



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on September 8, 2003_____

Date of Meeting: February 24, 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 7:34 p.m., on Monday, February 24, 2003, 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
Karen Thoreson	Assistant City Manager
Albert Elias	Comprehensive Planning Task Force Director
Emily Nottingham	Community Services Director
Paul Swift	Neighborhood Resources Director
Michael House	City Attorney
Mike Rankin	Senior Assistant City Attorney
Debra Armenta	City Clerk's Office
Sandra Slate	Recording Secretary
Dana DeLong	Recording Secretary

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Minister Nathan Whittom, Mount Calvary Baptist Church, after which the pledge of allegiance was presented by the entire assembly.

PRESENTATIONS

Mayor Walkup presented a certificate of appreciation to Raye S. Nelson, naming him an extraordinary master teacher and citizen, for being honored with the Milken Family Foundation Award.

Mayor Walkup presented a certification of appreciation to Juan Ramos, Tucson Water employee, for being an extraordinary citizen, identifying a potential threat upon discovering a pipe bomb February 5, 2003.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced that city manager's communication number 111, dated February 24, 2003, would be received into and made a part of the record. He also announced that this was the time any member of the mayor and council could report on current events and asked if there were any reports. There were none.

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

Mayor Walkup announced that city manager's communication number 112, dated February 24, 2003, would be received into and made a part of the record. He also announced that this was the time for the city manager to report on current events and asked for his report.

A. Hope VI Project

James Keene, city manager, said on February 25, 2003, the city, along with residents of the South Park Neighborhood, would host the kickoff for the next phase of the South Park Hope VI Revitalization Project. The mayor, Council Member Leal, and other council members invited the public to the event, which will highlight recent neighborhood and public housing resident achievements. Those achievements include completion of an entrepreneurial class for business owners, youth programs, and adult education. The event will also mark the beginning of construction of new housing in the area.

B. Engineer of the Year for 2003

In the area of transportation, Mr. Keene congratulated Brooks Keenan for being named Engineer of the Year for 2003 by the American Society of Professional Engineers, Southern Arizona Chapter. Mr. Keenan, an engineer with the transportation department engineering division, was cited for his technical engineering achievements over a 28-year professional career. The award was presented at the 2003 Engineers' Week Banquet the previous week. Mayor Walkup was the keynote speaker.

C. Diamondback Bridge

Mr. Keene said the Diamondback Bicycle/Pedestrian Bridge won yet another award. The Arizona Chapter of the American Public Works' Association selected the bridge as its public works "Project of the Year" in the category of structures. That brought the total awards that the bridge had won to seven and it had been featured in three different professional magazines.

5. CALL TO THE AUDIENCE:

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

A. Objectionable Radio Show

Ed Pluess, complimented the mayor and council on their positive leadership and hoped they would forgive him for lowering the tenor of the meeting by informing them of a problem that is affecting children throughout Greater Tucson. He submitted materials and said there is a local radio program weekdays from 5:30 to 10:00 a.m., where the hosts instructed a young female guest to remove clothing, including her brassiere, duct taped another young female guest to a chair and duct taped her mouth shut. The show's hosts regularly use profanity and read pornographic literature on the air, they insult visitors to Tucson, and frequently refer to women and individuals of various national backgrounds in degrading and abusive ways. This radio program is also broadcast in Reno, Nevada. Tucson is allowing these individuals to assault its reputation via radio broadcasts every morning in another state. Is it a matter of turning a dial or getting a life? He did not think so. If that kind of behavior was being conducted on the streets, he thought the individuals would be facing some serious criminal charges.

He said he was fully aware that the Federal Communications' Commission has sole jurisdiction over all radio broadcasts. He has submitted two complaints so far, however, not only is the FCC slow in acting on such issues, they act only when citizens make specific complaints with particular details. The process is not designed for efficiency to begin with and one squeaky wheel would not be enough to get this outrageous and disgraceful conduct satisfactorily addressed.

The FCC uses contemporary community standards to determine violations of indecency. He asked if the city's community standards are such that they condone or wink an eye about this. Unless more people get involved their standards are that low by default. He said this is a difficult and complex, but real problem for Tucson. He asked the council to use whatever influence they had to call for the immediate removal of this irresponsible programming to a more appropriate time, so that his children and all the rest of the children in the greater Tucson area who are supposed to be given guidance in their youth, do not have this resource available while they are getting dressed and ready for school.

B. Mayor's Fitness Program

Bill Katzel, regarding the Mayor's Fitness Challenge and Tap versus Map, said on Monday, February 4, 2003, he spoke before the council and pledged to give up chocolate as a part of his commitment to the mayor's fitness challenge. That pledge was a total abatement program (TAP). During the week of January 27, 2003, Mr. Katzel gave up 95% of his chocolate intake. The mayor said that was not good enough, so he increased his effort and was proud to say that his chocolate abatement program (CAP) is at 97%. He was before the council to propose a modified abatement program (MAP) instead of the total abatement program. An article entitled "Chocolate's Secret Power" appeared in February's *Prevention Magazine*. The article states that just one ounce of dark chocolate packs a big antioxidant wallop. The article further stated that dark chocolate high in cocoa is rich in antioxidant flavinoids called flavinols, which lower the risk of heart disease, lung cancer, prostate cancer, asthma, and type 2 diabetes. Accordingly, he was recommending a CAP that switched from TAP to a MAP. The council could even commission an ad hoc subcommittee on the benefits of chocolate (BOC). The subcommittee could validate the *Prevention Magazine* article.

He and his wife did a cost benefit analysis on dark chocolate and their conclusion was that the two-ounce bar of See's dark chocolate with almonds is the best bang for the buck. It can be had for a \$1.50 at any retail See's Candy Store. Better yet, it can be bought from fund raising organizations for just a dollar. In conclusion, he recommended an interim procedure for a CAP that switches from a TAP to a MAP of 97% and one ounce or less per day of dark chocolate. This would give the mayor and council subcommittee on BOC time to do its research on dark chocolate.

C. Flags for the Veterans' Hospital

Elinor Patton, asked the council members who were veterans of any military service to raise their hands and said the reason she was present was because she is a volunteer at the Veterans' Hospital. Before long the hospital's ambulatory care facility will be open. There will be a grand opening in May and patients will be accepted in July. The hospital has a new entrance that will become an avenue of flags. She asked the council if one of their family members who was a veteran has died and they are keeping a burial flag stashed away in a cedar chest or drawer someplace that they look at and wish they knew what to do with. The Veterans' Hospital can put it to good use. They need 62 burial flags; they are five feet by nine and a half feet, big enough to cover a casket. If any of the council had one she said they had her address and name and could contact her. If they did not have one, she asked them to consider donating \$53 for a new flag. The flags will be flown on special occasions, such as Washington's birthday. April 27 was left out. It is Ulysses S. Grant's birthday, and hers.

Mayor Walkup Mayor Walkup said anyone who has a burial flag should get in touch with Ms. Patton.

D. Memorial on the War in Iraq

Robert Black, said he was present on an issue that was very important to him and that was the proposal by the city council to address

the Iraq war. He was rather surprised that the city wished to formally protest the war. Local leaders, council members, needed to focus on the immediate needs of Tucson. Some people have said that the war in Iraq will have direct bearing on Tucson by the loss of firefighters, police officers, and nurses to that cause. That focus is moot for there are many young men and women waiting in line to join the police force and fire service of the city. Many workers and employers of this community are well aware of the responsibilities that each has to fulfill their individual obligations in the armed services of the community. The city faces a greater issue regarding the police, fire, and medical services of the city. The central theme of these issues focuses on the budget and adequate funds for these services to meet the needs of the community. Rather than focusing on the loss of individuals in such services, the city council needs to focus on the needs of the community and let the government at the federal level deal with the national issues. City officials need to do their jobs at the local level rather than at the national level.

It has also been proposed that Osama Bin Laden is the one the US should go after. Mr. Black said that is a tactical diversion from the fact that Osama Bin Laden could very well be supplied with the tools that Saddam has hidden in the desert or somewhere else. When cities protest the actions of the United States in matters of this nature, it in effect allows the arming of Osama Bin Laden and Saddam. Going after Saddam with the United Nations, in effect cuts off the potential source of weapons that can be used against the United States in the future.

By supporting a resolution against the war, the city of Tucson will be slapping all of those serving in the armed services boldly in the face. Such behavior is meant to demoralize those currently fulfilling the call given to them. Such demoralization supports the cause of Saddam and Osama Bin Laden. Saddam and Osama boldly smile and welcome such support. Osama wants to destroy the United States and support for such a resolution accomplishes that because it allows both Saddam and Osama to continue their efforts.

It can be argued that individuals and cities are exercising the rights that are given to citizens of the United States, but when issuing resolutions of protest, what and who would the city of Tucson be supporting. Who is the city pledging allegiance to by issuing such protest? Who is it that welcomes support of this nature? In the past, aiding and abetting the enemy had its consequences. He pleaded with and urged the mayor and council members to think about the impact the proposed resolution would have on the community and those who protect and defend the freedoms the country has.

Mayor Walkup asked if anyone else in the audience wished to address the council.

E. Item 15, Lease Agreement with Colton Properties

Dick Bayse, said he was concerned with an article in the Saturday issue of the *Arizona Daily Star*, concerning item 15, the lease agreement with Colton Properties. It appears that the deal would not be that good.

Mayor Walkup interjected that the council could not allow comments under call to the audience on items that are listed on the agenda. Mr. Bayse might be able to comment at the time the item is heard.

Council Member Ibarra said Mr. Bayse would also have an opportunity to comment at the second call to the audience at the end of the meeting.

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

6. **CONSENT AGENDA – ITEMS A THROUGH Q**

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. **ASSURANCE AGREEMENT: (S02-024) JULIAN RANCH, LOTS 1 TO 104 AND COMMON AREAS “A” AND “B”**
 - (1) Report from City Manager FEB24-03-102 WV
 - (2) Resolution No. 19508 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval of a final plat for the Julian Ranch Subdivision, Lots 1 to 104 and Common Areas “A” and “B”; and declaring an emergency.

- B. **FINAL PLAT: (S02-024) JULIAN RANCH, LOTS 1 TO 104 AND COMMON AREAS “A” AND “B”**
 - (1) Report from City Manager FEB24-03-103 WV
 - (2) The City Manager recommends that after the approval of the Assurance Agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

- C. **ASSURANCE AGREEMENT: (S00-043) BURGESS MOBILE HOME ESTATES, LOTS 1 TO 10 AND COMMON AREAS “A” AND “B”**
 - (1) Report from City Manager FEB24-03-100 WV
 - (2) Resolution No. 19509 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval of a final plat for the Burgess Mobile Homes Estates Subdivision, Lots 1 to 10 and Common Areas “A” and “B”; and declaring an emergency.

- D. **FINAL PLAT: (S00-043) BURGESS MOBILE HOME ESTATES, LOTS 1 TO 10 AND COMMON AREAS “A” AND “B”**
 - (1) Report from City Manager FEB24-03-101 WV

(2) The City Manager recommends that after the approval of the Assurance Agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

* E. ASSURANCE AGREEMENT: (S01-039) WESTVIEW ESTATES, LOTS 1 TO 14

(1) Report from City Manager FEB24-03-107 WI

(2) Resolution No. 19510 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval of a final plat for the Westview Estates Subdivision, Lots 1 to 14; and declaring an emergency.

** F. FINAL PLAT: (S01-039) WESTVIEW ESTATES, LOTS 1 TO 14

(1) Report from City Manager FEB24-03-104 WI

(2) The City Manager recommends that after the approval of the Assurance Agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

G. ASSURANCE AGREEMENT: (S01-003) RANCHO SANTA FE, LOTS 1 TO 31 AND COMMON AREAS "A", "B", "C" AND "D"

(1) Report from City Manager FEB24-03-98 WIV

(2) Resolution No. 19511 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval of a final plat for the Rancho Santa Fe Subdivision, Lots 1 to 31 and Common Areas "A", "B", "C" and "D"; and declaring an emergency.

H. FINAL PLAT: (S01-003) RANCHO SANTA FE, LOTS 1 TO 31 AND COMMON AREAS "A", "B", "C" AND "D"

(1) Report from City Manager FEB24-03-106 WIV

(2) The City Manager recommends that after the approval of the Assurance Agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

I. CITY VEHICLES: ANNUAL APPROVAL – EXEMPTION OF CERTAIN CITY VEHICLES FROM IDENTIFICATION MARKINGS

(1) Report from City Manager FEB24-03-99 CITY-WIDE

* See page 10

**See page 10

(2) Resolution No. 19512 relating to city motor vehicles; pursuant to A.R.S. § 38-538.03(B), exempting certain city motor vehicles from the requirement of bearing the designation of the City of Tucson; making the exemptions effective on February 27, 2003, to continue through and including February 26, 2004; and declaring an emergency.

* J. FINANCE: SALE OF JUNIOR LIEN HIGHWAY USER REVENUE REFUNDING BONDS, SERIES 2003A (CONTINUED FROM MEETING OF FEBRUARY 10, 2003)

(1) Report from City Manager FEB24-03-110 CITY-WIDE

K. FINANCE: CONTINGENCY FUND TRANSFER FOR COMMUNITY HEALTH FAIR

(1) Report from City Manager FEB24-03-114 WII

(2) Resolution No. 19513 relating to finance; approving and authorizing the transfer of One Thousand Dollars (\$1,000) from the Contingency Fund to Organization 001-183-1838-268, for Community Health Fair; and declaring an emergency.

L. REAL PROPERTY: VACATION AND SALE OF PROPERTY BETWEEN SILVERBELL ROAD AND THE SILVERBELL GOLF COURSE TO MONTEREY HOMES CONSTRUCTION, INC.

(1) Report from City Manager FEB24-03-118 WI

(2) Ordinance No. 9815 relating to real property; vacating and declaring certain City-owned real property lying between Silverbell Road and the Silverbell Golf Course to be surplus, and authorizing the sale thereof to Monterey Homes Construction, Inc.; and declaring an emergency.

M. INDUSTRIAL DEVELOPMENT: AUTHORIZATION FOR THE ISSUANCE OF TUCSON INDUSTRIAL DEVELOPMENT AUTHORITY JOINT SINGLE FAMILY MORTGAGE REVENUE BONDS

(1) Report from City Manager FEB24-03-115 CITY-WIDE

(2) Resolution No. 19514 relating to industrial development; approving and authorizing the issuance by the Industrial Development Authority of the City of Tucson, Arizona of Joint Single Family Mortgage Revenue Bonds, Draw Down Series 2003, in one or more subseries, in an aggregate principal amount not to exceed \$100,000,000 in furtherance of the Joint Single Family Mortgage Revenue Bond Draw Down Program of 2003 of the Industrial Development Authority of the City of Tucson, Arizona, and the Industrial Development Authority of the County of Pima; and declaring an emergency.

*Continued to March 3, 2003 at the request of staff

N. INTERGOVERNMENTAL AGREEMENT: WITH THE CITY OF TUCSON PARKS AND RECREATION DEPARTMENT AND THE DEPARTMENT OF ECONOMIC SECURITY FOR A THERAPEUTIC RECREATION GRANT

- (1) Report from City Manager FEB24-03-117 CITY-WIDE
- (2) Resolution No. 19515 relating to intergovernmental agreements; approving and authorizing execution of a contract extension of the intergovernmental agreement with the Arizona Department of Economic Security, Division of Developmental Disabilities, for a Therapeutic Recreation Grant; and declaring an emergency.

O. APPROVAL OF MINUTES: June 25 and 26, 2001; February 4, 2002; March 4, 2002; April 15 and 22, 2002; May 6 and 20, 2002; June 3 and 24, 2002

P. PARKS AND RECREATION: DESIGNATION OF JACOME PLAZA (MAIN LIBRARY PLAZA) AS AN URBAN PARK

- (1) Report from City Manager FEB24-03-116 WVI
- (2) Resolution No. 19518 relating to Parks and Recreation; authorizing and approving designation of Jacome Plaza (Main Library Plaza) as an urban park; transferring operation and maintenance of same to Parks and Recreation Department; establishing Jacome Plaza boundaries; and declaring an emergency.

Q. REAL PROPERTY: VACATION AND SALE OF SURPLUS CITY PROPERTY LOCATED AT 425 NORTH DODGE BOULEVARD TO CHRISTINE BARFIELD

- (1) Report from City Manager FEB24-03-124
- (2) Ordinance No. 9818 relating to real property; vacating and declaring certain city property at 425 N. Dodge Boulevard to be surplus property, and authorizing the sale thereof to Christine Barfield; 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 Q, with the exception of items E, F, and J, be passed and adopted and the proper action taken.

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 Q, with the exception of items E, F, and J, were declared passed and adopted by a roll call vote of 7 to 0.

6. CONSENT AGENDA – ITEMS E AND F

E. ASSURANCE AGREEMENT: (S01-039) WESTVIEW ESTATES, LOTS 1 TO 14

Resolution No. 19510

Relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval of a final plat for the Westview Estates Subdivision, Lots 1 to 14; and declaring an emergency.

F. FINAL PLAT: (S01-039) WESTVIEW ESTATES, LOTS 1 TO 14

Mayor Walkup asked the council's pleasure.

Council Member Ibarra asked if one person from the neighborhood could address the council.

David Piper, said he is one of the neighbors of the subject property and realizing that the Westview Estates parcel will be developed the neighbors had two basic expectations regarding any development. One, that it enhance and respect the existing neighborhood, meaning that it fit the neighborhood, and two, that it be designed in compliance with all applicable codes and regulations and be sensible to applicable guidelines. Specifically, the neighbors hoped for a development that follows the natural contour of the land, minimizes grading and filling and leaves as much natural undisturbed area as possible, preserves an existing wash and has lots of sizes that are 16,000-square-foot minimum.

Unfortunately, the neighbors believe that at each turn the applicable statutes, codes, and regulations have been interpreted by development services and the city attorney to maximize the benefit to the developer to the detriment of the existing neighborhood. The Arizona Revised Statutes stipulate that land annexed by the city from the county cannot be zoned in order to allow for densities and uses greater than those allowed by the county just prior to annexation unless it goes through a rezoning process. The current design, however, has lot sizes smaller than the 16,000-square-foot minimum that the county would have allowed and that are the minimum size of lots that are in the adjacent neighborhood.

The developer is being allowed to use cluster development and lot reduction options that are allowed under the city's zoning classification, but in ways that would not have been allowed under the county zoning despite the state statute. The Tucson Building Code does not allow for fills greater than two feet unless residential developments have lots greater than 24,000-square feet. The developer is being allowed to create four lots in the development that are just over 24,000-square feet in size, so that fills of up to 11 feet,

almost 12 feet, are being allowed. The increased lots are widened rather than lengthened. In other words, the house pads are still just as close to the neighbors as before. In addition, the development now has seven undersized lots rather than four and the list continues regarding drainage channels and the detention/retention basin.

Mr. Piper said the neighbors do not perceive development services and the city attorney as being neutral or fair. The neighbors have had to point out numerous design problems to development services in order for any action to be taken. The city attorney has, he understood, even gone so far as to tell council members that they may be held personally liable and subject to lawsuits if they exercise their authority to deny approval of the final plat. He urged the council not to approve the final plat and to remand it back to the development staff. Short of that, he asked for a three-week continuance during which time no permits of any kind are issued so that the neighborhood has a realistic opportunity to work with the developer to achieve a mutually satisfactory design.

Council Member Ibarra said he has gone over this several times, but he wanted it on the record that everyone agreed. He had talked to his colleagues and he thought they all agreed with a three-week continuance and during those three weeks he wanted to make sure that no permits were issued for anything, grading or anything else. He asked if a motion could be made for a three-week continuance and state that no permits would be issued.

Michael House, city attorney, said grading permits could be issued as of the present time based upon the tentative plat approval and the city could not as a condition of the continuance prevent the issuance of those permits. In other words, the motion could not legally prohibit the issuance of the grading permits during the period of the continuance.

Council Member Ibarra said that meant a continuance would not matter because if he wanted to the property owner could go out tomorrow and start grading once he got the permits. There was no way the council could stop the permits at this time.

Mr. House said that was correct, the city did not have the ability to not issue the grading permits that comply with the applicable regulations and they could be issued based upon the tentative plat, not the final plat.

Council Member Ibarra said that was the rock and the hard place. The council could continue the item, but it did not seem practical to do that when the developer could go out tomorrow and make adjustments. He thought that left one option for the council and that was to deny the final plat and remand it to city staff to work out the issues between the developer and the neighborhood. That was the only recourse the council had. They need to stand up for neighborhoods and this was a perfect time to do that. He would have preferred the continuance to see if something could be worked out although he was pessimistic about it, but at the same time the fact is that even if it was continued the permits could still be issued. It did not make any sense to go with a continuance. He was asked if the neighborhood could tell the council what they thought.

Mayor Walkup said one thought came to mind as he was listening to the city attorney. If the developer voluntarily held off for a three-week period and sat down with the neighbors, allowing the council to become intermediaries on the issue, it might save the council from having to make a motion to deny. It might be a reasonable compromise if the developer would volunteer to do that.

Council Member Ibarra asked that the developer say, for the record, that he would not pull those permits in the next three weeks.

Mayor Walkup said he thought that was a reasonable request.

John Tate, developer of the Westview Neighborhood, said he thought the council should vote. He has worked with the neighbors, as Council Members Ronstadt and West could attest. He had a meeting with the neighbors approximately four weeks ago where he voluntarily compromised on some finishes to the detention basin that the neighbors were concerned about. He agreed not to gunite the visible slope; to make the standard grouted rock riprap where it would be more aesthetic. In addition, other members of the neighborhood group were not present at this meeting. The neighbors actually hired an attorney to work with them and Mr. Tate met with them, and negotiated details and those neighbors were not present. He said it was difficult to negotiate with the neighborhood when their appointed leadership did not even show up. He did not know what happened to them or who the neighborhood was. Mr. Tate asked if every person in the neighborhood had veto rights over his project or was there a collective spokesperson for the neighborhood group that he had not spoken to. The main adversary is the Williams family who lives next to the property and next to where the detention basin is proposed.

Mr. Tate said that he can grade that detention area as soon as he pulls his grading permit as the city attorney stated. He was of the opinion that the Williams family and he will never agree. They have to agree to disagree because his engineer and hydrologist have approved the plans with their stamps and their personal liability. The professional staff that the council hires to protect the city from all liability issues, the city attorney, all of the staff at development review, have reviewed the plan and say that he is in conformance. Mr. Williams is, to the best of his knowledge, an engineer with the Arizona Department of Transportation, and he disagrees with the preponderance of other professional engineers for the project.

Mr. Tate did not see how he could reach a compromise with Mr. Williams and he thought delaying the project further would only cost him money. He thought that would be the only purpose of a delay. A number of years ago with a similar situation on the west side, in Council Member Ibarra's ward, the exact same thing happened. Council Member Ibarra got the rest of the council members to go along with a continuance on a final plat of Mr. Tate's and what it did was cost him legal fees. Mr. Tate had to hire Mr. Schorr of Lewis and Roca, who wrote a letter to the city attorney's office outlining the ordinances and state laws, which the city attorney had already come up with, that showed he was in compliance. Once Mr. Schorr wrote that letter and worked it out, his project was back on the agenda and the project was approved.

Mr. Tate said he does not have these issues in any other ward where he develops. The council just approved another one of his plats in ward 4 that was on the consent agenda. Three weeks ago the whole council voted 7 to 0 on a rezoning he did that was written up in the newspaper as a cooperative effort between the neighborhood, the ward office and himself as the developer. He said it was not fair to paint him as a bad guy when he has a good track record all over the city, but for some reason in ward one there seems to be a lack of ability on the city's part, at the council level, to follow the rules. He said that was basically the position he was in.

Mayor Walkup called on Council Member Ibarra and said he took that as a no.

Council Member Ibarra agreed that Mr. Tate was saying no to a continuance. There was nothing between him and Mr. Tate at all. Council Member Ibarra said he stands up for his neighborhood, those he represents who put him in office, and if they want to, can keep him in office for a long time. That was what he was doing. When they ask him to stand up and fight for them, he does. It had nothing to do with Mr. Tate personally, or with himself personally. It was just the fact that the neighbors asked him to be their advocate. They put him in the position of council member to be their advocate and he was going to fight to the end for them because that was what he promised to do when he knocked on their door and asked for their vote.

It was moved by Council Member Ibarra, seconded by Council Member West, to deny the final plat, resolution no. 19510, under item E, and the assurance agreement under item F, for the Westview Estates Subdivision, and remand them to city staff for resolution of the following seven critical issues with the neighborhood: The hillside development zone, the zoning requirements, the differential fill requirements, the detention/retention basin requirements, the detention/retention basin setback, the detention/retention basin guidelines, and the detention/retention basin drainage items.

Council Member Ibarra said the seven issues in his motion would be sent back to city staff for as long as it takes to get some sort of agreement between the neighborhood and the developer. The final plat will not be scheduled on the agenda for however long that takes.

Mayor Walkup asked if there was any discussion.

Council Member Dunbar said Mr. Tate should listen very carefully because she had a feeling that his plat could be voted down at this meeting. She asked in what position would that put Mr. Tate and where is he in the process of his development. If the project is not approved at this meeting, will he have to start the whole process over?

Mr. House said if the motion as stated passed, the plat would go back to staff, and there would have to be some resolution of the issues that Council Member Ibarra listed between the applicant and the neighbors. In the event that the issues are not resolved to everyone's satisfaction, presumably the plat would not come back to the council for approval.

Mayor Walkup asked if there was any further discussion.

Council Member Leal said it was not so much that the issues needed to be resolved for the neighbors, but that when the council does reevaluate those issues they need to make sure that the way they analyze each of them and reach the conclusion to approve the plat, is as valid as they thought it was when they did it the first time. If there are valid questions about the way the analysis was done, it should be thoroughly investigated. If there is a question that it is only supposed to be two feet of fill and the developer is doing 11, is there really something wrong? It sounded like something was wrong. The issue about the project not being denser than it would have been had it stayed in the county he thought mattered a lot because the city made a commitment to the residents when they were annexed.

The city makes a lot of commitments when it annexes and he thought it was really important that they make sure they have not inadvertently put themselves in a position of acting in bad faith with the people who signed annexation petitions. It would be a bad and damning message to send to the community to deal with the city because they will never recover from it. He thought it was incumbent on the council to be circumspect, hardheaded, and not have the ego investment so that if there is an error someplace they can analyze it again.

Vice Mayor Scott said if she understood what Mr. Tate said there is at least one couple, or person, who would not come to terms with his project, yet there seemed to be a split in the neighborhood association, which is a disconnect from the leadership and those people who were at this meeting. She asked if that was correct.

Mr. Tate said yes and the council could ask them.

Council Member Ibarra asked whom Mr. Tate had been dealing with that supports the project.

Vice Mayor Scott said she just wanted to get a sense of a split.

Mr. Tate said he had dealt with Ms. Schefalli (ph).

Vice Mayor Scott said she was not really looking for names she was looking for numbers. Would Mr. Tate say in fairness that this is a split neighborhood, that there are a few, or there is an even split, or is it lopsided? She was just trying to get a sense of his perspective.

Mr. Tate said he did not have the numbers. He held a meeting at the request of Council Members West and Ronstadt at the El Rio Neighborhood Center and the neighbors went over some of these same issues. Mr. Tate's engineers were there and he agreed to some of the changes. There was an attorney from the DeConcini firm, someone named Stuart (ph), and also Ms. Schefalli, one of the neighbors who is an attorney, was there. He said they assumed the role of spokespersons for the neighborhood. If that had changed no one had told him. He had gone through all of his negotiations and discussions with those two people and he met with them after that. He said it would be interesting for the council to ask its staff, Mr. Vogelsberg and Mr. Gross, what they will do with the plat if the council sends it back to them. He said they have already approved it and he thought that would be an interesting dialogue for the council to have with staff.

Mayor Walkup said he did not think the council needed to do that because the motion sends the project into a period where it can be reviewed. He said this issue was the kind of thing the mayor and council dislike almost more than anything else they have to deal with. He could not say how displeased he was going to be to have to vote for rescinding a plat that has already been approved because the developer and the neighborhood do not agree on things. The council approves zonings and plats hundreds of times and they get the neighbors and the developers to agree. He said this was going to be a very distasteful thing and the council would expect both sides to come to the party. The council wants it resolved and they want it resolved so that Mr. Tate can go ahead with his development and the neighbors can feel safe, secure, and comfortable in

their neighborhood. That is what the council wanted to happen. He thought the motion was valid and the council should push ahead with it. He said his office was available to assist in the process of amiable negotiations. He asked if there was any further discussion.

Council Member West said usually when she works with a developer, and she does so often, she finds that the developer and the neighborhood meet each other halfway. In these negotiations, it sounded to her like that had not happened. Therefore, she was going to vote for the motion. The process had to start all over again on this case. She was very disappointed because she expected more cooperation from everyone and it did not sound like that happened.

Mr. Tate said he has been working with Ms. Schefalli.

Mayor Walkup said the council knew that.

Mr. Tate said he is a very simple person and he likes things to either be black or white. His preference was of course a vote to approve it, but if the council did not want to approve the plat he asked that they deny it so he could go on.

Mayor Walkup said life is rarely black and white and in these types of situations there is a lot of gray.

Mr. Tate said he understood that, but he is just a simple cowboy. If the council continues the case he did not know what that would mean. He did not know what it would mean to staff or anything. He knew what approval meant and he knew what denial meant.

Vice Mayor Scott said she thought there was a question as to whether the council could deny the plat at this stage in the process. The motion was to deny and remand the case to staff.

Vice Mayor Scott asked if it was legal for the council to do that.

Mr. House said because of the legal consequences to the city in the disposition of this matter, he would not give any advice except in an executive session.

Mayor Walkup asked if there was any further discussion.

Council Member Ronstadt said he was disappointed, not so much in Mr. Tate or the neighbors, but because this issue has gone on for quite some time. It was his understanding that the only time any negotiations were done was when he and Council Member West called a meeting between the developers and the neighbors. Apparently, there had been an earlier meeting, but the issue had been going on for months, possibly even a year. It was unfortunate that the council member had not taken the time to get the neighbors and the developer together within that time period, until tonight, when he can sit on the dais and say he is an advocate for the neighbors and wants to deny the plat. Council Member Ronstadt said he and Council Member West were caught up in this case because apparently Council Member Ibarra either refused or neglected to get involved.

Council Member Ibarra said if Council Member Ronstadt was going to use his name, he would not have to defend himself. Why not toss it over to the neighborhood and let them tell him how it was. He tried to talk to Mr. Tate and it did not work.

Mayor Walkup said everybody was out of order and asked for a 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 the final plat, resolution no. 19510, under item E, and the assurance agreement under item F, for the Westview Estates Subdivision, remanding them to city staff for resolution of the seven critical issues with the neighborhood, those being the hillside development zone, the zoning requirements, differential fill requirements, detention/retention basin requirements, detention/retention basin setback, detention/retention basin guidelines and detention/retention basin drainage items, carried by a roll call vote of 6 to 1.

Council Member Ronstadt said his no vote was based on the city attorney's counsel.

7. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced that city manager's communication number 109, dated February 24, 2003, would be received into and made a part of the record. He asked the city clerk to read the liquor license agenda.

New License(s)

(1)	GUADALAJARA GRILL 1730 E. Prince Applicant: Seth P. Holzman City #002-03, located in Ward 3 Series #12 Action must be taken by: March 16, 2003 Public Opinion: Support Filed	<u>Staff Recommendation</u> Police: In Compliance DSD: In Compliance Bus. License: In Compliance
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Person/Location Transfer(s)

*	(2)	BEVERAGE STORE 1866 S. Country Club Applicant: Lisa M. Ramirez City #001-03, located in Ward 5 Series #9 Action must be taken by: March 14, 2003 Public Opinion: Support Filed Protests Filed	<u>Staff Recommendation</u> Police: In Compliance DSD: In Compliance Bus. License: In Compliance
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*See page 18

Special Event(s)

- | | |
|---|--|
| (1) N. FOURTH AVENUE
MERCHANTS ASSOCIATION
4th Avenue between
9th Street & University Blvd.
Applicant: Craig L. Wilson
City #T002-03, located in Ward 6
Date of Event: March 21, 2003
March 22, 2003
March 23, 2003 | <u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance |
| (2) YOUTH WORKS COMMUNITY
BASED HIGH SCHOOL
Grande Avenue, between St. Mary's
& Speedway
Applicant: Margaret McKenna
City #T005-03, located in Ward 1
Date of Event: March 1, 2003 | <u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance
Traffic Eng. In Compliance |
| (3) DANCE SOUTHWEST
602 N. Wilmot Road
Applicant: Lori K. Franklin-Garcia
City #T007-03, located in Ward 2
Date of Event: March 1, 2003
March 2, 2003 | <u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance |
| (4) OLD FORT LOWELL
NEIGHBORHOOD ASSOCIATION
Plaza Palomino, Swan/Ft. Lowell
Applicant: Kim K. Crooks
City #T008-03, located in Ward 2
Date of Event: March 14, 2003 | <u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance |
| (5) OUR MOTHER OF SORROWS CHURCH
1800 S. Kolb Road
Applicant: Thomas M. McGuire
City #T010-03, located in Ward 4
Date of Event: March 1, 2003 | <u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance |

Extension of Premises

- | | |
|---|--|
| (1) TFQ, INC. (FRENCH QUARTER)
3146 E. Grant Road
Applicant: Bryce Zeagler
City #EP02-03, located in Ward 6
Type: Temporary
Date of Event: March 4, 2003 | <u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance |
|---|--|

- | | |
|--|--|
| <p>(2) O'MALLEYS ON FOURTH
 247 N. 4th Avenue
 Applicant: Scott J. Cummings
 City #EP03-03, located in Ward 6
 Type: Temporary
 Date of Event: March 15, 2003
 March 16, 2003
 March 17, 2003</p> | <p><u>Staff Recommendation</u>

 Police: In Compliance
 DSD: In Compliance</p> |
| <p>(3) EL SABROSO OAKWOOD GRILLE
 610 N. Grande Avenue
 Applicant: Dionicio Naranjo
 City #EP04-03, located in Ward 1
 Type: Temporary
 Date of Event: March 1, 2003</p> | <p><u>Staff Recommendation</u>

 Police: In Compliance
 DSD: In Compliance</p> |

Kathleen S. Detrick, city clerk, advised that the application for the Beverage Store, City #001-03, had received a protest and should be considered separately.

It was moved by Council Member Leal, seconded by Vice Mayor Scott, and carried by a voice vote of 7 to 0, to forward liquor license city applications numbers 002-03; T002-03; T005-03; T007-03; T008-03; T010-03; EP02-03; EP03-03; and EP04-03, to the state department of liquor licenses and control with a recommendation for approval.

7. LIQUOR LICENSE APPLICATIONS – (b) (2)

Person/Location Transfer(s)

- (2) BEVERAGE STORE
1866 S. Country Club
Applicant: Lisa M. Ramirez
City #001-03, located in Ward 5
Series #9
Action must be taken by: March 14, 2003
Public Opinion: Support Filed and Protests Filed

Kathleen S. Detrick, city clerk, reported that the liquor license to be considered separately was item 7(b) (2), person/location transfer, the Beverage Store, 1866 South Country Club. The applicant was present as was one of the protestors. This license is located in ward five.

Council Member Leal invited the applicant to come forward and explain their plans and intentions and the protestors should follow.

Lisa Ramirez, owner of the Beverage Store, had photographs of the location prior to her acquisition. There had been vandalism, garbage, and the two protest letters clearly stated that two of the main concerns were vandalism and garbage and transients going to the location. She assured the mayor and council that since her acquisition of the Beverage Store, the property had been upgraded. She purchased and put in asphalt where there previously had been nothing but dirt. That caused disruption to the neighbors because of the dirt coming up.

There was one important factor that she wanted to address and that was the neighborhood support. She filed a petition with a little under 200 signatures and when she received the two protest letters, she was very concerned and wondered about conducting a business such as this but after addressing that with the surrounding neighbors, she found that that was not actually the case. The neighbors were actually glad to have her establishment there. The previous owners would open and close, open and close, and the area was terrible looking. Now that she had taken over the location, the neighbors were very satisfied with the way she conducted business. She has had to turn away business, people who come in and have had too much to drink. Ms. Ramirez was willing to work with the neighborhood to address their concerns.

Ms. Ramirez had a couple of handouts she wanted to review with the mayor and council. The protest letter mentioned DUI. She runs a very ethical business and her team also practices ethical business standards. They abide by all the rules and regulations set forth by the Arizona State Liquor License and Control. She has never once been ticketed and has had the license for three years. She was not in the business to sell to just anybody.

Ms. Ramirez referred to some handouts, attachments A and B. These were various offenses from 1980-2001. She wanted to specifically address DUI and liquor licenses. In attachment A it indicated that in 1980 the DUI crime reports were 2,644. On page two, in 2001, that rate actually dropped to 2,605, so the number of DUI tickets decreased in the year 2001; but if they referred to the crimes for liquor laws, in 1980, the liquor laws were at a low rate of 483. If the mayor and council referred to the year 2001 liquor laws, those increased dramatically to an astounding 2,784. In going through all the years and applying statistics to every single year, she believed it was the business owners' responsibility as well as the people conducting the business to be the last person to say no to either a minor or somebody who has had too much to drink. Ms. Ramirez said they were all responsible adults so it was their ultimate final destination who they sold to. These statistics prove that anywhere that DUI tickets are lowered, it's because liquor law tickets increased. That means that people like she are being more tough on individuals and making sure that the laws are being followed.

Ms. Ramirez referred to attachment B. After she received the two protest letters, she was concerned, so she went around homes in the neighborhood that represented the map. She pointed out the Beverage Store and six homes in the surrounding area. She read the protest letters to those residents and she wanted to be able to work with them. If she was doing something wrong, she needed to know what she was doing wrong, so she could improve her place of business. Ms. Ramirez indicated she was here for the community, she was here to stay, and she was a member of the neighborhood now. She had invested a lot of money and she didn't plan on going anywhere. She believed they needed to work together to improve their area. She hired somebody to clean up the area, to make sure that trash was not outside the area, to make sure that everything looked good because if it didn't look good, her customers would not shop at her store. As was said, if the neighbors' yards weren't kept up, then no one was going to want to come to shop at her store either. So, between the neighbors and herself, she believed that they maintained a very clean environment.

Ms. Ramirez continued that the neighbors have signed, dated, and are contesting the protest letters. Her question was, since she has taken the time to go around neighbor by neighbor, did anybody else do that? She wanted to know that. Are those individuals really representatives of the neighborhood? She wanted to know that.

Another thing that Ms. Ramirez pointed out was that according to the *Arizona Revised Statutes*, Sec. §4-203, "A spirituous liquor license shall be issued only after satisfactory qualifications and reliability of the applicant, and that the public convenience requires that the best interest of the community will be substantially served by the issuance." She was in this for the best interest of the community because she knew when to say no, and believed that the representatives of the Beverage Barn, as individual adults, know when to say no and know when too much is too much, but they are going to look at the signs and know when to say no. Ms. Ramirez guaranteed that she would be constantly working with her team in making sure that ID's are checked and that nobody is sold to who looks like they have had a little bit too much to drink. She asked that the mayor and council recommend approval and that she was 100% willing to work with the neighborhood association and address their concerns.

Council Member Leal recognized Pat Martin.

Council Member Ibarra interjected that after the speaker completed her comments, he wanted to ask Ms. Ramirez a question.

Pat Martin, said for two years she has been the president of the Myers' Neighborhood Association. This year, she is the member at-large and the liaison to all government agencies, and to the businesses in the neighborhood. Ms. Martin said she is also a member of SNAPP and she is a member of the 29th Street Coalition. They are protesting the Beverage Store. Two neighborhoods did send in the protest letter and the 29th Street Coalition, she believed, also sent one. The reasons are that they do not need another liquor store in the neighborhood. That would not add to the betterment of their community. She said there is another liquor store right across the street from the Beverage Store and there are several stores nearby like Food City that also sell liquor. Transients have been a problem in the area because it's within a block or so of the railroad and also the Barraza/Aviation Corridor.

Ms. Martin explained that the 29th Street Coalition consists of five neighborhoods working together. They have managed, with the Tucson Police Department, to decrease the crime in the area by a huge amount. They were trying to upgrade the quality of life in the area. Having another liquor store would be a negative influence on what they were trying to do. So, on behalf of Keen, Naylor, Roberts, Myers, and Alvernon Heights neighborhoods, the 29th Street Coalition, and SNAPP, which does not want liquor licenses on the south side, she asked the mayor and council to recommend denial to the state liquor board.

Council Member Ibarra asked the applicant if this was the first application they had put before mayor and council.

Ms. Ramirez answered yes.

Council Member Ibarra asked if her group had come before the mayor and council on any other application in the past.

Ms. Ramirez answered no.

Council Member Leal said it was clear that the applicant was a good person and was a thorough and caring individual, which was evident from her testimony. Part of the criteria, as she read from state statute, also fundamentally hinges on the issue of convenience, among other things. Given that there are seven other licenses in a short radius, the issue of convenience is really not inconvenient and the presence of this new consideration would not create a convenience that didn't exist. So the issue of saturation that the neighbors were addressing legitimately, was the basis of their protest and given that, Council Member Leal recommended that this application be forwarded to the state liquor board with a recommendation for denial, on the basis of saturation and not creating a convenience.

It was moved by Council Member Leal, seconded by Council Member Ibarra, that liquor license application 7(b) (2), city no. 001-03, be forwarded to the state liquor board with a recommendation for denial on the basis of saturation and not creating a convenience.

Mayor Walkup asked if there was further discussion.

Council Member Ronstadt had a question for the city attorney. He noted that this liquor license application was a person/location transfer. It was his understanding and it was also written in the document that the only thing the mayor and council could protest were the qualifications of the applicant, not location or saturation. Was that correct?

Michael House, city attorney, explained that since this was also a location transfer, and he believed that the public convenience criteria did apply.

Council Member Ronstadt said he was just trying to understand, for the record. He asked if this location had had a previous license.

Ms. Ramirez said it had a number 10 and the convenience for the public is that it is the only drive-through liquor which she conducts 99% of her business. That would be the convenience to the customers.

Council Member Ronstadt asked the city attorney as a point of law, if the location had already been established as a number 10.

Council Member Leal said the business is not in operation.

Council Member Ronstadt asked for his understanding and clarification from the city attorney, if it is a series 6, 7, 9, or 10? Once that license has already been established as location, that would not hold true for a 12, but if there had been a liquor license there that was not a 12 previously, then the mayor and council could not consider the location issue.

Mr. House pointed out that he may have been incorrect in what he had indicated previously because for a person and location transfer, the state liquor board would not hold a hearing to consider a protest of location or permit testimony against a location at a hearing to evaluate the personal qualifications of the applicant. Apparently in this type of a situation, the liquor board would not entertain evidence about location. He knew that Mike Rankin was at the meeting and he might be able to clarify that point.

Council Member Leal said the mayor and council were not discussing Ms. Ramirez' qualifications, which they would if this was only a personal transfer.

Council Member Ronstadt pointed out that the mayor and council can't talk about the issue.

Council Member Leal noted that the mayor and council cannot talk about location when the business was already in operation.

Council Member Ronstadt pointed out that it didn't have anything to do with the operation.

Council Member Leal added if it's bringing a license to a location it does.

Council Member Ibarra said it was not.

Council Member Leal said that they were bringing a license to a location.

Council Member Ronstadt explained that if the license has already been there, the location was established.

Mayor Walkup confirmed it was an established location.

Council Member Leal said he didn't think it was at the location.

Council Member Ronstadt said the license has been at the location.

Mayor Walkup requested clarification from the city attorney.

Mr. House pointed out that Mr. Rankin had informed him that the city's position with the liquor board has been that the city can protest based upon a person/location transfer on a series 9, and that the city can protest based upon the public convenience criteria. He asked Mr. Rankin to address that.

Michael F. Rankin, senior assistant city attorney, clarified that was correct. It has been the city's position that where the transfer involves a location transfer as well as a person transfer that the public convenience grounds were right for the mayor and council consideration as well as the other grounds in terms of qualifications of the applicant.

Council Member Leal said they are talking about a drive-through in a neighborhood.

Mayor Walkup stated there was a motion and a second to recommend denial. He called for the vote.

The motion carried by a voice vote of 6 to 1 (Council Member Dunbar voted nay).

8. CITY CLERK: APPOINTMENT OF CITY CLERK

Mayor Walkup announced that city manager's communication number 121, dated February 24, 2003, would be received into and made a part of the record. He asked the city clerk to read ordinance no. 9817 by number and title only.

Ordinance No. 9817

Relating to City Clerk; appointing a City Clerk; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

Council Member Ronstadt said he would make the motion with all the flourish and glory possible.

It was moved by Council Member Ronstadt, seconded by Council Member West, that ordinance no. 9817 be passed and adopted.

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

Upon roll call, the results were:

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

Nay: Council Member Ibarra

Absent/Excused: None

Council Member Ibarra asked if the city clerk was getting a raise with this appointment. He said he is a huge fan of the city clerk's, but he wanted to remain consistent with his vote.

Council Member Leal said the city clerk would get the same amount as everyone else.

Council Member Ibarra said he voted against the other two appointments because he did not agree with them. His no vote was not a reflection on the city clerk, he thinks she is a great person.

Council Member Leal interjected that the city clerk's raise was equal to that of all employees.

Council Member Ibarra said he would change his vote to "aye" and apologized for taking everyone's time.

Ordinance no. 9817 was declared passed and adopted by a roll call vote of 7 to 0.

Kathleen S. Detrick, city clerk, thanked Council Member Ibarra for clarifying his vote and said she appreciated all the flourish and glory.

Mayor Walkup said she should enjoy it while she could.

9. ZONING: (C9-98-08) WILMOT/INTERSTATE 10 PARTNERSHIP – INTERSTATE 10, RV AND SH TO MH-2 AND C-2, CHANGE OF CONDITIONS, ORDINANCE ADOPTION

Mayor Walkup announced that city manager's communication number 105, dated February 24, 2003, would be received into and made a part of the record. He asked the city clerk to read ordinance no. 9810 by number and title only.

Ordinance No. 9810

Relating to zoning: amending rezoning conditions in the area located southeast of Wilmot Road and Interstate 10 in Case C9-98-08, Wilmot/Interstate 10 Partnership – Interstate 10, RV and SH to MH-2 and C-2, and declaring an emergency.

Mayor Walkup asked the council's pleasure.

It was moved by Vice Mayor Scott, seconded by Council Member Dunbar, that ordinance no. 9810 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

Ordinance no. 9810 was declared passed and adopted by a roll call vote of 7 to 0.

10. PUBLIC HEARING: PANTANO ROAD, GOLF LINKS ROAD TO ESCALANTE ROAD DISTRICT PAVING IMPROVEMENT

Mayor Walkup announced that city manager's communication number 108, dated February 24, 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 regarding the Pantano Road, Golf Links Road to Escalante Road district paving improvement. Interested parties could present objections to the legality of the assessment or any of the previous proceedings, or present evidence that the construction was not performed according to the contract. 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 Council Member Ronstadt, seconded by Council Member Leal, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Walkup asked the city clerk to read resolution no. 19497 by number and title only.

Resolution No. 19497

Approving assessment and previous proceedings for the "Pantano Road, Golf Links Road to Escalante Road District Paving Improvement," in the City of Tucson, Arizona.

Mayor Walkup asked the council's pleasure.

It was moved by Vice Mayor Scott, seconded by Council Member Dunbar, that resolution no. 19497 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

Resolution no. 19497 was declared passed and adopted by a roll call vote of 7 to 0.

11. PUBLIC HEARING: CONSOLIDATION OF PROPERTY MAINTENANCE AND NEIGHBORHOOD NUISANCE CODES; CREATION OF A NEIGHBORHOOD PRESERVATION ORDINANCE

Mayor Walkup announced that city manager's communication number 119, dated February 24, 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 regarding the consolidation of property maintenance and neighborhood nuisance codes, and the creation of a neighborhood preservation ordinance. He asked for staff's presentation.

Michael Rankin, senior assistant city attorney, said in November of 2001, the mayor and council directed staff to work on an ordinance that would consolidate the city's existing codes regulating blighting conditions and neighborhood nuisances. Staff put that code together and brought it to the mayor and council in February of 2002, but at that time it was clear that there was insufficient consensus for its adoption, instead mayor and council asked that a public review process of the ordinance be conducted. That was done through the appointed neighborhood preservation ordinance task force, a citizen group comprised of ten citizens, three each from the metropolitan housing commission, neighborhood association leaders, and representatives of multi-housing and manufactured housing industries. A tenth member, a resident of a mobile home park, was added to make sure that that perspective was considered.

The NPO task force process lasted for six months. Fourteen meetings, approximately two hours each, were held where the proposed code was reviewed section by section. In October of 2002, the NPO task force unanimously approved and recommended the proposed ordinance. Other groups that have considered and endorsed the proposal include the mayor and council subcommittee on neighborhoods, the mayor and council subcommittee on code consolidation, the city/county building code committee, and the metropolitan housing commission. Staff returned to the mayor and council in December of 2002 at a study session, presented the proposed ordinance, delineating and explaining the changes, and was directed to return to mayor and council at a public hearing.

Mr. Rankin said the proposed ordinance represented a consolidation of city codes that currently are found in five different chapters of the city code and brings them all together into one chapter, chapter 16, of the city code. There are a number of new provisions that are highlighted in the communication. A number of definitions were added for clarity and specificity, without creating new regulatory provisions. A new provision would be added regarding residential structures that would require doors and windows that open to the outside to have operable locking mechanisms. A new provision allows city staff to address unfinished construction where the activity on the construction stops for at least 12 months. A new provision would allow staff to address exposed exterior wood surfaces where more than at least half of the exposed surface is deteriorated, rotted or decayed. One provision allows deteriorated accessory structures, primarily fences, and walls, to be addressed if 50% or more of the structure is deteriorated or is structurally unsound. Finally, a new provision was included in the version that was initially proposed a year ago that would allow the city to expedite enforcement action against those people who have already been through the system. For repeat offenders staff could go straight to citation rather than going back to square one and beginning with a notice of violation process.

In addition to the new provisions, a few of the existing provisions have been clarified and enhanced. Staff went through the definitions and tried to clean some of them up so that they would be easier to understand. A number of provisions were amended to add specific objective standards to take some of the guess work out of when a condition becomes a violation. For example, the council adopted some of those objective standards in the context of weeds and overgrowth when it adopted the new chapter 15 for solid waste. The provision regarding regulation of vacant and unsecured structures was enhanced to specify that abandoned structures that are left secured on at least three separate occasions could be abated by demolition if so ordered by the court. The slum provisions were left largely unchanged except to clarify the statutorily mandated administrative appeals' process so that it is clear what can be appealed, when it can be appealed, and to whom.

Mr. Rankin said the provisions of the unruly gathering codes, frequently called the red tag ordinance, would be enhanced under the proposed ordinance to make the first offense chargeable as a civil infraction as opposed to having to wait until the second or subsequent offense before it could be charged as a violation. At the same time, the changes to that ordinance would allow an appeal process for property owners who had resolved the problem. For example, if they had evicted the problem tenant, they could pursue a court order that would allow them to remove a red tag short of the 120-day time requirement. There are some neighborhood advocates who have been asking the council

to consider even higher mandatory minimum fines than were proposed in the ordinance and he was sure those people would address the council later.

Mr. Rankin said one of the most important enhancements, from his perspective, that would be added by the adoption of the proposed ordinance would be the city's increased capacity to recover costs associated with those cases where staff has to abate the violations. The new provisions greatly increase staff's authority to recover costs through liens and ultimately assessing properties, foreclosing on those actions in order to recover the city's costs. Finally, the various administrative appeals' processes have been consolidated in one place, eliminating redundancies and clarifying the appeals' process. He knew that a number of concerns had been raised about undue hardship and the availability of hardship assistance. He thought it was important to note that both the ordinance and the enforcement policy, which was also being presented, addressed the issue of hardship. The ordinance itself gives to the code enforcement officials the authority to give relief to people in order to avoid undue hardship in individual cases. Where it would be too harsh to apply the code literally, the code official would have the discretion to give relief to people who would be so affected.

The ordinance also establishes two separate administrative appeals' processes that are available to people after they have received a notice of violation and even before they've received a citation, before they would be expected or required to go into court. Two separate appeal processes were being made available for people to get relief, whether that means they need more time to cure a violation or they need more explanation as to exactly what they need to do to cure the violation. Those remedies are in place. Mr. Rankin thought it was important to note that both the ordinance and the enforcement policy require that staff return to the mayor and council annually to report about how enforcement of the proposed ordinance is working, what is working and what is not, and what improvements need to be made. Staff will be accountable to the council to report what happened to the people that were affected by the ordinance, what sort of resources have been made available to them to take care of the issues under the proposed ordinance.

With respect to red tags, an issue that has been much discussed, Mr. Rankin said the proposed ordinance was the version that was approved by the NPO task force, the group that was appointed for this purpose. However, there are other groups, including a group of neighborhood association representatives, who, he was sure, would address the council on issues of increasing mandatory minimum fines, et cetera. Inspections and enforcement will be under the authority of the enforcement policy, a written enforcement policy, which was before the council for consideration and approval. As that enforcement policy makes very clear, enforcement of the proposed ordinance will remain primarily complaint driven. Inspectors will not be going out and looking for violations. In addition, inspections will be limited by statutory as well as constitutional law, meaning inspectors cannot just go into housing structures or enclosed yards unless they have consent or unless they are acting under the authority of a warrant. Nothing is changing in that area.

The product before the mayor and council was the product of a public review process that has gone on for one year. Staff initially presented the NPO for council's consideration on February 25, 2002. He thought the task force members really needed to be acknowledged, regardless of what the council might decide, for the time they had put into the process. If the ordinance were adopted at this meeting the process would not

end. As he mentioned earlier, staff will be accountable to the mayor and council to come back at least on an annual basis to review any policy or procedures that are not working efficiently or to make amendments to the code as needed.

Mayor Walkup announced that the public hearing would last for no more than one hour and speakers would be limited to five-minute presentations. He would begin by calling on those people who had submitted written requests to speak.

Dyer Lytle, representing the Jefferson Park Neighborhood, which is adjacent to the University of Arizona on the north, applauded the efforts of city staff who put the proposed ordinance together. He especially applauded the change in the unruly gathering ordinance that allows a fine for the first offense. The city is trying to save its neighborhoods and big parties are one of the biggest problems in his neighborhood. They are losing owner occupancy and that concerns them considerably. From 1990 to the year 2000 they lost 11% owner-occupied homes and he knows people in the neighborhood who are moving out because of the student party houses. The residents want to deter big parties as much as possible. They cause a lot of noise, frequently have underage drinking, and litter the sidewalks and alleyways with garbage. He recommended that the initial fine be increased from \$100 to \$200, and the time that the red tag is valid be extended from 120 days to 180 days.

George Hentz, said his impression of neighborhood preservation would be that there be enough police to protect people from crime and streetlights and sidewalks were placed in all neighborhoods. He thought the ordinance should be called the neighborhood intimidation ordinance. Intimidate, according to *Webster's Dictionary*, is to "make timid, fill with fear, to force into or deter from some action by inducing fear." He said terms like "civil offense, \$2,500 fine, six months in jail, and appear in city court," are threatening. Would they create fear? The ordinance wants homeowners to fix their houses, fix the fences, et cetera and he asked if those improvements are considered cosmetic. Webster defines cosmetic as "being superficial measures; to make something seem better than it is." The proposed ordinance requires property owners to fix their properties according to the city's expectations or go to jail. That is intimidation no matter how it is worded. What type of democracy is that? The most affected people would be the poor who cannot afford a more expensive home or the elderly on fixed incomes who have probably lived in their homes most of their lives. He thought he might be the only one to think that the proposed ordinance was intimidation.

On Saturday, January 11, 2003, he visited a neighborhood friend. She is a frail, 78-year-old woman who is taking care of her 83-year-old brother. He did not say anything, he just asked her to read the newspaper article that appeared in the *Citizen* on December 21, 2002. When she finished it, she put her hands to her head, over her eyes and asked, "What are they thinking?" According to this morning's *Arizona Daily Star* the law calls for the city to provide financial aid, counseling and other help to low and moderate income property owners for whom making the necessary repairs would be a hardship.

Another article in the morning paper said that the Tucson Police Department has axed a unit that oversees neighborhood watch programs and is looking to revamp its burglar alarm response policy to save money in the face of a city budget deficit. He asked if neighbors would rather be protected from crime or have their houses painted. If the

poor and elderly cannot keep up their private property to the mayor and council's expectations, what effect does receiving notices or civil citations have on their physical and mental health? He did not think it is the job of the mayor and council to tell the poor and elderly how to spend their personal income. The council is already spending their tax dollars. These people are struggling to survive, they are not trying to keep up with the Jones's and be it ever so humble, there is no place like home.

Nancy Avery, said she is a homeowner in the Sam Hughes Neighborhood and has worked with that neighborhood for the last six years on the red tag issue. She believed that with the development and the changes that have occurred in her neighborhood, the proposed ordinance would definitely benefit the neighborhood and give the individuals concerned with the nuisances and unruly gatherings a little leverage. There is an opportunity for the Sam Hughes Neighborhood and many other neighborhoods to coexist with the university. The diversity, the markets, the library, and the parks are why people move to the center of the community and education is needed in order for them to coexist and understand what it takes to be a good neighborhood.

Oftentimes education is hard to take, but with a little leverage like the red tagging and increase in the fine, there is a responsibility to be a good neighbor and coexist. Money would be tied to it, so the fines would definitely help make landlords responsible to register their properties, to make that contact a little simpler and getting those red tags to them as notification. The increase to 180 days would be good. It is a semester and often falls during the school year. She really appreciated all the work that had gone into the ordinance. It was not so much a student issue or loud party issue. It could be two or three people that come home every Wednesday, Thursday, Friday night, that do not respect their neighborhood and the quality of life. If they do not have quality of life in the neighborhood, they will lose it because people will not want to come to the neighborhood. If it takes money and a little leverage, then they have to do it and make people responsible. They are adults and they will be treated like adults.

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

It was moved by Council Member Ronstadt, seconded by Council Member Ibarra, 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. 9816 by number and title only.

Ordinance No. 9816

Relating to neighborhood preservation; adopting the "Neighborhood Preservation Ordinance"; stating purpose and scope; providing definitions; establishing maintenance standards for buildings, exterior premises, and vacant land; regulating dilapidated, vacant and nuisance structures; prohibiting junked motor vehicles; regulating slum property; declaring certain acts unlawful, including graffiti, excessive noise, unruly gatherings, illegal dumping, and maintaining a public nuisance; providing for administration and

enforcement of the ordinance; establishing abatement remedies; providing for administrative appeals; defining liability; resolving conflicts of ordinances; and declaring severability; by repealing Sections 6-66, 6-67, 6-68, 6-71, 6-72, 6-73, 11-46, 11-65, 11-71 through 11-84, 11-130 through 11-135, 11-140 through 11-145, 11-170 through 11-170.3, 15-7 through 15-10, 15-70 through 15-74, and 15-75; and by creating a new Chapter 16, Articles I through VIII, Sections 16-1 through 16-99, entitled the Neighborhood Preservation Ordinance; saving rights, remedies and proceedings that matured or were begun prior to the effective date of this ordinance; and declaring an emergency.

Resolution No. 19516

Relating to neighborhood preservation; approving neighborhood preservation ordinance enforcement policy; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

Council Member West said certainly a person's home is their castle, but she thinks there are people in the community who live in substandard housing because they cannot afford anything better. They have electrical cords running through their property that could cause a fire or endanger them, they have no running water, and plumbing that does not work. That is unacceptable and the people end up living in those conditions because they cannot afford to move into anything else. She had a house in her ward, the couple was college educated, they were making a good living, they had thirty cats, no air conditioning, and the stench was wafting through the entire neighborhood. The house was rundown, there were broken down cars in the neighborhood, and it was a good neighborhood. At the time there was very little that could be done. These were the kinds of things the proposed ordinance addressed. In her ward, if there are low-income seniors who are in need of assistance, a certain amount of her back to basics money is earmarked to assist them so that whatever needs to be fixed can be fixed. That is something she was working on and if any low income senior citizens were watching this meeting, she hoped they would call her office. She said it is time for the council to start working with property owners. She wanted to emphasize that. The council wants to work with property owners to try to turn things around. They want to preserve the neighborhoods. They do not want Jefferson Park to become a neighborhood of rentals. They want the people that live there to stay there.

It was moved by Council Member West, seconded by Council Member Dunbar, that ordinance no. 9816 be passed and adopted.

Council Member Ronstadt said he thought it was reasonable that the red tag time frame be moved from 120 days to 180 days. He asked Council Member West if she would accept that as a friendly amendment to her motion.

Council Member West said she would.

Council Member Ronstadt asked if there was a threshold for the initial fine. His experience had been that if the fine is set too high, or if it is perceived as being set too high, the city magistrates may throw it out. He agreed that a very clear message needed to be sent. He has neighborhoods in his ward that are loud and have red tags practically on every house. He knew that was an issue in Jefferson Park and in other neighborhoods, and he wondered what the fine would be that would send a clear message, but not cause the magistrates to throw it out.

Mr. Rankin said the standard fine for civil infraction violations, which is what that violation would be, under the general penalty provisions of the code, chapter 8, is \$100 for a first offense. That is why the NPO task force ultimately settled on that amount as the mandatory minimum fine for the first offense of an unruly gathering. As far as what would be appropriate, he thought if the fine was set at \$500 or higher, higher than a fine for a criminal offense like prostitution or domestic violence for instance, then a magistrate hearing the case who has just heard a criminal case and imposed a lesser sanction is unlikely to want to find someone responsible knowing that the fine is going to be of that magnitude.

Council Member Ronstadt asked if \$200 would be reasonable.

Mr. Rankin said whether it was reasonable or not, it clearly is a legislative function and it would be defensible.

Council Member Ronstadt noted his colleagues were saying the fine should be kept as it is, but it is something he wants to look at when the ordinance comes back to the council for review.

Mayor Walkup asked if there was any further discussion.

Council Member Dunbar said the one thing the media had not been clear about was that 95% of the things the council was considering were already in the law. They are already part of an ordinance or ordinances, but they are scattered throughout the code. The proposed ordinance is a consolidation, an enhancement that makes enforcement a lot easier. It has the flexibility so that in the case of a citation the city does not have to go through the entire process for repeat offenders. One of the speakers said he read about it in the paper and he had asked if the council lost their minds, but it is already in the code. The proposal was a code consolidation and part of the process means the ordinance will be returned to the council next year for review to see what needs to be improved or changed. The council knows it is a work in progress and anytime Susan Gilstrap (ph) and Janet Marcus, who served on the committee, and the various other members, come to a consensus and bring something forward she knew it was a good start. She enthusiastically supported the proposal.

Vice Mayor Scott said she would support the motion, but she had received telephone calls from neighborhood presidents in her ward who felt that they somehow did not have enough advance information and had no input into the proposal. They were registering a protest in her office against that kind of lack of process that they felt was not available to them.

Council Member Leal thanked Mr. Rankin and Mr. Swift for the huge effort they had made in writing out the proposal. He thought it was a big improvement. It streamlined the process, making functional a lot of things that were dysfunctional. The red tagging has been a big issue and has needed help for all of the reasons already stated. He was a little concerned that the city was overly focusing on the physical symptoms of poverty as found in the condition of physical structures, and less on the conditions of poverty that created those symptoms. He did not want the council to be making the community look better just so they could mollify themselves into thinking that the community is a better place, making it look like poverty had been tempered because things were spiffier. Some 90 thousand people live below the poverty level in Tucson, about 21%. A lot of them are single mothers, seniors, and people on fixed incomes, so the conditions of their property as owner/occupants, not necessarily as tenants, are not so much a statement about their desires or intentions as it is about their financial limitations.

The challenge as Council Member Leal saw it, if there were some weaknesses in what the council was doing, was that it did not leave them in an adequate position to tell the difference between the indifferent and the poor. The community and state are preyed upon by predatory lending that may be taking \$15 to \$20 million a year out of the pockets of working families, just in Tucson. Many people may have tried to get loans to fix their property, but could not afford the interest rates. The city then writes them up and if they do not like it the city makes them not only pay for it, but pay the court fees too. He was afraid that people could be put in a double bind and he did not want the council to become Martha Stewart in jackboots. He wanted the city to be able to tell the difference between the indifferent person and the poor person.

Some things cannot be waived. The hearing officer can waive some things, but if there is a substandard electrical panel, that could not be waived. If the person does not have the money to fix it, will the city say they should sell it to someone that can since they cannot afford to take care of it properly, even if that person grew up on the property with their grandmother and has fond memories. He did not want the city to do that to people and he knew his colleagues did not want to do that to people. He thought there needed to be a place to go.

The city needs to be able to help the poor with some rehab money, not just tell them too bad their neighbor reported them. The only way he saw to keep the ordinance from becoming a two-edged sword, which would hurt as much as it would help, was if the city would commit to putting about \$200 thousand a year of block grant money to help in those situations. He thought it would be best to keep a spread sheet, a tracking mechanism, not of general kinds of variables such as this percent was this and that percent was that, but a tracking mechanism that would look at it on a case-by-case basis so they could see the disposition of each case.

He knew that the SABER program was better about that and he thought it was staff's intent not only to have a general overview, but to also have insight at the individual level. He wanted to support the proposal, but he could only do that if he thought it could become a win/win proposal and he could only see that happening one way, and he did not mean a loan, which in most cases people could not afford.

A friendly amendment was offered by Council Member Leal that the mayor and council commit \$200,000 a year into the system for those who could not afford to make repairs, but by way of a 50/50 match, some of which could be in the form of a grant.

Council Member West said she thought she had read in the council's materials that money was available and no one had taken advantage of that.

Council Member Leal said they would now.

Council Member West said she saw that issue as being something each of the council members could do with their back to basics money, which is what she had done to help people with home repairs.

Emily Nottingham, community services director, said when the city council first initiated the SABER program they asked that \$50,000 be set aside and made available to property owners who wanted to seek it out and renovate their property. That money was still available; targeted at a somewhat different group. If the council chose to allocate some additional funds to the community development block grant program to support the neighborhood preservation ordinance, that could be done and it would be CDBG eligible.

James Keene, city manager, said \$50,000 was set aside and he was not saying \$200,000 was the right number or the wrong number, but it was clearly in the council's purview when it makes CDBG allocations to do that. He did not know what flexibility the city would have since all CDBG uses essentially go to those kinds of things as far as reclaiming neighborhoods or whatever. He did not know if there was any opportunity, if the council set a smaller amount than that, that would let them revisit it during the course of the year if it needed to be increased. He would not want to have scarce funds sitting in an account that could not be used because the experience is not there. The subject process is still going to be complaint driven and he would want to be sure that there is adequate funding, but not necessarily overfunding.

Council Member Leal pointed out that the subject ordinance would allow the city to address owner occupied property, not just problem landlords, so it is a much larger population. They are more likely to run into a lot of low income people on fixed incomes. Given the proposed ordinance he would expect things to be ramped up and the money to be used at a greater rate than it was in the SABER program. That was why he thought it was prudent.

Council Member West said she was not saying it was or was not prudent, but she thought some votes would be lost with Council Member Leal's friendly amendment. She asked if he could make it a separate motion.

A substitute motion was made by Council Member Leal, seconded by Council Member Ibarra, to pass and adopt ordinance no. 9816, to put \$200,000 a year into the system for those who could not afford to make repairs.

Ms. Nottingham said the CDBG is a very popular program and at this point, the city was accepting requests for proposals. She could not give a dollar amount of how much money had been requested for next year, compared to how much is available.

Typically, during any one year staff receives three times as many proposals as they have money for. It was entirely within the mayor and council's purview to set aside funds for any purpose so long as it is CDBG eligible. As the council might remember, they did set aside some funds earlier in the year for a downtown housing renovation program.

Vice Mayor Scott said she guessed she agreed that this might be a good idea, but she wanted to know what unintended consequences it might have. The city does have a very difficult time in the allocation of the CDBG process. She asked if someone had said there was \$50,000 that had yet to be tapped as a result of the SABER project.

Ms. Nottingham said that was correct. Fifty thousand dollars of CDBG money had been set aside for this purpose and it had not yet been tapped.

Council Member Leal said he would change his motion to \$150,000 if that 50 could be added, totaling \$200,000.

Vice Mayor Scott said she would be more interested in that than having separate pots. She asked if it could be put into one pot including the 50 and all of the perimeters that had been described in the proposed ordinance, which would match the intended use of the \$50,000.

Ms. Nottingham said that was correct.

Council Member West asked if people knew that that \$50,000 is available. She asked if it had been offered to people, but they have not used it.

Ms. Nottingham said the money had been made available and property owners had been aware of it. The population the city has worked with through SABER has primarily been landlords who have chosen to comply through other sources of funds.

Council Member Dunbar said 95% of what was before the council is already law, including the set aside of \$50,000. She thought the council should move forward. She would not support Council Member Leal's motion because there is \$50,000 already available. She thought the council needed to adopt the proposed ordinance and give it a chance. It is a work in progress. The council will hear about it if someone is being kicked out of their home, but they needed to vote on the proposal that was presented. She called for the question.

Mayor Walkup said he thought the council needed to move along and be sure they were focusing on the right thing.

Kathleen S. Detrick, city clerk, asked if the substitute motion included the friendly amendment regarding the change of red tag days from 120 to 180.

Council Member Leal said it did.

Mayor Walkup asked if it was for \$150,000.

Council Member Leal said yes, and it would be added to 50,000.

Upon roll call, the results were:

Aye: Council Members Ibarra and Leal; Vice Mayor Scott

Nay: Council Members West, Dunbar, and Ronstadt; Mayor Walkup

Absent/Excused: None

The motion failed by a roll call vote of 3 to 4.

Council Member West said she was voting no because she has a fund that she uses, and there is \$50,000 that has not been used. It seemed to her that later in the year the council could revisit the issue and add money if they wanted.

Mayor Walkup asked for a roll call on the motion to pass and adopt ordinance no. 9816, amended to increase the number of red tag days from 120 to 180.

Council Member Leal said the city does not know that there is going to be any back to basics money in the future, whereas, the subject ordinance will be in place for a long time.

Council Member West said the council could take care of that when it happens. She called the question.

Upon roll call, the results were:

Aye: Council Members West, Dunbar, and Ronstadt; Mayor Walkup

Nay: Council Members Ibarra and Leal; Vice Mayor Scott

Absent/Excused: None

Ordinance no. 9816 was declared passed and adopted by a roll call vote of 4 to 3.

Council Member West moved that resolution 19516 be passed and adopted.

Ms. Detrick asked for a second roll call on ordinance no. 9816 for the purpose of the invocation of the emergency clause, and that purpose only.

Council Member Leal said he was just looking at some new houses in one of the barrios that cost about \$400,000 each, and the wood that was put in is brand new, bare, not painted and not intended to be painted because the developers want it to weather and look old. He asked what was going to happen to those houses in five or ten years. Could someone complain about unpainted and aging wood and make the homeowners paint it or could the owners say it was an aesthetic choice, that is the way they want their house to look.

Mr. Rankin said it was easier to speak in terms of just paint, but what was actually required is protective treatment and generally exposed wood like Council Member Leal spoke of is protected against the weather whether it be by a stain or varnish, so it would not be affected.

Mayor Walkup asked for a second roll call on the motion to pass and adopt ordinance no. 9816 for the purpose of the invocation of the emergency clause and that purpose only.

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. 9816 was declared passed and adopted by a roll call vote of 7 to 0, with the inclusion of the emergency clause.

It was moved by Council Member West, seconded by Council Member Dunbar, that resolution no. 19516 be passed and adopted.

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

Upon roll call, the results were:

Aye: Council Members West, Dunbar, and Ronstadt; Mayor Walkup

Nay: Council Members Ibarra and Leal; Vice Mayor Scott

Absent/Excused: None

Resolution no. 19516 was declared passed and adopted by a roll call vote of 4 to 3.

For purposes of the invocation of the emergency clause, Mayor Walkup asked for a second roll call vote.

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. 19516 was declared passed and adopted by a roll call vote of 7 to 0.

It was moved by Council Member West, seconded by Council Member Dunbar, and carried by a voice vote of 7 to 0, that staff be directed to continue to work with the various manufactured mobile homes stakeholders to address their concerns.

James Keene, city manager, thanked Mr. Swift and the neighborhood resources staff, Ms. Nottingham and especially Mr. Rankin, for their really patient and deliberate work in bringing this issue forward.

Council Member West thanked Mr. Rankin also. She knew he had put many hours into the proposal and she appreciated that. At the same time, she asked that if the \$50,000 were used, or started to dwindle, that staff let the council know. She agreed with Council Member Leal that some money should be allocated for this kind of thing, but at this point, considering that the money has not been used, the council should first see if people would use it. If they do, the issue can come back to the council for further modification.

Mayor Walkup said he thought the council agreed.

Council Member Leal said that \$50,000 has been about landlords. It may be more in the form of loans and for the neighborhood protection ordinance he thought a mix would be needed. In some situations the money should be used like a grant, in other situations it could be a loan on a spreading formula, whether it's 70/30, or 50/50. Maybe staff could come back to the council with that formula in the near future.

Mr. Keene said he thought they might want to use some imagination and think more broadly than just CDBG. There are opportunities such as volunteerism, Christmas in April, and a lot of neighborhood residents, once they become aware of the condition of an individual person, would be willing to pitch in and find ways to reclaim a house and help the neighborhood. He thought the neighborhood resources staff would be looking at a lot of different options. He said it was not important how they get there, the end result was the focus.

Mayor Walkup said he thought the council was saying that the money should not be allowed to run out with the council not knowing anything about it. The council wants to know before that happens.

Council Member West said this subject sounded like a future agenda item. She agreed with Council Member Leal and at this time, when none of the money has been used, they should see if people want to take advantage of it first. At the same time she would hate to have someone be deprived. She thought the issue should come back to the council at study session because there are a lot of possibilities on how it can be tailored.

12. PUBLIC HEARING: UNIVERSITY AREA PLAN AMENDMENT – CAMPBELL/6TH STREET – PARKING

Mayor Walkup announced that city manager's communication number 122, dated February 24, 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 regarding a proposed amendment to the *University Area Plan* to allow permitted parking for commercial uses. He asked for staff's presentation.

Albert Elias, comprehensive planning task force director, said this was a request to amend the *University Area Plan* to permit parking at 422 and 428 N. Martin Avenue for commercial uses, located at the northeast of the amendment site on the corner of 6th Street, between Martin Avenue and Campbell Avenue. Two single-family homes currently exist on the site. The block at the southwest corner of 6th and Campbell is in transition, the existing configuration and uses in the area are an interim situation because the proposed university comprehensive campus plan indicates that the site will be developed with commercial uses. If the existing commercial uses at that location are valuable and appropriate, this request to convert the existing residential uses on 422 and 428 N. Martin to parking would provide some provisional parking as a solution to support business use at the corner of 6th and Campbell. The planning commission voted 10 to 1, as indicated in their letter, to forward a recommendation to the mayor and council that the proposed amendment be adopted.

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 had received a number of written requests to speak and said he would call on those people in the order he received their requests.

Michelle Schnaible, said she was in favor of razing the two houses for the development of a parking lot for several reasons. Mr. Cummings, the owner of the subject property, polled the adjacent neighbors and all were in agreement with taking down the buildings. The structures are not in good condition; they are actually detrimental to the neighborhood, not an enhancement. The neighbors would rather look at a parking lot that is well landscaped, which says a lot about what the two buildings look like. Speaking as a neighbor who lives a couple of blocks away, she said having a parking lot at the subject location would bring in business and attract businesses to the empty buildings. There would be services in her neighborhood that she could walk to and she thought that would add to her enjoyment of the neighborhood. By having a parking lot at the subject location, people who live outside of the neighborhood would be able to stop and use the businesses. They would think it is a nice neighborhood and be more willing to shop there, live there, and rent properties there. For all of those reasons, she believed that a parking lot would help business development along 6th. The proposed parking lot would be an enhancement to the neighborhood, strengthen the neighborhood, and add to its vitality.

Laura Tabili, representing the Rincon Heights Neighborhood, which is directly south of the University of Arizona, asked the council to vote against the proposed amendment. Too much random demolition of residential properties and development of parking lots has already ravaged her neighborhood. The residents call it a "gapped toothed smile" where there is a row of housing, then someone

puts a parking lot in the middle of them. That diminishes the quality of life for the immediate neighbors and has a degrading effect on the neighborhood as a whole. The subject houses, like most of the houses in the neighborhood, are more than 50 years old and she thinks they would be quite attractive if they were renovated properly. They are one of a kind houses, like most of the houses in Rincon Heights and that means that once they are knocked down they are gone. On the other hand, there are a lot of parking lots, in fact, Mr. Cummings owns a parking lot right across the street from the subject parcel. The residents had a long meeting with him in December and they had another long meeting the other night. They were unable to get an answer from him as to why he cannot use the parking lot that is directly across the street from the subject parcel to support the businesses on 6th and Campbell.

The residents are very much in favor of having neighborhood retail, a lot of which has been depleted by the university's development, so they are in fact in favor of neighborhood businesses. However, neighborhood businesses that residents can walk to do not really require a lot of parking, so there was a contradiction there. She was asking the council, if they did not reject the proposed amendment, to at least delay it so that the residents can have more discussions with Mr. Cummings and possibly save the historic houses. She distributed pictures of the houses and said she did not think they were that ugly.

Melody Peters, secretary of the Rincon Heights Neighborhood Association, said they voted unanimously against the proposed amendment on January 18. The Rincon Heights Neighborhood Association does support locally owned businesses. They want to work with Mr. Cummings to see that his business thrives. In principal they support his businesses, but they do not support the demolition of houses for parking lots. That is something they have already experienced a great deal of in the neighborhood. The university has constantly taken down one of a kind historic homes and developed surface parking lots. The association is not convinced that Mr. Cummings needs the proposed parking. Behind the businesses on 6th Street, the residents counted 42 or 44 spaces that he already has; in addition, he has another 22 spaces across the street, totaling 64 to 66 spaces. He currently rents the spaces across the street from the subject property to students. He is not using those spaces for the businesses and that seems to indicate that he has surplus parking, yet he wants to tear down houses to put in more parking. Ms. Tabili said the houses are not single residences. She thinks there are about five or six residential units in the two houses, so the neighborhood would lose housing stock.

In addition, Ms. Tabili said there is university parking directly behind the property Mr. Cummings just recently acquired, on the corner of 6th and Campbell. There are 12 spaces there that the university owns and rents to students. In the past, the university has worked with the 6th Street merchants and put in parking meters that are dedicated to businesses on 6th Street so that their patrons can park. What her neighborhood would really like to do is work with Mr. Cummings, hopefully with the aid of either Council Member Ronstadt or city staff, approach the university and ask that they lease the property with the 12 spaces to Mr. Cummings. It is contiguous with his property, unlike the property with the houses he wants to tear down. There is an unsightly empty lot on the other side of that parking lot, which they believe is owned by the city, right on Campbell, that could be used for parking for Mr. Cummings. She asked the council to either postpone it's decision or reject the proposed amendment, have city staff work with

the neighborhood, Mr. Cummings, and the University to try to find more convenient parking for Mr. Cummings' business on 6th and Campbell and spare those houses. The residents do not want any more houses in their neighborhood torn down for surface parking.

Mayor Walkup asked if anyone else wished to address the council.

Brendon Mc Alister, on the corner of Glen & Campbell, said his property is right next door to the subject property. He and his neighbors are very much in favor of an amendment that would create new business in the area. He has been very impressed with Mr. Cummings' efforts in the neighborhood, going door to door, looking for support, and explaining what he is trying to accomplish. Mr. McAlister said he is very much in favor of the proposed amendment.

Mayor Walkup asked if anyone else wished to address the council.

Dave Chiappetta, said his house actually abuts the property in question and he is very much in favor of the proposed amendment. He thought Mr. Cummings should be applauded for trying to develop the area, since the university has taken away so many of the small businesses, coffee shops, restaurants, and so forth that have been along 6th Street for so many years. He reiterated his support for the project.

Mark Lewis, said he also supported Mr. Cummings' development and hoped to see small businesses in the area prosper.

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

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

Mayor Walkup asked the council's pleasure.

Council Member Ronstadt asked if Mr. Cummings wished to comment.

Scott Cummings, noted he had spoken with a number of the council members directly and to the support staff of others. He went back in November, when he first went to the neighborhood association and made his proposal. They asked that he talk to the immediate neighbors. He applauded people who get involved in neighborhood associations, but he does not think the people who spoke against the proposed amendment at this meeting were a true barometer of the people who live directly across from or in the immediate area of the proposal. He spent two weekends going door to door and if a property was used as a rental, he tried to get in touch with the landlord. He had great luck if they were landlords that live in Tucson, but some of them are absentee landlords.

Using a map, Mr. Cummings pointed out the subject properties, what he called an infamous block building on the corner, which he had purchased in the last year and a half and said he did not paint it black, that is the way he bought it. A lot of people had questioned that. Right next door there is a building that the Princeton Review is currently

using for classrooms to prepare people for entrance exams. The next property, the Esquire Hair Weaving, he said he does not own and the next building to the west is the East Coast Super Sub, which has become a very popular and successful business. Not only has that business been able to satisfy the needs of the university crowd, there are a lot of city staff cars there, people do come in from around the area. It is not just walking traffic.

One other building, again to the west, is a small 1,000 square foot building that is currently vacant. The properties are all zoned C-1. The next property is a residence; Mrs. Pritchard lives there and going south are the two subject properties that he wants to have rezoned from R-2 to P, which would be used expressly for parking to support his properties. The university does have a lot that has about eight to ten spaces that are pull-in spaces. Then there is a triplex and across the alley, there are six residences, then another six. He diligently went out and talked to all of the immediate neighbors that he could.

Mr. Cummings said a petition was distributed to the council that had 35 signatures and he left another sheet with an additional five signatures at the council offices, that represent what the people in the area really want. He believed his proposed development would enhance not only the neighborhood, but also the whole corner, making it much more viable and more aesthetically pleasing, not only for the university, but also for the city. He pointed out properties of the people who signed the petition in favor of the amendment, either landowners or occupants. Out of the 16, only three are occupants, the rest were all landowners, which he thought was important because they are obviously the people who will take the economic brunt of whatever happens with the subject property. He was trying to show that he did have support.

When he went back in December, after meeting with the neighborhood association in November, they told him to go out and show them that he had support from the immediate neighbors. He did that, he came back in December and at that meeting a motion for approval was made, it was seconded, then someone objected saying they needed to seek legal counsel because Mr. Cummings was going to be jeopardizing the neighborhood's position with their memorandum of understanding with the university. Mr. Cummings did not find any credibility in that claim. After that meeting, the next step in the process was to go to the planning commission, and as was mentioned earlier, they voted 10 to 1. The same arguments that were brought up at this hearing were brought up at the commission's hearing. The question of whether or not the proposed development was going to jeopardize the neighborhood's position with the university was put forth to Mr. McCrory, assistant city attorney, who said it would not.

Mr. Cummings said he thought he had been more than willing. He met with the neighborhood association, but even more importantly he met with his immediate neighbors and what happened is that the neighbors all of a sudden, people who never knew each other on each side of the block, were talking. He was able to tell the council that he did have overwhelming support from his immediate neighbors. He thought that was very important.

Mayor Walkup said he understood the proposal for a parking lot to support the business and asked if Mr. Cummings was planning a change in the nature of the businesses along 6th. That was not part of his request, but it sounded as though he was operating with some kind of master, strategic plan to enhance that whole commercial strip.

Mr. Cummings said absolutely. That was the whole idea, to create viability. Years ago, parking was allowed on 6th Street and the properties were commercial businesses. As 6th Street widened that parking was diminished. Not only that, the Long Family, whom he bought the subject property from, had property that actually went out to the current median strip years ago and when Campbell was widened the same thing happened, they lost parking. He reiterated that his whole idea was to create more viable retail uses and there has to be parking for that. He believed there were an existing 24 spaces in the area and he wanted to do his development in phases so that it would be least disruptive, especially to his neighbor, Mrs. Pritchard, who is a resident. Once again, she signed the petition, even after being approached by people who oppose the amendment, and she is in favor of it.

Mr. Cummings continued that he would like to do a development in phases. The discussion was about an existing 24 spaces and adding another ten in the interim until the demand catches up and more is needed, up to a total of 47 spaces. He was putting up a five-foot screen wall making all of the ingress and egress come from the alley to the north. There would be no traffic on the other alley. He met with the transportation department and they have signed off that the alley can support the amount of parking that he was proposing.

He was suggesting that as people leave to go out to Campbell or up to Martin, there would be a right turn only on Martin so they would have to go to a collector street, which would be 6th Street, to head either east or west or to get to Campbell, they'd be right on an arterial. He said there is a big change in grade on Martin. There is currently a three-foot wall there, so people are not going to be looking into the parking lot. It would be tough to see from the street. It will be heavily landscaped.

He could see no reason for the council to continue the request. He has done everything he can. Between the plan amendment and the rezoning the process, it takes almost a year. If he were 100 feet farther to the east he would not have to go through a plan amendment because he'd be on an arterial. In the spirit of some of the requirements of the area plan, he said he did have direct access to the arterial and he did not believe the amendment would be any type of nuisance to the neighborhood.

Mayor Walkup recognized the city manager.

James Keene, city manager, said he thought it would be helpful if staff would explain the relationship between the potential to see the neighborhood commercial develop in the future and the relationship between the plan amendment for the parking and a subsequent rezoning. Even though the applicant has talked about a rezoning that is subsequent to this action and that is when the detail of screening and design, all of those things would ultimately come to the council. He said this item is just the plan amendment.

Council Member Ronstadt asked that staff place this request in context with what is going on in the southeast corner.

Mr. Elias said the staff analysis that took place with respect to the subject amendment was very interesting because there were some concerns about the nature of the request in that it could appear to be a piecemeal approach that was not very

comprehensive. He knew there were some issues regarding the traffic circulation that Mr. Cummings brought to the council's attention, there were also issues with respect to buffering, particularly for the residences that are immediately adjacent to the south of the site. Those were issues that would typically be worked out during the rezoning process and would likely be specific conditions of the rezoning that would come out of the process if the subject plan amendment were approved. He wanted to be clear that the specific issues regarding circulation, buffering, and landscaping would be addressed during the rezoning process.

With regards to how the subject amendment fits into a larger context of the appropriateness of commercial use, especially along the 6th Street frontage and the other corner at the southeast of Campbell and 6th, the *University Area Plan* and the university's comprehensive campus plan both identify retail commercial uses along the 6th Street frontage as being appropriate. The university's long-term plan includes a very substantial retail commercial development in the property, a portion of which Mr. Cummings presently owns. When staff found that out, Mr. Elias felt compelled to talk to university staff to see why that could not be done at this time. University staff made it very clear in the meeting with Mr. Cummings and city staff that they were not prepared to go forward with it at this time because of financial considerations and so forth, but they did indicate that they did not feel that Mr. Cummings' plan amendment request would in any way inhibit the full development of a comprehensive scheme for the entire street frontage for commercial at the subject location at some point in the future.

Mr. Elias hoped that Mr. Cummings, being the owner of several of those parcels, would work in partnership with the university when they are ready to proceed. He added that as background because he thought the neighbors' concern spoke, to a certain extent, about the desire to have appropriate services for their neighborhood. Likewise, at the southeast corner of 6th and Campbell he believed the surrounding residential area would like to have more commercial services that speak to their needs. That is ideally what they would like to have, so it is necessary to keep in mind that there is a longer term and larger goal that is preserved in the plan policy that is in place. The subject amendment staff believes is consistent and can achieve those objectives.

Mayor Walkup asked if there was any discussion.

Council Member Ronstadt thanked everyone who attended and spoke at the public hearing. An e-mail had been sent to him about some of the issues and he thought those issues had been articulated at this hearing. Those same issues were discussed at the planning and zoning meeting as well. The council is always concerned about the historic aspects of neighborhoods and the city's preservation officer indicated that the two properties in question were not contributing structures if the neighborhood decides to engage in historic designation. He thought that was one of the more important issues that was brought up. There is a bigger picture of what is going on with that intersection on the south sides of those corners. The city is working with the Sam Hughes Neighborhood Association and Kim Horvath (ph) on the southeast side and obviously with Mr. Cummings on the west side. Mr. Cummings did what he was asked to do by the neighborhood. City staff indicated that the neighbors directly abutting and most directly impacted by the development support it. Some of the speakers said it is needed, that it would be better for the residential areas to have the buffer and landscaping areas as opposed to what is currently there. The project supports what the city ultimately wants for the intersection.

It was moved by Council Member Ronstadt, seconded by Council Member Dunbar, that resolution no. 19520 be passed and adopted.

Mayor Walkup asked if there was any discussion.

Council Member West thought she read in the council's material that the parking is an interim use until the commercial uses along 6th are stabilized. She asked if she understood that correctly.

Mr. Cummings said his proposal was to do the development in phases. The first phase would add approximately ten spaces and the second, when completed would make a total of 47 cars.

Council Member West said it seemed to her that the city's codes require more parking. However, if people are walking to the area from surrounding neighborhoods, was it necessary to have 47 spaces at the subject location?

Mr. Elias said to introduce a change of use to some of the buildings that Mr. Cummings proposes to use for commercial activity would require additional parking. The parking that was mentioned as being across the street and to the west of the subject site, the code would not allow to be counted toward Mr. Cummings' onsite requirements.

Council Member West noted that the neighborhood thinks one of the lots belongs to the city and asked if that was correct.

Mr. Elias said he thought they were referring to the university owned lot that is along Campbell. He asked the university if they would be interested in leasing it to Mr. Cummings to support his commercial use along the street frontage and they indicated they had no desire to do that, that they already had commitments for that parking.

Council Member West said the other side of the coin is that people who do not live in the neighborhood might want to visit the shops, in which case the parking would be needed. She said she is never very excited about more parking lots, but she recognized the reality, particularly in congested areas such as this one. She knew there were some landscaping and screening requirements. She was sympathetic to the neighbors, but the property owners adjacent to the subject property all seemed to be in favor of the proposal, so she would support the plan amendment because of that. At the same time however, she wanted Mr. Cummings to be very mindful of making his development as attractive as he possibly could because most of the parking lots around the university are pretty ugly.

Mayor Walkup asked if there was any further discussion.

Vice Mayor Scott asked if Mr. Cummings spoke with the Rincon Neighborhood Association. Did they try to convince him of their perspective?

Mr. Cummings said he attended three neighborhood association meetings, then one with the neighborhood at the very beginning of the process.

Vice Mayor Scott asked if he had heard from the people who objected to the amendment that they are mostly concerned about the destruction of the houses and the development of a parking lot. She thought they had ongoing concerns because of the e-mail that was received earlier expressing that concern. She thought it had to do with parking. They made some statements that parking is available in another location and asked if it was really necessary to take the houses down right this minute. She asked if that was true.

Mr. Cummings said it is not parking that would be available for commercial uses. He said one of the important things is that the university expansion area, the new boundary, comes down the alley and goes north, then down 7th. As Mr. Elias said, the new comprehensive university plan calls for the whole area to be some type of retail/office building in the future. That could be five or 20 years as everyone knows, depending on the budget at the university, but those properties are slated to be razed sometime in the future.

Vice Mayor Scott said one of the things mentioned in the e-mail was that Mr. Cummings did not have any particular kind of business in mind to be located there. They expressed some concern because of the bar, The Rock, that is near there and they would not like to see a proliferation of that kind of thing. They wanted some sense that Mr. Cummings would be mindful of their concerns regarding the type of businesses that might locate there. She asked if it was true, that Mr. Cummings was still not sure what kind of businesses he would have.

Mr. Cummings said he was trying to get viable retail, which he has indicated from the very beginning, that the process will take almost a year. He hoped the proposed amendment would be approved at this meeting and he would have more of a window. He would be looking at three to five months down the road before the rezoning is done. Then he can go out and market the property whether he is the occupant or he goes out and finds a tenant. He said he was not trying to be coy. He has had discussions with a sushi bar, a coffee shop, a Moped dealer, and some clothing businesses, but looking at a one year window people are typically not making decisions, especially when he cannot tell them that he will deliver parking capabilities.

He said the whole thing about The Rock gets really old after awhile. He felt like he was hitting his head against a wall. The Rock has a series 6 liquor license, which is a bar/nightclub license. His properties are located on C-1 zoning, which would not allow a series 6 liquor license. If a sushi place wanted to locate there and applied for a series 12, the council has the ultimate decision. He said he was not trying to sneak anything in, this question had been coming up for months and he did not seem to be able to get it across that he had no intention of putting a bar like The Rock or Dirt Bags on the property.

The subject property is the first property he bought, that was in 1986, he has been there almost 20 years and he has lived in the area for five years. He did not intend to leave Tucson. He is doing other projects in other neighborhoods. He was not going to shoot himself in the foot for one lousy 3,000 square foot building and lose all credibility with the mayor and city council in the future. He said there has to be some trust, some good faith and he will deliver that.

Vice Mayor Scott said the item before the council was a plan amendment. Other matters that have yet to be addressed and put into specifics, as Mr. Elias said, would come later and the residents and neighborhood that are protesting the proposed amendment will still have an opportunity to have input into the entire process.

Mr. Cummings said that was how he saw it. There is another process, but the plan amendment has to be approved in order for him to go forward.

Mr. Elias said that was correct. If the council voted to approve the proposed amendment, the next step for Mr. Cummings would be to pursue a rezoning process. If that was approved, the step would be to get a detailed development plan approved to show how he would be meeting all of the code requirements as well as any additional conditions of rezoning. Typically, that process involves interaction with the adjacent property owners and neighborhood association, so there would be additional opportunity for input.

Mayor Walkup asked if there was any further discussion.

Council Member Leal said a problematic chain of events seemed to be involved with this issue. Traffic increased so the city took the parking capabilities off the street. That destabilized existing businesses. Then the city became concerned that the businesses were destabilized and/or vacant or gone, so to help them become viable again they had to find a place for parking. Now the city is going into the neighborhood tearing down houses to create parking for the businesses that do not have parking because the city took the parking off the street when the traffic became so intense. The city is going to help revitalize the businesses, but that will destabilize the neighborhood, so they will have figure to out how to stabilize the neighborhood. He said fairy tales are written about things like this.

When the city improved South Sixth it did something innovative and looked for a win/win situation. The street was widened a foot and a half on each side, which took parking away from the front of the businesses, which was illegal anyway, but they were using it and it worked to a certain extent. The city took the right-of-way on the residential street that abutted the arterial and put angled parking in. That created more parking than the city had actually taken away, making a net increase in parking on the whole boulevard, which helped the businesses and none of the houses had to be torn down to create the parking lots. That idea seemed to work really well. It was taken to the north and he thought the Dunbar/Spring Neighborhood wanted it to be done along Stone Avenue.

As he was listening to this item, he remembered prior discussions and he thought the council said as the city pursued economic revitalization, helping small businesses in the tight areas of the inner city, a collection of places would have to be found to do that technique so that it is not hurting one area by helping another. The council looked at it near the Aztec Hotel, closing off the street near Bob McMahon's restaurant to put parking there. It was too bad, and maybe he was being unfair and premature in saying it, but they did not try to apply that model or see if it is viable in this case. He thought Mr. Cummings was right. Unfortunately, both sides of this issue were right. There might be a way for the council to generate the additional spaces that are needed to create the viability that Mr. Cummings legitimately wants for himself and for those around him without eliminating housing stock in an inner city neighborhood.

Mr. Elias said staff did consider that option. However, Mr. Cummings does not control the parcel on the northwest corner that has the Martin Street frontage. He thought it would be difficult to get the person who owns that property, Mrs. Pritchard, to agree to angled parking without being involved in the proposed amendment as well.

Mr. Cummings said one of the things the current university plan calls for is to try to keep the parking that is needed for commercial out of the neighborhoods. He has lived in the neighborhood and currently all of the parking during the day is permit parking. They are really trying to keep everyone who is not a resident from parking there. He was not opposed to what Council Member Leal was suggesting, he thought that would be complimentary to his proposal. There is never enough parking in the university area, especially next to facilities that have special events. Football games bring 40 to 50 thousand people to the stadium, plus all of the ancillary things that go with them. If anything, he was trying to isolate and buffer to keep parking from affecting the residents to the south. He thought the area plan, which was designed in 1993 or '94 is archaic. Looking at what has happened on Sixth Street in the last few years there is very little residential. He wanted to move forward, he was not opposed if there was some creative way to add to the 47 spaces he was proposing.

Looking at the cumulative amount of square footage between the existing buildings, eight thousand feet, depending on the use the code would require from 40 to 80 spaces. He was not trying to put in a mammoth parking lot. He thought his request was reasonable and he applauded other ways to add parking to the area. The one house in the first phase of his development has been compromised so many times. It started out as a single-family residence, went to a duplex and then to a triplex. He is in the process of renovating three houses on 9th Street near the Shanty that were crack houses. He is not someone who just wants to tear down an old house to create more parking. It is not a house that has any integrity. It has been compromised either architecturally or historically, and it is in the university expansion area.

The subject property is on the periphery of the university and one of the benefits is that he has access to an artery. His property is not in the middle of the neighborhood, he is not trying to take something down that is two blocks to the west, or one block to the south where it would affect existing single family homes. There is an alley, there will be a screen wall, and the properties around it have, except for one, their own screen walls. He did not believe his development would be a nuisance to the existing contiguous neighbors.

Council Member Leal thanked Mr. Elias for trying to see if the idea that was used on South 6th Avenue would work at the subject location. He hoped the council would systematically try to do that in all situations like this one. He noted that Mr. Cummings had said that traffic leaving the subject lots would either go out to Campbell or west to Martin and directed north. He asked if that is done by signs or by a pork chop that forced a turn to the right, preempting a turn to the left so the traffic could not go through the neighborhood.

Mr. Elias said the circulation issue was discussed on two levels. With respect to the access point on Campbell and the northern most alley the idea was that it would be signs trying to direct traffic out onto Campbell. On the Martin side on the west end of the site there is currently a sign directing traffic that way, but during a rezoning process it would be appropriate to have a design detail such as a pork chop that would force it.

Council Member Leal said he thought that would be necessary, if it came to that, to protect the neighborhood. He wanted to know how staff looked at the various ways for traffic to come to that parking lot. He did not want to see any traffic coming from the south, north up through the neighborhood to go to the parking lot to go to whatever business gets put there. He asked if that was part of the discussion preempting traffic flow to the north.

Mr. Elias said when the proposal was discussed with the transportation staff they talked about that point specifically and the idea was that the northern alley at Campbell was going to be the place that people would enter the site to go to the parking spaces.

Council Member Leal asked how the city would prohibit traffic going north on Martin from entering the parking lot. That was what he wanted to guard against.

Mr. Elias said that was something they would work on during the rezoning process. Clearly, there are ways to do that. The city has different kinds of pork chop configurations.

Mayor Walkup asked the city clerk to read resolution no. 19520 by number and title only.

Resolution No. 19520

Relating to planning and zoning; amending the University Area Plan; and declaring an emergency.

Council Member Ronstadt thanked his colleagues and said the questions they asked were questions he asked and received staff responses to. He was glad they had engaged in the same dialogue that he had been having with Mr. Cummings instead of just having a monologue. One point was made by Council Member West that he thought was important not only in this case but also in a zoning case he was anticipating on the other side of Campbell and 6th Street, and that was the issue of neighborhood scale commercial and the need for parking. The comment was that if it is a neighborhood business it could be assumed that the neighbors would be walking to it. He said that was true to a certain extent, but according to the owner of the Rincon Market in the Sam Hughes Neighborhood, if people from outside the neighborhood do not patronize the businesses they will fail. The council just finalized a rezoning for parking behind the Rincon Market about three weeks ago and the driving factor was that obviously, the neighborhood uses the amenities, but for the businesses to survive and be economically feasible they also need outside support. It was an important question and he thought the small business community would say they want the neighbors to patronize them and would be set up to do that, but also recognized they needed patrons from outside the neighborhood. He said that was an important question and he was sure it would arise when the development on the eastside of Campbell comes up.

Mayor Walkup asked for a roll call on the motion to pass and adopt resolution no. 19520.

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. 19520 was declared passed and adopted by a roll call vote of 7 to 0.

13. PUBLIC HEARING: RINCON SOUTHEAST SUBREGIONAL PLAN AMENDMENT, MAP DETAIL #1, SAGUARO CANYON

Mayor Walkup announced that city manager's communication number 120, dated February 24, 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 regarding a proposed amendment to the *Rincon Southeast Subregional Plan*. He asked for staff's presentation.

Albert Elias, comprehensive planning task force director, said this was a request to amend the *Rincon Southeast Subregional Plan* to allow the approximately 16-acre parcel at the southeast corner of Escalante Road and Houghton Road to be developed with residential development at a density of approximately three units per acre. The amendment would revise the existing plan to change the designation from low intensity urban, which allows 1.2 units per acre to allow development of approximately three units per acre, another low intensity urban classification. He said the character of the area surrounding the amendment site is a significant issue. The intersection of Houghton Road and Escalante is potentially changing. Houghton Road at the subject location and the area to the west is presently undeveloped. Staff anticipates that Houghton Road will continue to have more and more traffic.

Typically, land use direction for the area would allow for densities similar to what the applicant was asking for. The direction follows the premise that higher density development is generally appropriate along major arterial streets, such as Houghton Road. In this situation, the intersection of Houghton Road and Escalante will potentially be going through more intensity. The Arizona Department of Transportation is currently conducting a Houghton Road corridor study that is going to look at the eventual intensification of this intersection. The designation that is being proposed would create an opportunity to have a density transition and allow some flexibility in lot size and configuration. Staff believes that the proposed amendment to the *Rincon Southeast Subregional Area Plan* would be appropriate and recommends its approval. He noted that the planning commission voted 11 to 0 to forward a recommendation to the mayor and council to approve the amendment.

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 had received written requests from several people who wished to speak and said he would call on those people first.

Don Laidlaw, representing the applicant, Randy Tudisco-Fenton, said the request is for a plan amendment for a 16 acre parcel from low intensity urban 1.2 up to low intensity urban 3.0, meaning up to the possibility of three residences per acre. The request is for a plan amendment and not a rezoning. Issues and concerns have been expressed by neighboring property owners and the council might hear of them at this meeting. He said they are working together on an amicable way to develop a concept for the use of the land within the framework of low intensity urban 3.0 that will be acceptable to and appreciated by the Highland Trails Neighborhood Association and a family that lives nearby, to the southeast.

He asked that the council approve the amendment so that the property owners can start making and finalizing in cooperation with the neighborhood a development concept and rezoning proposal that is concurred in by a majority of the Highland Trails Homeowners' Association. He said they would stipulate to that and have already stipulated to 60-foot natural desert buffers along the south and east boundaries of the property, to do improvements to the intersection of Escalante and Houghton, and to a single story height limit. This is an evolving process and he asked for the council's approval so that it can continue.

Mayor Walkup called on the first speaker.

Robert Foley, said he appreciated the research that staff had done and the developer seemed to have given a lot of thought to what the development will do as far as its relationship with the neighbors. He wanted to make sure that the concerns regarding the subregional plan remained consistent with the original intent of that plan and in that vein he had prepared a short letter that would reflect his and most of his neighbor's feelings about that. They do not object to an adjustment to the plan as long as any future rezoning initiatives remain consistent with the intents and purposes of that plan and give the neighbors assurances in predominantly the three categories that he had outlined in his letter. Their concerns had to do with the intent of the plan and how it supports development of the community on the southeast side of Tucson with respect to the neighbors, the residential developments, the type of housing that is constructed, and a preservation of land use and natural habitat for that region. He thinks that is critical to the intent of the plan.

Ultimately, they all understand that any kind of development surrounding the existing neighborhood will eventually affect comparable sales and the values of those relative properties. They want to make sure that any changes address the potential for influencing those values. With those particular aspects in mind, he said they appreciated the initiative of the developer and Mr. Laidlaw, as the developer's consultant, to work closely with the neighborhood. He appreciated the issues that had been brought forth earlier to the council and certainly, it is much more effective for all of them to work together on a development for the entire city. He hoped that the parties, the council, and the mayor's office also reflect those interests.

Ken Ryan, representing Bryan and Lisa Nydoske, 10321 E. Boulderfield Drive, lot 1 of Highland Trails, who are out of state, said they asked him to express their concern regarding the density of the proposed development. He has been a homebuilder and developer for the past 30 years in Tucson and he commended Mr. Laidlaw's caveat to the plan amendment concerning the subsequent rezoning that will

require majority approval of the Highland Trails Homeowners' Association. He thinks that is a very big stipulation and he was sure that his clients would be very happy with it. He believed the proposed amendment would lay the foundations for continued dialogue and a win/win situation for whoever develops the subject property and the neighborhood.

Mayor Walkup asked if anyone else wished to address the council.

S. E. Zara, said Escalante is a beautiful road that extends from Houghton to the national park, about two and a half miles. The properties are rural and the subject property comprises about 16 acres. Next to that is another parcel of six acres, his property, which consists of 7.9 acres, is next to that, and it goes on. All of the properties are huge, and he had no objection to development, but why were 47 houses needed on 16 acres? That was the proposal that was made last month. What did they mean by low density with three homes per acre? He said that is not low density. That is high density. Why destroy the honor of the road? He asked if Escalante was going to be expanded to four lanes. There is already traffic there. He bought his home four years ago and there was no traffic, now the traffic extends to about 500 feet in the morning. Cyclists use the road everyday and he asked if there would be a lane for them. Thinking seven to eight years down the road, he asked what would happen to Escalante. A city staff person told him that on the positive side he could subdivide his property and put three homes per acre on it. He asked how far the city of Tucson was going to go. The road is beautiful and he thinks it should be kept beautiful.

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

Mayor Walkup asked the council's pleasure.

It was moved Vice Mayor Scott, seconded by Council Member Dunbar, that resolution no. 19517 be passed and adopted.

Mayor Walkup asked the city clerk to read resolution no. 19517 by number and title only.

Resolution No. 19517

Relating to planning and zoning; amending the Rincon Southeast Subregional Plan, Map Detail #1-RSSP – Saguaro Canyon, southeast corner of Escalante Road and Houghton Road; and declaring an emergency.

Mayor Walkup asked if there was any discussion on the motion to pass and adopt resolution no. 19517. 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. 19517 was declared passed and adopted by a roll call vote of 7 to 0.

14. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

Mayor Walkup announced that city manager's communication number 113, dated February 24, 2003, would be received into and made a part of the record. He asked if there were any appointments by any member of the council.

It was moved by Council Member West, seconded by Council Member Dunbar, and carried by a voice vote of 7 to 0, to appoint Margaret Joplin to the development review board.

Mayor Walkup asked if there were any personal appointments by any member of the council. There were none.

15. REDEVELOPMENT: APPROVAL TO EXECUTE A COMMERCIAL LEASE AGREEMENT WITH COLTON PROPERTIES FOR THE REDEVELOPMENT OF THE CITY HALL ANNEX, 110 E. PENNINGTON

Mayor Walkup announced that city manager's communication number 123, dated February 24, 2003, would be received into and made a part of the record. He asked for staff's presentation.

James Keene, city manager, said he hoped this was the last main action that the council would have to take to move forward on something that dated back to 1999, when it first passed the intermodal master plan and actions were taken by the city subsequent to vacating the annex and dealing with a lot of the other capital issues. In addition to the manager's communication, Karen Thoreson was going to give additional details on how the partner was chosen, the deal points, and the city's own due diligence in relation to the partnering and where to go from here. He knew it was late, so staff would try to be as brief as possible.

Karen Thoreson, assistant city manager, said she thought the subject proposal to redevelop the old city hall annex was excellent. It will bring quality-parking infrastructure for tenants of many businesses downtown, including the Bank of America, which is owned by Colton Properties. It will also support evening and weekend visitors to downtown and it will help the development of quality infrastructure in the downtown. She said she wanted to cover the points described by the city manager starting with the process that was used to select the Colton Company. The annex is part of the overall intermodal center, which has been funded primarily with federal transit administration funds. No Rio Nuevo funds are intended to be used in the project. The funds that will be used are a grant to the city from the federal transit administration. The redevelopment of the annex was actually planned to happen in 2006 or 2007, but in the summer of 2001 the city was approached by a couple of downtown developers who said pursuing a parking garage earlier rather than later would be the right thing to do.

A request for proposals was issued in November of 2001 and two proposals were received. Interviews were held with both companies in the spring of 2002 and staff sought additional information from both bidders in the summer of that year. The interview team included members of city staff and the executive director of the Tucson Downtown Alliance, Don Durbin.

In the fall, the city manager agreed with the reviewers' recommendation that the city pursue the proposal offered by Colton Properties and two local developers actually volunteered their time to help in the negotiations with Colton Properties and assisted staff. Those two developers are a part of the JLI Firm, Tom Warren and Don Simpro (ph). They volunteered their time and took on no remuneration for that. The negotiation team and Colton Properties concurred on the proposal before the council.

Ms. Thoreson said the key elements are that the city would be getting a 570-space garage, 320 spaces would be assigned to Colton Properties, and 250 would be assigned to the city. The total design and construction cost is estimated to be \$6 million dollars. The garage would be designed so that the first floor would be converted to retail when the retail market is sufficient to meet that demand and it is anticipated to be roughly six stories high. It would cover the whole annex property. There is currently a building on the site with surface parking to the east. The proposed garage would cover the whole site. The city would bring the land to the project using the FTA funds to both clean and demolish the site. The city's value is about a million dollars so it is bringing about a million dollars to the project in terms of the land. The city, with input from Colton Properties, would select a design/build firm to build the garage and negotiate a maximum guaranteed price. Through a design/build process, the city could specify what it wants the garage to look like and what it is willing to pay, then lock the design/build firm into the maximum amount it would pay. Before actually entering in the construction project, however, Colton Properties would provide a minimum of a million dollars to the city as their equity contribution to the deal. The city would own the garage and finance it using 30-year revenue bonds. The city would issue a bond to construct, then payoff the debt over 30 years.

The Colton Property firm would pay their proportional debt service over the 30 years, so in essence they are paying 100% of the space they are leasing over the term and the city would pay the difference. The city would receive rents from either monthly, weekly, or daily tenants to pay its portion.

Colton Properties would likely lease their spaces to Bank of American tenants in order to cover their debt service. Rates would be equal to current market rates downtown, approximately \$70 a month and it would accelerate over time as the market changed. All spaces, the city's and Colton Property's spaces, would be available to the public on evenings and weekends, initially for free and as a market developed the city could also charge a fee. When it did charge a fee, Colton Properties would receive a proportionate share of the revenue for their 320 spaces, but when to charge for the spaces would be the city's option.

The city will operate and maintain its spaces and staff has offered to let Colton Properties use the city's service to maintain and operate their spaces. If they choose not to, the city will have maintenance standards that they would agree to meet at their own costs. Finally, Colton Properties would have a right to these terms for 50 years and after

that, the city would have no obligation to provide any other compensation. If the city chose to tear down the garage in 35 or 40 years, they would have the appraised value interest in their 320 spaces coming to them from the city.

Ms. Thoreson said the partnership allows the city to build more spaces than it could on its own, it lets the city, by building more spaces, do so at a lesser cost and build spaces that are of high quality and designed to really enhance the downtown. The city will not be at risk because it will receive the Colton Properties equity up front before it even enters a construction contract and Colton Properties would be required to make monthly debt service payments. If they did not, the city would have their money and their spaces. She did not expect that to happen. Her point was that the city was well protected in this deal. The city will get immediate parking benefits for evenings and weekends and not just Colton Properties, but many downtown businesses will receive value by virtue of the new structure. In all, she thinks it is a very strong model of public/private partnership.

During the negotiation process with Colton Properties, staff did research their firm and their business dealings in Tucson and in Southern California. Their business model is to buy undervalued commercial property and upgrade it to enhance the value of the asset. Colton Capital Corporation was formed ten years ago and currently owns approximately four million square feet of commercial property across the United States. About half of that is in Southern California, about two million square feet in Orange County. Over the last two and a half years, they have purchased 715,000 square feet of commercial property in Tucson. That includes the Bank of America downtown, the Williams Center, and within the last 45 days, they closed on the Cambric Center at River and Campbell. In the process of looking at Mr. Colton and Colton Properties' business transactions staff did discover a civil judgement against Colton Properties in 1995 in Southern California. It was resolved through a confidential settlement in the year 2000. Staff has talked to Irvine city officials who have done business with the Colton Company, with national real estate and financial institutions, and their current business partners. The company received very favorable recommendations from all in terms of their business model. Staff thinks the city is in a very favorable position in this deal, it allows the city to do more than it could otherwise and it sets a very important stage for future negotiations with developers at Thrifty, the depot plaza, and other downtown projects.

If the council approved the proposed resolution, staff would have the commercial lease executed by the spring of 2003 and would issue, and have an award for the design/build contract by this summer. At that time the funds would be received from Colton Properties, the demolition of the annex would be completed by this fall and construction would start by December. She recognized that many city staff members as well as private sector developers had worked for almost 18 months to bring this proposal to fruition. It was no small thing to credit the Colton Company who stayed with it the whole time through difficult negotiations, but this is a pivotal point. The subject proposal is sound and its benefits will radiate beyond the subject property to all of downtown. She hoped the council would authorize the manager to proceed and execute this lease.

Mayor Walkup asked the council's pleasure.

Council Member Ronstadt said, as the chairman of the downtown subcommittee, he has looked at this proposal. It is one of a hundred little things the city has been working on. It will provide parking and once the market is there, will provide retail. It will be a true mixed-use facility.

It was moved by Council Member Ronstadt, seconded by Council Member Dunbar, that resolution no. 19521 be passed and adopted.

Mayor Walkup asked if there was any discussion.

Council Member Leal asked if the city was going put up five and get 250 spaces.

Mr. Keene said the city was going to put up the land, which it owns, and take roughly \$600,000 in federal transit authority funds to clear the site. That is what the city will put into the project. It will get 250 spaces during working hours and access to all of the spaces on evenings and weekends.

Council Member Leal asked if the city was going to do the debt service on the five of six million to construct.

Mr. Keene said revenue bonds would be used, so the revenue bonds would have the analysis on the revenue stream from Colton Properties' 320 and the city's 250 spaces.

Council Member Leal asked if the debt service from the city's five million would be paid for from two revenue streams, the revenue stream for the city's 250 spaces and Colton Property's 320 spaces.

Mr. Keene said that was correct.

Council Member Leal asked if Colton Properties was obligated for the spaces whether they are rented or not and was told that was correct. He continued that the city will have two-fifths of the debt service and Colton Properties will have three-fifths of the debt service on the five, plus they are putting in one million, which sort of matches the city's land value and the demolition.

Ms. Thoreson said if things went sour the city would have the million dollars and all of the spaces, which theoretically could be leased to the same tenants that Colton Properties is leasing to, Bank of America, which is significantly short of parking.

Council Member Leal asked if the 570 spaces would be separate and not include the spaces created by not having commercial on the ground floor.

Ms. Thoreson said 570 would be having the entire structure for parking. If the first floor was converted it would take out roughly a sixth of the parking and it is anticipated that it would be 50/50, or proportional, so Colton Properties would lose some and the city would lose some. Just as the city has agreed to have some spaces on the top floor, which is the least desirable parking, and Colton Properties would have some of them.

Council Member Leal said when the ground floor goes to retail the loss of the spaces will be divided between the city and Colton Properties. He asked if all of the spaces above the ground floor would be 50/50, or just the roof parking would be 50/50?

Ms. Thoreson said the conversations staff has had are that the city would have essentially proportional access to all floors. As Council Member Leal said, it is a two-

fifths, three-fifths, so Colton Properties would have three-fifths on top and the city would have two-fifths all the way up and down. That is how they are going to try to design the garage.

Mr. Keene said the city does not want undesirable spaces.

Council Member Leal asked if the 250 spaces for daytime use are largely for city staff.

Ms. Thoreson said the city would be leasing its spaces to the public. The city could not use tax exempt bonds for city personnel. It has to be for the public and there is plenty of demand downtown for quality spaces. They could be leased by a city employee or to someone who works at Compass Bank. It could be anyone.

Council Member Leal said the way it was explained had satisfied his concerns that the city was not paying debt service on five while Colton Properties was only putting in one, with them having 320 spaces and the city having 250. The spaces are prudently divvied up enough so that he could support the proposal.

Mr. Keene said staff took a very conservative approach and it took a lot longer to get this deal, but it is what they wanted.

Council Member Leal said at first it looked really bad to him, but he thinks it is okay.

Mayor Walkup said having sat through some of the meetings, he understood how well the negotiations went. Everyone thought it might have been lost. He thought it was nicely done. He asked if there was any further discussion and hearing none, asked the city clerk to read resolution no. 19521 by number and title only.

Resolution No. 19521

Relating to development; authorizing the City Manager to negotiate and execute a commercial lease agreement with Colton Properties, Inc. for the lease of 320 parking spaces in a garage to be constructed on the site of the City Hall Annex; and declaring an emergency.

Mayor Walkup asked for a roll call on the motion to pass and adopt resolution no. 19521.

Upon roll call, the results were:

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

Nay: Council Member Ibarra

Absent/Excused: None

Resolution no. 19521 was declared passed and adopted by a roll call vote of 6 to 1.

16. CALL TO THE AUDIENCE

Mayor Walkup announced that at this time, any member of the public was allowed to address the mayor and council on any issue. He asked if anyone wished to comment.

A. Resolution for Peace

Laura Burge, noted that there would be an agenda committee meeting on February 25, and asked that the resolution for peace be placed on a council agenda. She has been going door to door in the Sam Hughes Neighborhood and the resolution for peace is very important. They are much in agreement that it pertains to a council issue in that the war will affect them economically as deficit spending will occur and she had heard that a grant was being used. She was trying to remember the discussions the council had had and said spending for the elderly is important. She heard that funding will be cut for low-income people if many millions of dollars are spent to go to war. It is a council issue. She noted that a man earlier mentioned that city firefighters and police officers will be taken. The city is at the highest level of alert for terrorism and the people who are trained to handle that are the people who are being taken for the war. True, more can be hired, but can they be trained? It takes time to train people on terrorism issues. The city will lose three of its trauma doctors and a number of neonatal nurses. It is not as simple as a previous speaker said. She asked the council at its agenda committee meeting to let the issue come up and at least be put on an agenda.

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

17. ADJOURNMENT: 11:10 p.m.

Mayor Walkup announced that the council would stand adjourned until its next regularly scheduled meeting to be held on Monday, March 3, 2003, at 2:00 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, held on the 24th 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:ss
pr agnst tp:ss