vote of 7 to 0.

10. ZONING: (C9-01-27) WINGED FOOT – TUCSON BOULEVARD, R-1 AND R-2 TO P, ORDINANCE ADOPTION

Mayor Walkup announced that city manager's communication number 90, dated February 10, 2003, would be received into and made a part of the record. He asked the city clerk to read ordinance no. 9814.

Ordinance No. 9814

Relating to zoning: amending zoning district boundaries in the area located southeast of Fifth Street and Tucson Boulevard in Case C9-01-27, Winged Foot – Tucson Boulevard, R-1 and R-2 to P; and setting an effective date.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member Ronstadt, seconded by Council Member West, that resolution no. 9814 be passed and adopted.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;
Vice Mayor Scott and Mayor Walkup

Nay: None

Absent/Excused: None

Ordinance no. 9814 was declared passed and adopted by a roll call vote of 7 to 0.

11. ZONING: (C9-02-23) LEVIS/SUTTON – CAMP LOWELL DRIVE, SR/RX-1 TO C-1; CITY MANAGER'S REPORT (CONTINUED FROM MEETING OF JANUARY 27, 2003)

Kathleen S. Detrick, city clerk, reiterated that she had received a written request from Planning Resources to continue this item to March 3, 2003.

It was moved by Council Member West, seconded by Vice Mayor Scott, and carried by a voice vote of 7 to 0, to continue this request to March 3, 2003.

12. PUBLIC HEARING: TUCSON CODE (CHAPTER 6) ADOPTION OF THE 2002 NATIONAL ELECTRICAL CODE WITH LOCAL MODIFICATION

Mayor Walkup announced that city manager's communication number 79, dated February 10, 2003, would be received into and made a part of the record. He also announced that this was the time and place legally advertised for a public hearing on the adoption of the 2002 National Electrical Code with local modifications. He asked for staff's presentation.

Ernie Duarte, acting director of development services, said the city's construction codes are periodically updated to include new additions of the national codes with local modifications. On October 5, 1999, the mayor and council adopted the 1999 National Electric Code. Now, the 2002 edition has been published. The proposed local modifications represent the recommendations of the city-county electric code review committee and staff. This unanimous recommendation represents expert input from a committee made up of electrical engineers, contractors, architects, and utility representatives.

Mayor Walkup announced that the public hearing was scheduled to last for no more than one hour. Speakers would be limited to five-minute presentations. He asked if anyone wished to address the council. There was no one.

It was moved by Vice Mayor Scott, seconded by Council Member West, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Walkup asked the city clerk to read ordinance no. 9812 by number and title only.

Ordinance No. 9812

Relating to Buildings, Electricity, Plumbing and Mechanical Code, amending the Tucson Code Chapter 6, Buildings, Electricity, Plumbing and Mechanical Code, Article 4 Electricity, Division 1 Electrical Code, Section 6-84 Electrical Code adopted by adopting the 2002 National Electrical Code with local modifications as the Electrical Code for the City of Tucson; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member Ronstadt, seconded by Council Member West, that ordinance no. 9812 be passed and adopted.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;
Vice Mayor Scott and Mayor Walkup

Nay: None

Absent/Excused: None

Ordinance no. 9812 was declared passed and adopted by a roll call vote of 7 to 0.

13. PUBLIC HEARING: TUCSON CODE (CHAPTER 6) ADOPTING THE UNIFORM ADMINISTRATIVE CODE AND INTERNATIONAL ENERGY CONSERVATION CODE AND AMENDMENTS TO THE BUILDING AND RESIDENTIAL CODES WITH LOCAL MODIFICATIONS

Mayor Walkup announced that city manager's communication number 86, dated February 10, 2003, would be received into and made a part of the record. He also announced that this was the time and place legally advertised for a public hearing on the above codes. He asked for staff's presentation.

Ernie Duarte, acting director of development services, said the city's construction codes are periodically updated to include new additions of the *National Codes*. The proposed ordinance updates the *Administrative and Energy Codes* and amends the *Building and Residential Codes* adopted on February 2001, to coordinate with other codes that have been adopted since that time. They include the 2000 Edition of the *International Fire Code* and the *New Jersey Rehabilitation Code*.

Mayor Walkup announced that the public hearing was scheduled to last for no more than one hour and speakers would be limited to five-minute presentations. He asked if anyone wished to address the council. There was no one.

It was moved by Council Member Ibarra, seconded by Council Member West, carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Walkup asked the city clerk to read ordinance no. 9813 by number and title only.

Ordinance No. 9813

Relating to Buildings, Electricity, Plumbing and Mechanical Code; amending the Tucson Code Chapter 6, Buildings, Electricity, Plumbing and Mechanical Code, Article 1 in General, Section 6-1 Administrative Code adopted by adopting the Uniform Administrative Code 1997 Edition with local modifications; amending Article 3 Buildings, Division 1 Section 6-38 Residential Code adopted by adopting new local amendments; amending Article 3, Buildings, Division 1 Section 6-34 Building Code adopted by adopting new local amendments; amending Article 3 Buildings, Division 1 Section 6-40 Energy Conservation Code by Adopting the International Energy Conservation Code 2000 Edition with local modifications; repealing Article VIII Spa/Pool Code; reserving Article VIII; establishing penalties; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member Ibarra, seconded by Council Member Leal, that ordinance no. 9813 be passed and adopted.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;
Vice Mayor Scott and Mayor Walkup

Nay: None

Absent/Excused: None

Ordinance no. 9813 was declared passed and adopted by a roll call vote of 7 to 0.

14. PUBLIC HEARING: RINCON SOUTHEAST SUBREGIONAL PLAN AMENDMENT, MAP DETAIL #9, WILMOT/JULIAN WASH (Taken out of order without objection)

Kathleen S. Detrick, city clerk, reiterated that a written withdrawal of the application for this amendment had been received from Dan Elder of D.R.E. and Associates.

It was moved by Council Member Leal, seconded by Vice Mayor Scott, and carried by a voice vote of 7 to 0, to accept the request to withdraw submitted by the applicant.

15. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

Mayor Walkup announced that city manager's communication number 78, dated February 10, 2003, would be received into and made a part of the record. He asked if there were any appointments.

It was moved by Council Member Dunbar, seconded by Vice Mayor Scott, and carried by a voice vote of 7 to 0, to appoint Sarah Evans to the citizens' water advisory committee.

Mayor Walkup asked if there were any personal appointments by any member of the council.

Council Member Dunbar announced her personal appointment of Pamela Crim to the small business commission.

Mayor Walkup asked if there were any further appointments. There were none.

16. CALL TO THE AUDIENCE, for persons desiring to speak

Mayor Walkup announced that this was the time any member of the public was allowed to address the mayor and council on any issue. Speakers would be limited to five-minute presentations. He asked if anyone wished to address the council. There was no one.

17. ADJOURNMENT: 8:52 p.m.

Mayor Walkup announced that the council would stand adjourned until its next regularly scheduled meeting to be held on Monday, February 24, 2003, at 7:30 p.m., in the Mayor and Council Chambers in City Hall, 255 W. Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the city of Tucson, Arizona, held on the 10th day of February, 2003, and do hereby certify that it is an accurate transcription of the magnetic tape record of said meeting.

MANAGEMENT ASSISTANT

KSD:DA:DP:mjv
Pr agnst tp:sac