



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on May 24, 2004 _____

Date of Meeting: June 30, 2003

The Mayor and Council of the city of Tucson met in special regular session, in the Mayor and Council Chambers in City Hall, 255 West Alameda, Tucson, Arizona at 7:37 p.m., on Monday, June 30, 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 (arrived at 7:39 p.m.)
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
Ernie Duarte	Director of Development Services
Albert Elias	Director of Comprehensive Planning Task Force
Scott Douthitt	Director of Finance
Officer Jeannie Nagore	Tucson Police Department

Michael House City Attorney

Leonard Castro	City Clerk's Office
Stephanie Juarez	Recording Secretary
Lannie Bugarin	Recording Secretary

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Kathleen S. Detrick, city clerk, after which the pledge of allegiance was led by Boy Scout Troop #157 and presented by the entire assembly.

Kathleen S. Detrick, city clerk, announced that item #9 on the evening agenda, zoning case C9-02-31, US Home-Benson Highway, I-1 to R-1, would not be heard and would be continued at the request of the applicant until September 2, 2003.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced that city manager's communication number 389, dated June 30, 2003, would be received into and made a part of the record. He also announced that this was the time for any member of the council to report on current events and asked if there were any reports.

A. Back to School Bash at Clements Center

Vice Mayor Scott reported that this was the last meeting the mayor and council would have before August. The Back to School Bash would occur in ward four at the Clements Center on August 9 from 7:00 a.m. until noon. It would be a whirlwind kind of thing, a family day, and was something that everyone was invited to. She hoped that individuals would enjoy seeing what the Bash was all about. They would be serving pancakes, sausage, et cetera, and school supplies would be given away to children. It is usually at the time just before children go back to school, so the theme was school. She would mention it now, even though she may have an opportunity to do so in August. The event would be held on August 9, so individuals could put the engagement on their calendars if they were interested.

B. American Red Cross Blood Center

Council Member Ronstadt reported that during dinner he found out that one of his aides' daughter would be turning eighteen next Tuesday. In lieu of a party or presents, she had invited all of her friends to the American Red Cross Blood Center on East Broadway and asked them to donate a pint of blood for her birthday. He just wanted to say, "Happy 18th Birthday," and he thought that was really cool.

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

Mayor Walkup announced that city manager's communication number 390, dated June 30, 2003, would be received into and made a part of the record. He also announced that this time had been scheduled to allow the city manager to report on current events.

A. Fourth of July Events

James Keene, city manager, said Friday, the Fourth of July, would mark the tenth annual Tour for Tucson children's bike race. Proceeds from that race had been used to purchase almost 50,000 bike helmets over the last ten years. The event would be held at the Tucson Convention Center on Church Street and the first group of riders would start at 6:30 a.m. This would be a fun and festive event so he invited the mayor and council to come down to the Convention Center if they would like to ride.

Mr. Keene continued that there would also be a number of other events taking place on the Fourth of July, at the Tucson Convention Center. KIDCO's Kid's Corner would have a giant slide, laser tag, and all kinds of fun kids' stuff in the Exhibition Hall from 2:00 to 7:00 p.m. There would also be a neighborhood resources craft festival at the Music Hall from 2:00 to 7:00 p.m. and from 4:00 to 6:00 p.m. The "Let Freedom Sing" concert produced by Arts Express would be held. Also, from 4:00 to 9:00 p.m. the KLPX Tucson Food Festival and other things would be scheduled.

B. Fourth of July Fireworks

Fire Chief Dan Newburn had informed Mr. Keene that three fireworks events would be held this year. At Tucson Electric Park on July 3rd, on "A" Mountain on July 4th, and at Hi Corbett Field on July 5th. The chief assured Mr. Keene that none of those venues would present any unusual challenges to the Tucson Fire Department, and that they had more than enough resources to ensure those shows would take place in a safe and responsible manner. Mr. Keene knew there had been some question. Obviously, if at the very last moment, there was some sudden change, Chief Newburn would reassess the situation and the city of Tucson would let everyone know.

C. Public Management Magazine Article

Mr. Keene said the Bio Terrorism Conference that Tucson Fire held last November as part of the Metropolitan Medical Response System made news again. The June, 2003 edition of *Public Management Magazine* contained a well-written article, and he would get the mayor and council a copy of it. The article was written by Assistant Chief Les Caid, which highlighted the lessons learned from the event. As the mayor and council would recall it was the nation's first large-scale test of the community's ability to respond in the event of a bio terrorist attack. He offered congratulations to Les Caid and Tucson Fire.

D. Davis Monthan Land Use and Compatibility Issues

Mr. Keene announced there would be a public information meeting to address Davis Monthan Land Use and Compatibility Issues from 5:00 to 7:00 p.m. on Wednesday, July 9 at Randolph Golf Course Clubhouse, 900 South Randolph Way. The Arizona Department of Commerce and the Parsons' consultant team would be there, along with representatives from Davis Monthan, the Department of Commerce, Parsons, the city of Tucson, and Pima County as a part of the joint land use study relating to land use compatibility around Davis Monthan Air Force Base.

Council Member Leal questioned Mr. Keene if he could find out if Davis Monthan Air Force Base had done an outreach to the surrounding neighborhoods at the north end, because there had been an unevenness on good outreach. Sometimes there had been and sometimes none. So he thought it was important that somebody do that, but if nobody else did that, then he would like the city to pick up the slack and do a mailing to the neighborhoods on the north end of the runway so they could come to that meeting.

E. Sun Tran Stuff-A-Bus Campaign

Mr. Keene reported that they had raised \$27,400 worth of in-kind and monetary donations to benefit residents of Summerhaven and the firefighters working to contain the Aspen Fire. K-Gun News, Clear Channel Communications, Sam Levitz Furniture, and the American Red Cross, partnered with Sun Tran in this effort. He thanked everybody who helped out.

F. USA Today Recognition

Lastly, Mr. Keene announced that *USA Today* recognized Tucson as one of the top ten bicycling communities in the nation. Stephen Madden, who is Editor of *Bicycling Magazine*, said of Tucson, "With 300 days of sunshine, Tucson is the vibrant heart of the southwest's bike scene. This is one place that gives you everything that cycling has to offer." The city of Tucson was ranked fifth in the nation as a bicycling city, Chicago being first.

5. CALL TO THE AUDIENCE

Mayor Walkup announced that this was the time any member of the public was allowed to address the mayor and city council on any issue not listed on tonight's agenda. There would also be a call to the audience at the end of this meeting. Speakers would be limited to three-minute presentations. He had a number of cards and was going to limit the call to the audience to 20 minutes.

A. Central Arizona Project (CAP) Water

Frank V. Barrios, born and raised in Tucson, thanked the mayor and council for their interest in seeing that the citizens of Tucson whose homes were affected by the delivery of CAP water would be compensated after a ten-year delay. Listening to the study session prompted him to address the mayor and council to clarify some important matters that were not addressed. He and his wife were supposed to be one of the twelve the city attorney had stated that the checks were ready to be picked up. The checks could not be picked up as yet. Mr. House also stated that there was a little problem because their claim attorney was going to file an appeal on the damages. The settlement agreement stated that the arbitrators would have final award decisions and that it was binding arbitration for damages, but the only thing that could be appealed were annoyance, inconvenience, discomfort, and interest.

Mr. House also failed to report that the checks were supposedly made out to the claimants, the legal representation, and insurance companies. That would create a big problem. It had been reported that the insurance companies had cleared the cases and further that the statute of limitations had expired. The claimants were going to have a heck of a time trying to get some insurance companies that had gone out of business to sign those checks over, also that a release be signed by the claimants and that the release needed to read for complete compensation. A release could be signed for damages, annoyance, inconvenience, and discomfort, if it was paid, but since the interest was not awarded and was appealable, the release for complete compensation could not be signed. Mr. Barrios said that had been a nightmare for over ten years. He asked how much longer were they going to have to suffer. The claimants all felt as if they were being treated as a second-class citizen. All of the citizens involved had homes to repair, bills and interest to pay, and late payment charges that were accumulating. As a taxpayer with a whole lot of other people, they wanted to know how much the city of Tucson had spent in fighting the CAP water lawsuit. Council Members had asked and the response had been that they had saved about \$800,000 on the ones that had gone through arbitration. In doing his math, if he was correct, if the attorneys had been paid close to one million dollars so far, the city had not saved anything.

Mr. Barrios hoped that the mayor and council would take immediate action so that the nightmare the residents had been experiencing and living with for over ten years would come to an end. That way they could have closure and continue on with their lives. He thanked the mayor and council for their attention to this important message.

Mayor Walkup asked the city manager to have a staff member collect that information because the entire mayor and council would like to know more about that.

B. Artwork in Catalina Vista Neighborhood

Ellen Adelstein, a citizen of Tucson for over 40 years said she lived in the Catalina Vista Neighborhood for 32 years, the former president of the neighborhood association, and was on the board for five years.

Ms. Adelstein said she was at the meeting about another art project snafu. However, this was an art project that all of the citizens had agreed upon. When the Campbell widening was first offered by the city, she was president of the association. The association decided to be responsible citizens, work with the city, to do the project the city's way, and to have input. They did everything as they were supposed to. They sent representatives to the Citizens' Advisory Committee (CAC) and voted on selecting the artist. The city spent \$25,000 on the project for the artist to design what the art would look like. It was presented at a big meeting hosted by the city at the Plaza Hotel with the drawings, tile samples, and everything. The people at the presentation loved it, thought it was terrific, wonderful and subdued with its earth tones. The project would fit with the neighborhood, and was not obtrusive or anything like that.

Ms. Adelstein said before that happened, a member of the Jefferson Park Neighborhood who wanted to design the tiles to go along the wall that would be built when the project was finished, contacted the Catalina Vista Neighborhood and submitted the designs of a professional artist chosen by the process and that person should be the one who designed it. That was the process and everything was going along fine. Now it was their understanding, and it could be a misunderstanding, because when Council Member Dunbar was elected she probably was not aware of everything that had happened before the Jefferson Park Neighborhood Association came to her and requested \$15,000 and received the money. That was not what Ms. Adelstein was griping about. They wanted to use that money to put Doug Denniston's tile design on part of the wall that faces Campbell, so the whole project would be designed by the artist except for one section, which she believed, would have red, white, and blue tiles. That subverted the whole CAC project and she wanted to make the mayor and council and city staff aware of it.

C. Professional Locomotive Engineers

Robert Svob, Jr., represented about two hundred seventy locomotive engineers in Tucson and about five hundred across the state of Arizona. He was born and raised in Tucson, spent four years in the Air Force and returned to Tucson in 1969. He began working for the railroad in June of 1974, so he would be starting his 30th year.

Mr. Svob said locomotive engineers are highly trained professionals. Their work, moving locomotives and cars in the rail yard in Tucson and across the state, is safety sensitive and safety critical. Locomotive engineers' work is regulated by the federal government and the Federal Railroad Administration. The Union Pacific Railroad and the Burlington Northern Santa Fe Railroad in Phoenix and Winslow have introduced remote control locomotives around the country. The people who were being selected to run those locomotives are the least experienced and the least trained people in the operating department and they thought that was a safety issue to which the city of Tucson needed to pay attention. They haul thousands of tons of hazardous materials through this town every day. There are probably 40 to 60 trains a day that go through town on the main line and other trains that go to Phoenix and Nogales and down to the mines on the Nogales branch.

Mr. Svob wanted the council to consider their resolution, which would stop the operation and implementation of remote control locomotives until such time as the federal government held a rule-making activity for issues and regulations for the implementation of remote controls. Until that time, railroads are allowed to do that without regulation. There had been 75 accidents involving remote control locomotives and some had resulted in serious injuries, amputations or death and the release of hazardous materials. They thought that the federal government should stop this operation until such time a regulation is issued. Mr. Svob hoped to be back soon with the resolution.

Council Member Leal wanted to have staff look at what Mr. Svob was just speaking about. Aside from the immediate safety question for Tucsonans, he thought this also needed to be thought about within the context of Homeland Security. That seemed misguided to think about how much easier it would be to hijack or do something to a train that was not run by a person or one that was done by remote control. This city should take a real hard look at that and weigh the issue. He felt the need, after listening to Mr. Svob, that the city needed to better understand and thought this item should be scheduled for a future study session.

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

6. CONSENT AGENDA – ITEMS A THROUGH O

Mayor Walkup announced that the reports from the consent agenda would be received into and made a part of the record. He asked the city clerk to read the consent agenda by letter and title only, without objection.

- A. ASSURANCE AGREEMENT: (S02-025) DESERT VISTA TERRACE, LOTS 1 TO 183 AND COMMON AREAS "A", "B" & "C"
- (1) Report from City Manager JUNE30-03-392 W5
 - (2) Resolution No. 19630 relating to planning: authorizing the mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S02-025 of a final plat for the Desert Vista Terrace Subdivision, Lots 1 to 183 and Common Areas "A", "B" and "C"; and declaring an emergency.

- B. FINAL PLAT: (S02-025) DESERT VISTA TERRACE, LOTS 1 TO 183 AND COMMON AREAS "A", "B" & "C"
- (1) Report from City Manager JUNE30-03-393 W5
 - (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: (S02-041) RILLITO CROSSING BLOCKS 1 AND 2
- (1) Report from City Manager JUNE30-03-400 W2
 - (2) Resolution No. 19635 relating to planning: authorizing the mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S02-041 of a final plat for the Rillito Crossing Subdivision, Blocks 1 and 2; and declaring an emergency.
- D. FINAL PLAT: (S02-041) RILLITO CROSSING BLOCKS 1 AND 2
- (1) Report from City Manager JUNE30-03-394 W2
 - (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. FINANCE: WRITE-OFF OF UNCOLLECTED ACCOUNTS RECEIVABLE
- (1) Report from City Manager JUNE30-03-386 CITY-WIDE
 - (2) Resolution No. 19610 relating to finance; authorizing the write-off of certain uncollectible accounts, and declaring an emergency.
- F. TUCSON CODE: AMENDING (CHAPTER 19) UPDATING THE PUBLIC UTILITY TAX CODE RELATING TO THE LOCAL TELECOMMUNICATION AND UTILITY SERVICE PROVIDERS
- (1) Report from City Manager JUNE30-03-385 CITY-WIDE
 - (2) Ordinance No. 9870 relating to the public utility tax; amending the definitions of public utility, public utility business activity, and utility and telecommunication services; repealing Tucson Code § 19-1070(c); and declaring an emergency.
- G. TRANSPORTATION: SUBMISSION OF A CAPITAL GRANT APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION

- (1) Report from City Manager JUNE30-03-397 CITY-WIDE
- (2) Resolution No. 19631 relating to transportation; authorizing and approving the submission of a Federal Transit Administration Section 5309 Capital Grant Application for Fiscal Year 2003; and declaring an emergency.

H. INTERGOVERNMENTAL AGREEMENT: AMENDING THE AGREEMENT WITH THE STATE OF ARIZONA FOR IMPROVEMENTS TO MIRACLE MILE

- (1) Report from City Manager JUNE30-03-396 W3
- (2) Resolution No. 19632 relating to Intergovernmental Agreements; approving and authorizing the amendment to the Intergovernmental Agreement with State of Arizona for the design and construction of improvements to Miracle Mile, from I-10 to Oracle Highway; and declaring an emergency.

* I. FINANCE: CONTINGENCY FUND TRANSFER FOR DOMESTIC VIOLENCE AWARENESS MONTH EDUCATION ACTIVITIES

- (1) Report from City Manager JUNE30-03-384 CITY-WIDE
- (2) Resolution No. 19633 relating to finance; approving and authorizing the transfer of Eight Hundred Eight Dollars (\$808) from the Contingency Fund to Organization 001-183-1838-268, for Domestic Violence Awareness; and declaring an emergency.

This is a request by Council Member Leal. Allocation of funds is as follows: Mayor Walkup-\$200, Vice Mayor Scott-\$304, Council Member Leal-\$304.

** J. REAL PROPERTY: ACQUISITION OF EASEMENTS NEAR THE HAYDEN-UDALL WATER TREATMENT PLANT

- (1) Report from City Manager JUNE30-03-401 OUTSIDE THE CITY
- (2) Resolution No. 19634 relating to real property; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, certain easements needed for the installation of a fiber-optic communication line to the Hayden-Udall Water Treatment Plant; and declaring an emergency.

K. REAL PROPERTY: AMENDMENT TO THE LEASE BETWEEN THE CITY OF TUCSON AND SOUTH PARK DEVELOPMENT PARTNERS

- (1) Report from City Manager JUNE30-03-399 W5
- (2) Ordinance No. 9872 relating to real property; authorizing and approving an amended and restated lease agreement for certain city-owned real property in the South Park Hope VI Revitalization Area to South Park Development Partners LLLP; and declaring an emergency.

* See page 11

** Continued to August 4, 2003 at the request of staff

- L. FINANCIAL PARTICIPATION AGREEMENTS: WITH VARIOUS OUTSIDE AGENCIES FOR FISCAL YEAR 2004
 - (1) Report from City Manager JUNE30-03-403 CITY-WIDE
 - (2) Resolution No. 19636 relating to outside agency activities; authorizing and approving the financial participation agreements between the City of Tucson and various outside organizations for Fiscal Year 2004; and declaring an emergency.

- M. INTERGOVERNMENTAL AGREEMENT: WITH THE PIMA COMMUNITY COLLEGE DISTRICT FOR PIMA COUNTY ADULT EDUCATION
 - (1) Report from City Manager JUNE30-03-402 CITY-WIDE
 - (2) Resolution No. 19637 relating to Intergovernmental Agreements; approving and authorizing an Intergovernmental Agreement between the City of Tucson and the Pima Community College District Governing Board for Pima County Adult Education (PCAE) GED testing and Adult Basic Education provided by a volunteer corps of instructors; and declaring an emergency.

- N. AGREEMENT: WITH THE TUCSON DOWNTOWN ALLIANCE FOR AN INTERIM ENHANCED SERVICES AGREEMENT
 - (1) Report from City Manager JUNE30-03-404 CITY-WIDE
 - (2) Resolution No. 19639 relating to the Downtown Tucson Enhanced Services Improvement District; authorizing and approving an extension of the Enhanced Services Agreement between the City of Tucson and the Tucson Downtown Alliance; and declaring an emergency.

- O. REAL PROPERTY: ACQUISITION OF PROPERTY FOR A FIRE STATION SITE ON EAST TANQUE VERDE ROAD
 - (1) Report from City Manager JUNE30-03-405 W2
 - (2) Resolution No. 19640 relating to real property; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, certain real property for a fire station site on East Tanque Verde Road; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

Council Member Ronstadt said as the mayor and council went through the consent agenda items, there was one item he wanted to question, because that was always asked. The item relating to the write up of non-collectible account receivables, item E. He believed that was almost three million dollars that was being written off and his question was, why was the city writing that off? He wanted the city manager to respond because the city continued to pursue that. He realized it was more than an accounting thing than anything else.

James Keene, city manager, said Council Member Ronstadt essentially had answered his own question and deferred the question to the finance director.

Scott Douthitt, finance director, echoed what the city manager had just said, that Council Member Ronstadt had simply answered his own question.

Mr. Keene said each year as it related to the audit and closing of the books, staff had to write those amounts off for accounting purposes. Council Member Ronstadt was exactly right. The city of Tucson continued to pursue attempting to collect them. Obviously, as with any collection, the sooner the city started to collect them, generally, the better success it had. So those they had started to write off tend to be a little bit more difficult, but staff did continue to pursue them.

Council Member Ronstadt pointed out that because people ask, they always see that on the agenda. The mayor and council do not make a big deal out of it, but the amount totaled three million dollars.

Council Member Leal thought that last year it was two and a half, so it was growing. Council Member Leal asked if the city finished creating an inter-relational database where a person gets a notice for water and the amount was written off by the city, but then the individual would come in six months later to apply for a business license. Staff would say, "No, we're not giving you a business license until you pay this" or vice versa. Council Member Leal knew that staff had been working on that for a while but did not know if that work had been completed yet.

Mr. Douthitt said staff had not completed that project yet.

Council Member Leal asked if Mr. Douthitt had a sense of a time line when that would be put together.

Mr. Douthitt said he was not quite sure.

Council Member Leal appreciated Mr. Douthitt's honesty and looked forward to the Finance department getting the job done

Mayor Walkup said the council was very interested in this.

Council Member Ibarra asked what were the highest numbers of the people who owed money? Was the Finance department going to provide the mayor and council with the list of the names of the people or the companies who were not paying those particular bills?

Mr. Douthitt said staff had that list already; it had not been included in the council packet. He did want to caution the mayor and council that there was certain information that could not be disclosed, such as information relating to sales tax, et cetera.

Council Member Ibarra said that the mayor and council would appreciate the receipt of the list with the amounts.

Council Member Ronstadt thanked Mr. Douthitt and had just wanted that clarification.

It was moved by Council Member Ronstadt, seconded by Vice Mayor Scott, that consent agenda items A through O, with the exception of items I 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 O, with the exception of items I and J, were declared passed and adopted by a roll call vote of 7 to 0.

6. CONSENT AGENDA – ITEM I

I. FINANCE: CONTINGENCY FUND TRANSFER FOR DOMESTIC VIOLENCE AWARENESS MONTH EDUCATION ACTIVITIES

Resolution No. 19633

Relating to finance; approving and authorizing the transfer of Eight Hundred Eight Dollars (\$808) from the Contingency Fund to Organization 001-183-1838-268, for Domestic Violence Awareness; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

Council Member West said she would like to add an additional \$300 to the Domestic Violence Awareness Month Education Activities.

Council Member Dunbar said that ward three would also like to add \$300.

Council Member West pointed out that amounted to a total of \$1408.

It was moved by Council Member Leal, seconded by Vice Mayor Scott, that resolution no. 19633 be passed and adopted.

Upon roll call, the results were:

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

Nay: None

Absent/Excused: None

Resolution no. 19633 was declared passed and adopted by a roll call vote of 7 to 0.

7. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced that city manager's communication number 398, dated June 30, 2003, would be received into and made a part of the record. He asked the city clerk to read the liquor license agenda.

(b) New License(s)

- | | | |
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| (1) | FAMOUS DAVE'S
4565 N. Oracle Road
Applicant: Randall R. Frederick
City #036-03, located in Ward 3
Series #12
Action must be taken by: July 16, 2003 | <u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance
Bus. License: In Compliance |
| * | (2) GRANT ROAD MOBIL
2402 N. 1 st Avenue
Applicant: Rodney S. Herbert
City #037-03, located in Ward 3
Series #10
Action must be taken by: July 19, 2003
Public Opinion: PROTEST FILED
(CONTINUED FROM MAYOR AND COUNCIL MEETING OF JUNE 23, 2003) | <u>Staff Recommendation</u>

Police: Denied
DSD: In Compliance
Bus. License: In Compliance |
| ** | (3) O'SHAUGHNESSY'S
2200 N. Camino Principal
Applicant: Sam O. Stangl
City #038-03, located in Ward 2
Series #12
Action must be taken by: July 19, 2003
Public Opinion: PROTESTS FILED
SUPPORT FILED | <u>Staff Recommendation</u>

Police: In Compliance
DSD: Denied
Bus. License: Denied |

Person Transfer

- | | | |
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| (4) | 4-STAR LIQUORS
4405 S. 6 th Avenue
Applicant: Edward P. Lopez
City #032-03, located in Ward 5
Series #9
Action must be taken by: July 6, 2003 | <u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance
Bus. License: In Compliance |
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*See page 14

**See page 17

Person/Location Transfer(s)

- * (5) WILDE PLAYHOUSE Staff Recommendation
135 E. Congress
Applicant: Joan O'Dwyer
City #033-03, located in Ward 6
Series #7
Action must be taken by: July 5, 2003
Police: In Compliance
DSD: In Compliance
Bus. License: In Compliance
- ** (6) TURBULENCE Staff Recommendation
6610 S. Tucson Blvd.
Applicant: Dennis D. Sylvester
City #040-03, located in Ward 5
Series #6
Action must be taken by: July 26, 2003
Public Opinion: PROTESTS FILED
Police: In Compliance
DSD: Denied
Bus. License: In Compliance

(c) Special Event(s)

- (1) TUCSON MUSEUM OF ART Staff Recommendation
140 N. Main Avenue
Applicant: Charlie E. Bodden
City #T052-03, located in Ward 1
Date of Event: July 19, 2003
(To raise money)
Police: Review in process
DSD: In Compliance

(d) Extension of Premises

- (1) FRATERNAL ORDER OF EAGLES Staff Recommendation
#180
1530 N. Stone Avenue
Applicant: Francis A. King
City #EP25-03, located in Ward 3
Date of Event: July 4, 2003
Type: Temporary
Series: #14
(4th of July Celebration)
Police: In Compliance
DSD: Review in process
- (2) TUCSON CONVENTION CENTER Staff Recommendation
260 S. Church Avenue
Applicant: Thomas Obermaier
City #EP27-03, located in Ward 6
Date of Event: July 4, 2003
Type: Temporary
Series: #5
(4th of July Celebration)
Police: In Compliance
DSD: In Compliance

* See page 17

**See page 21

Kathleen S. Detrick, city clerk, announced that on the evening agenda, there were three requests under the New Licenses, however, two carried a recommendation for denial, so they would be considered separately. Item 7(b)(1), Famous Dave's, did have a recommendation for approval, so it could be forwarded for approval. Under the Person Transfers, there was one application for 4-Star Liquors, which also had a recommendation for approval and under the Person/Location Transfer(s), there were two applications. There was a request to remove the Wilde Playhouse from the agenda to be considered separately and another person/location transfer, Turbulence, which had a recommendation for denial as well as a protest, so that would be considered separately. Under the Special Events, there was one request that carried a recommendation for approval and the two Extension of Premises requests which both carried recommendations for approval, so the appropriate motion would be to forward item 7(b)(1), 7(b)(4), 7(c)(1), and items 7(d)(1) and (2), all with recommendations for approval.

It was moved by Council Member Ronstadt, seconded by Council Member West, and carried by a voice vote of 7 to 0, to forward liquor license applications city #036-03; #032-03; #T052-03; #EP25-03; and #EP27-03, to the state department of liquor licenses and control with a recommendation for approval.

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

(b) New License(s)

<p>(2) GRANT ROAD MOBIL 2402 N. 1st Avenue Applicant: Rodney S. Herbert City #037-03, located in Ward 3 Series #10 Action must be taken by: July 19, 2003</p>	<p><u>Staff Recommendation</u> Police: Review in process DSD: In Compliance Bus. License: In Compliance</p>
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Kathleen S. Detrick, city clerk, announced that this license did have a recommendation for denial from the police department. The applicant was present as was the police department. This license is located in ward three.

Council Member Dunbar requested to hear from the police department first.

Officer Jeannie Nagore, Tucson Police Department, explained that Grant Road Mobil was applying for a Series #10 (Beer and Wine Store) Liquor License, a new license, and it did currently have a liquor license at this location. Rodney Herbert is the agent; Rodrigo Almada Bojorquez and Rodrigo Bours Bojorquez are the owners.

While processing this application, the licensing officer found that Rodrigo Bours Bojorquez did not initially disclose an arrest. He marked "No" for questions #15 and #16 on his questionnaire. Those questions were, "Have you ever been detained, cited, arrested, indicted or summoned into court for violation of any law or ordinance. . ." and "Have you ever been convicted, fined, posted bond, been ordered to deposit bail, imprisoned, had sentence suspended, placed on probation or parole for violation of any law or ordinance." Under TPD case #9605120227, Mr. Bojorquez was arrested for minor in possession of spirituous liquor, was found guilty, and fined \$150.

During a conversation, Mr. Bojorquez remembered the incident and stated he would submit a written letter with an amendment. This conversation took place during the week of June 16. It was explained to Mr. Bojorquez the importance of receiving this paperwork in a timely manner.

On Friday, June 20, the licensing officer spoke with the agent, Rodney Herbert. It was again explained the importance of this paperwork. Mr. Herbert said Mr. Bojorquez was still in Mexico, would be returning Tuesday and would submit the needed paperwork. A signed statement regarding this arrest was received June 25 at 6:00 p.m. The statement indicates that Mr. Bojorquez was 17 years of age at the time of the incident. In fact, Mr. Bojorquez was 18 years of age. As of Thursday, June 26, 2003, at 9:00 a.m., the amendment to the questionnaire had not been received.

The liquor application states, "Read carefully. This instrument is a sworn document. Type or print with black ink. An extensive investigation of your background will be conducted. False or incomplete answers could result in criminal prosecution and a denial or subsequent revocation of license or permit." Under section 24, where it requires a notarized signature, by signing, the applicant agrees that they have read the questionnaire and that the contents and all statements are true, correct, and complete.

Based on the listed information, the Tucson Police Department does not feel that Mr. Rodrigo Bours Bojorquez is capable, qualified and reliable to hold a liquor license in the state of Arizona. The Tucson Police Department is forwarding a recommendation for denial.

Council Member Dunbar acknowledged Mr. Herbert.

Rodney Herbert, the agent for this location, addressed the issues that had been brought up to clarify some misunderstandings. He proceeded to tell the mayor and council his background first so they would know who he was and why he was applying for a license at the subject location.

Mr. Herbert said the application is at Grant Road Mobil, on the corner of First and Grant. He had been the CFO for three different investment companies, including Third and Reay Family Investment Company, Reay's Ranch Investors, and Venture West Management. Mr. Herbert had been in Tucson for 25 years in that capacity operating each of those different entities, with Venture West Management being the latest, a family business that the Reay family had created.

Mr. Herbert is very experienced in the things that he does; he currently held six licenses. They own 20 stores of their own. They had ten quick serve restaurants, which are A&W, Subway, Long John Silver's, et cetera, and they were currently operating 15 stores for other businesses. They were operating the business at Grant Road Mobil for Mr. Bojorquez and he was present and available to answer questions.

Mr. Herbert explained that the misunderstanding that had taken place was that Mr. Bojorquez did fill out the paperwork incorrectly. He did say that he had not been cited. It was a misunderstanding because Mr. Herbert did not explain to him that even though the time had been seven years, that Mr. Bojorquez still had to answer that. He then corrected that item. He had been in Mexico. His family was a very prominent family in

Mexico. In fact, his uncle is running for Governor of Sonora and they are a very capable family. They are the owners of the station. Mr. Herbert's capacity is that he operated a company called Venture West Management and they are the agent. All the employees on the staff, on the premises, are employees of Mr. Herbert's company. Mr. Bojorquez did not have any ownership of the employees, he just owned the facility, and they were trying to make a go of it. Potentially this could be a very good investment for Mr. Bojorquez and his family. He was a recent graduate from the University of Arizona and had been in the state for approximately ten years going to school. He did travel between Mexico and the U.S., so that was why he hired Mr. Herbert's firm to run the facility.

Mr. Herbert explained that they were aware of the laws, the use of age and they I.D. for 30 and under. They were very familiar with all the situations. They had several licenses, they were very experienced. He would ask that the mayor and council consider and ask Mr. Bojorquez a few questions if they had to. Mr. Herbert pointed out that Mr. Bojorquez is an owner, he was not the agent and Mr. Herbert did not want people to be misled or misunderstood that Mr. Bojorquez would be the one operating the store.

Mr. Herbert pointed out that their managers and their employees are trained on liquor control and the proper methods of I.D., etcetera, and this location had a license for quite a while. He was told earlier that possibly this application would be denied because of the location. He was not sure he understood the concern with the location. There were several licenses within any location. The University of Arizona was brought up, the possibility of transients being in the area.

Mr. Herbert pointed out that the state asked that it be a matter of convenience in the way to serve the public, and there was no question that the license that was there previously served the public and was a convenience and that was probably about 25% of their business. If they did not have a liquor license at that location, they would not be able to continue and be a profitable business. Mr. Herbert pleaded with the mayor and council to please take that into consideration. Mr. Bojorquez was present at the meeting at Mr. Herbert's request if the mayor and council had any questions to ask him.

Council Member Dunbar said she was going to ask mayor and council to deny this application based on the proliferation of liquor licenses near the University of Arizona.

She thought the mayor and council all knew about the number of red tags. During the study session, the mayor and council discussed the red tags and the problems in the area. Another problem is the homeless population who drinks in the alleys of the neighborhood. The ward three office was called on a regular basis to help clean up beer bottles that were left behind. Police were called to the location 278 times in the last two years, and there had been 3,468 calls within the three-block radius of this location. The previous owner and the interim holder of the licenses worked hard to change the nature of the clientele of the business. She had also owned a station at Grant and Stone. She no longer would sell single bottles of malt liquor that was the preferred drink of those who caused the most problems. She was focusing on food sales and is putting in two restaurants.

On the other hand, Council Member Dunbar said her office advised the applicant that they should have met before the meeting. She told Mr. Herbert she was surprised, since he had so many licenses, that he had failed to make any attempt to come into the ward three office and talk with them because those were the very things that they wanted to discuss with him.

That meeting never took place and her office was told that the applicant was on vacation in Mexico and couldn't make it in. She questioned the capability, the qualifications, and reliability of the applicant and she wondered how the neighborhood was going to be served with the continuation of a license at this location. Therefore, she would make a motion to recommend denial of this license.

It was moved by Council Member Dunbar, seconded by Council Member West, and carried by a voice vote of 7 to 0, that liquor license city #037-03, be forwarded to the state liquor board with a recommendation for denial.

7. LIQUOR LICENSE APPLICATIONS – (b)(3)

(b) New License(s)

(3)	O'SHAUNESSY'S 2200 N. Camino Principal Applicant: Sam O. Stangl City #038-03, located in Ward 2 Series #12 Action must be taken by: July 19, 2003	<u>Staff Recommendation</u> Police: In Compliance DSD: Denied Bus. License: Denied
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Kathleen S. Detrick, city clerk, reported that this license had a recommendation from Development Services for denial as well as from Business License. There were also protests filed. This application is located in ward two.

Mayor Walkup asked the council's pleasure.

Council Member West requested that the license for O'Shaughnessy's be held over until August 4, so that some issues with staff and the neighborhood could be resolved.

Ms. Detrick said it was her understanding that Council Member West had also discussed this issue with the applicant.

Council Member West said that was correct and the applicant was reluctantly agreeable.

Ms. Detrick said the application for O'Shaughnessy's would be continued until August 4.

It was moved by Council Member West, seconded by Council Member Leal, and carried unanimously by a voice vote of 7 to 0, to continue the liquor license application City #038-03, to the mayor and council meeting of August 4, 2003 so that issues with staff and the neighborhood could be resolved.

7. LIQUOR LICENSE APPLICATIONS – (b)(5)

Person/Location Transfer(s)

(5)	WILDE PLAYHOUSE 135 E. Congress Applicant: Joan O'Dwyer City #033-03, located in Ward 6 Series #7 Action must be taken by: July 5, 2003	<u>Staff Recommendation</u> Police: In Compliance DSD: In Compliance Bus. License: In Compliance
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Kathleen S. Detrick, city clerk, announced that the next license to be considered was the Wilde Playhouse that had been removed by Council Member Ronstadt. The license is located in ward six.

Council Member Ronstadt noted that the mayor and council had six speaker cards on this item and asked if Mayor Walkup would allow a couple minutes for each person. The city had a policy both on Fourth Avenue and in the downtown area. Until the city had some definitive structure for the future of the Congress Street area and Fourth Avenue, the Downtown Coalition, which is comprised of residents, businesses, Fourth Avenue Merchants, the Tucson Downtown Alliance, the Police Department, Sun Tran, and the Library, all the stakeholders in the downtown area, had been fairly consistent on the submittal of no new number six or sevens. They would accept twelve licenses. Six and seven licenses establish a location for a liquor license forever. Once the council approved a number six or a number seven, it did not matter if the Wilde Playhouse was the greater tenant or the greatest property owner in the world, if they closed down shop or moved, the next person had a right to a liquor license and the council had no say whatsoever.

Council Member Ronstadt indicated he met in the morning with Ms. O'Dwyer and suggested that she withdraw this application and apply for a Series #12. She said she would do so but apparently, sometime during the day, she changed her mind and decided to pursue the Series #7.

There were currently 60 licenses within a half-mile radius of this applicant's establishment. Of those, 34 were #6s and #7s. The stakeholders of downtown, himself, very specifically, did not support any more new licenses in the downtown and on Fourth Avenue. It was that simple. The mayor and council just awarded the Martin Luther King project to a developer and were very close to awarding the Thrifty Block to a developer. These are key parcels in those areas. The mayor and council did not want Congress Street to turn into bar alley, they want it to be a vibrant place with businesses and a residential area and 60 licenses in that area is saturated enough. With that diatribe, he invited Ms. O'Dwyer to address the mayor and council for about three minutes if she wanted to after which he would call on the other five individuals.

Mayor Walkup noted that if it was found that all the speakers were saying the same thing, the mayor and council might want to limit the presentations. He invited the speaker to proceed.

Joan O'Dwyer, Wilde Playhouse, said she had the members of three improv groups here in town, her architect, her designer, and her front-of-house person, all of whom she employed. She was not a not-for-profit theater, she was for profit. She purchased the building at 135 East Congress, she was not renting, but she certainly would not have bought the building if she had known that she could not have a beer and wine license, because theater just does not pay. There had to be something else to go along with theater.

Ms. O'Dwyer went through a year of planning, getting her license and going through the approval process, but she did not learn until this morning at the eleventh hour, that she was not going to be approved for her beer and wine license. They were only going to be serving beer and wine during performances. It was her plan to have fine wines, cheese and wine plates, and sampler plates. It was going to be very upscale, very

European, kind of New York, and they were going to have Irish beers and ale during the play. After the performance, the bar would be closed. Nobody would be allowed to be in that area. They also planned to have live improv, but they were going to be good improv, really good, super improv and were going to have Super Star Search, and they were going to screen first and make sure that they had good talent. The city says it wants to have upscale venues downtown, wants to bring the adults downtown and wants to have people with disposable income. Her group would be the entrée to that. When people see that the Wilde Playhouse is down there, they would want to come too. When something really creative and innovative like the Wilde Playhouse is built, and Ms. O'Dwyer said she knew of no other city that had anything like this. It would be a theater at night and during the daytime it would be a coffee shop in the same place as the theater. It was going to be very unique. The mayor and council were going to be very happy to have it.

Ms. O'Dwyer said she had a commitment to Tucson, she was spending her own life's money on this. She was not going to move and she was not going to sell it to anybody else. She was going to be there. She would be producing good plays, good performance, and good entertainment that would draw the people downtown that the mayor and council want. The Wilde Playhouse would not be a bar, but a theater and a whole lot more.

Council Member Ronstadt had a suggestion for his colleagues, and was just going to name off names: Matt Beaudry, Mark White, Eddie Arriola, Joshua Cleary, and Alexandra Maloney (ph). If there was something additional that they could add to Ms. O'Dwyer's presentation, would they please come to the microphone? If not, then the mayor and council would just proceed.

Alexandra Maloney, representing the Wilde Playhouse as the house manager as well as hopefully the bartender, said the Wilde Playhouse would be a theater, they were not creating a porno bar. Further, they were bringing culture and the arts to Tucson, right in the heart of the arts district that would contribute to and strengthen the city's plans to revitalize downtown Tucson. Ms. Maloney believed that the Wilde Playhouse would be a perfect complement to this plan. People all over the world enjoy having a glass of wine or a fine beer watching theater. It is part of an experience. Beer and wine complement that experience and bring a bit of culture to the Old Pueblo. So she asked the mayor and council to consider what their objective was, a theater, not a bar.

Mark White, a 17-year resident of Tucson, said he is the director of a comedy improv group here in town, the one to find the venues, the places where they perform, and had found their most available niche in bars and clubs. They were an artistic form and would like to get out of the available bar niche and find a real theater place. They felt that this, Joan Dwyer's group, was a chance for them to do true legitimate theater work. So they wanted to have that opportunity and if the beer and wine license would help draw people to Ms. O'Dwyer's location, they were all for it.

Matt Bojak said he was born and raised in Tucson for 21 years. Mr. Bojak really did not have that much to say other than that this would help bring a little bit of income from the older generation of Tucsonans who like the theater experience and from individuals of his age group of 18 to 25 year olds to the theater experience and generate income for the downtown area.

Eddie Arriola said he wanted to add something really small. This was a theater, not a place where people were going to go to get drunk. He felt the bar license would have a negligible effect on this location because of the fact that people would be coming to enjoy a show, not to drink. The drinking would merely be an accessory for the people.

Council Member Ronstadt thought the speakers had expressed exactly the point that they were making, this was not a bar, but the applicant was asking for a bar license. He had discussed this with Ms. O'Dwyer and told her what a number 12 liquor license was. It actually provided for a full bar, beer and wine, with the food requirement which she said she could meet because she was going to be selling food during the day, and a series 12 did not establish the location forever as a liquor establishment. He said he would be more than happy to support her application for a 12 and even had his staff work to be able to get the application through faster. He listened to what the speakers said, but the downtown does not need another series 7 liquor license. The mayor and council would be happy to support a Series 12, however, with 60 licenses in the area down there, he would move for denial.

Council Member Ibarra asked Council Member Ronstadt why he would not support a Series 12? That kind of gets the downtown to the same place. He asked that the applicant come forward. He said it was a scary thought, but he tended to agree with his colleague, Council Member Ronstadt, for the applicant to be able to would get what they want. He was correct that this application would not be boilerplated. It was not in concrete now in terms of if the Wilde Playhouse ever left.

Ms. O'Dwyer did not know if the mayor and council had ever been to the old Dinnerware location. There were three of them in a row there all the same and the Tucson Arts District Partnership had a parcel lien on the property, however, only arts people were allowed on those three properties. They are very, very small. There was hardly room for a theater and that was why the theater and the coffee shop were going to be in the same place. There was no place for her to have a full kitchen, which she understood was required for a 12, and she has no experience running a kitchen.

Council Member Leal asked for a point of clarification. Was the requirement for a full kitchen, or was the requirement that a certain percentage of sales had to be food, because he could see how a percentage of sales could be food without them having a full kitchen.

Ms. O'Dwyer said it was both, 40% food, so she went down to talk to the people at the state and was told that she had to have a full working kitchen. So that was why she decided she could not do that.

Council Member Ronstadt explained that the food requirement had to be the main focus for the mayor and council.

Council Member Leal asked if it would be appropriate to hold this particular item for a few minutes and move to another license to allow staff to talk about the application, and then to come back to this item or was staff really sure.

Mayor Walkup said the council had done this before. The mayor and council all support the arts and would like to see the application move through appropriately. The

council was hung up on a technicality, so he said he was going to set this item aside for a moment. The mayor directed that the council move on to the next item so that staff could try to resolve whether it would be possible to put a Series 12 liquor license in place.

Kathleen S. Detrick, city clerk, announced that the next liquor license to be considered would be item 7(b)(6), Person/Location Transfer, Turbulence, 6610 South Tucson Boulevard. Development Services recommended denial. This application is located in ward five.

7. LIQUOR LICENSE APPLICATIONS – (b)(6)

Person/Location Transfer(s)

(6)	TURBULENCE 6610 S. Tucson Blvd. Applicant: Dennis D. Sylvester City #040-03, located in Ward 5 Series #6 Action must be taken by: July 26, 2003	<u>Staff Recommendation</u> Police: In Compliance DSD: Denied Bus. License: In Compliance
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Kathleen S. Detrick, city clerk, reported that Development Services recommended denial of this license. This license is located in ward five.

Council Member Leal asked that Mr. Sylvester come forward.

Dennis D. Sylvester, addressed the issue of the denial, and said that they were unaware that he needed to get the plans approved until he received a letter on the tenth. The plans were submitted today. Their architect had met several times with Development Services and they expected plan approval. They did not expect that to be a problem.

Mr. Sylvester explained that he is a custom homebuilder, general contractor, and had lived in Tucson since 1975. This was his first endeavor in this business. He was working with a consulting firm, John Sanders, to make sure that he followed the rules. He had secured a gentleman with 15 years experience in the liquor, restaurant, and nightclub business to fully manage the club, and was going to monitor the establishment fulltime to make sure that everything would be done correctly. If there were any questions, he would be happy to answer them.

Council Member Leal told Mr. Sylvester that there were no questions at this point, but asked Mr. Duarte, from Development Services, to come forward to explain the protest and then if Mr. Sylvester wanted to respond, he could do so.

Ernie Duarte, development services director, said at this point, staff had concerns that the application was in fact premature. They had no record of a site plan, floor plan, or a certificate of occupancy that they could verify. Mr. Sylvester was correct, the plans had just been submitted today.

Council Member Leal said that was consistent with what Mr. Sylvester said. Before he commented further, he wanted to call on some of the other folks who were at the meeting to address this issue. He called on Jose and Lorraine Ballesteros.

Jose Ballesteros, said he used to work at Hughes Aircraft where Mayor Walkup used to work. He is an electrical engineer and had lived in Tucson for over 30 years. There were two issues that surprised him about this establishment, the liquor and having the establishment without liquor. There were quite a few hotels and motels in the area and also quite a few good respectable bars. In fact, Hughes Aircraft and Raytheon parties were held at locations in the area.

Mr. Ballesteros continued that if an establishment was brought in like the applicant wanted, that would bring in undesirables. What would happen if the undesirables infiltrated to the other motels? That would consequently degrade the whole area, an area which is the presentation of Tucson. Mr. Ballesteros objected to the liquor license.

Mr. Ballesteros said another thing to remember was that there was a federal facility of inmates close by. Those were men and he guessed women also, he did not know. Everybody liked to have a drink here and there, but it would make the area explosive. That area is almost in the middle of the Sunnyside High School District, even if the business was not going to sell liquor to minors. He asked if the mayor and council had seen some of the high school football players? They could pose as college age, and could walk into such an establishment.

Mr. Ballesteros wanted the mayor and council to be aware that there were similar problems on Miracle Mile. What kind of establishments does that area have? He did not have to tell them, they knew about them. Did the mayor and council want that problem in this area? Did the mayor and council want to have extra money for the police department? They would need it if they approved the recommendation to open this establishment.

Mr. Ballesteros wanted Tucson to be a clean city to walk around in. He did not know if his wife wanted to add to his remarks.

Mrs. Ballesteros said she opposed the opening of this strip club whether they had a liquor license or not. Basically the south side, where they live, already had a very bad reputation, and it seemed like a lot of things were dumped on them that were very undesirable and this was just going to be one more. Mrs. Ballesteros asked that the mayor and council not grant this license. The reality was it was going to be a sleazy place. That was the only way it could be described.

Regarding the suggestion of not having a liquor license, Mr. Ballesteros asked how a man could go into a strip joint and drink sodas for four hours? That's a lot of soda. Were men going to do that? The mayor and council were adults, Mr. Ballesteros was an adult. That was all he had to say.

Dianna Craig, said the reason she was against another adult business was because a lot of their children nowadays do not have any place that they can actually go to, and the first impression people are going to get when they come out of the airport area are the ads for casinos, strip joints, bars, and nothing for family

activities. This establishment was going to be the first impression that people are given. With Mount Lemmon gone, she understood Old Tucson was in jeopardy and financially breaking, there was nothing for their families. If Tucson is continuously filled up with all of these adult places, the children were eventually going to either become victims of our society that we have agreed upon or they were going to just move out of Tucson completely.

Ms. Craig continued that the southside had always been a dumping ground for a lot of bad elements, from the water problems a few years back to the halfway houses and stuff like that that previous speakers were talking about. Adults had places to go. To grant the liquor license would bring the bad elements that were being talked about and they may let 18 year olds in anyway. Being a mother of four sons, that was not something that she wanted children to have an ambition towards when they became 18. She was opposed to that and suggested that more family entertainment was needed in areas where there were a lot of people, along with tourism, not "Welcome to Tucson. Come to our bars."

Monique Soria, Director of Public Relations for the Sunnyside Unified School District, said the superintendent, Dr. Bejarano, and the president of their governing board, Eva Dong, had sent a letter to the mayor in protest of this establishment that was being proposed. It was in the middle of the Sunnyside Unified School District. It was not what they wanted parents to spend their money on, nor did the school district want their students to be working there. Ms. Soria wanted to see a Bookman's Book Store, a records' store, and a coffee shop on the southside. This particular establishment was not what was needed for their students or their families.

Yolanda Herrera LaFond, asked that those individuals who were opposed to this liquor establishment please stand up. She continued that Kevin Costner's Field of Dreams, "Build it and they will come." Yes, they will come. All the undesirables which cause a further breakdown of families and create a possible health hazard would have a direct impact on their children, male and female. South Tucson Boulevard currently had many fine respectable hotels, businesses and other establishments to locate or relocate. Tucson was currently recruiting new business to locate or relocate. Mayor Walkup has a fine picture welcoming people into Tucson at the airport. Was he going to foul that nice welcome with a strip club? What message would he be sending? What about a facility with a positive impact and advantageous to the current respectable hotels? If that was built, they would come with a positive image. She asked the mayor and council not to be duped into thinking that Tucson had to cave in to give them a liquor license or they would open an all new 24-7 location. Neither was good for the Tucson community. What would the mayor and council pick? Drugs or prostitution? Neither, because the city knows that there are safeguards in place.

Ms. LaFond had printed a 31-page document from the Court of Appeals regarding gentlemen's clubs. There were restrictions and safeguards in place to protect the community. She asked that the mayor and council deny this liquor application. The community united can work on the other problem. Maybe someone will step up to the plate, offer to purchase the property and build something viable and positive for the good of all of Tucson.

Ms. LaFond said approving a liquor license for Turbulence, when there were more than an abundance of establishments serving alcohol, would not better serve the needs and convenience of the community. As Council Member Ronstadt stated, once a six or a seven liquor license is in place, it's there forever. She asked that the mayor and council deny this liquor application for the sake of the children attending the seven schools in close proximity, the southside neighborhoods, and the image of the city of Tucson. She thanked the mayor and council.

Council Member Leal thanked the speakers for testifying before the mayor and council. He also explained that they were limited in the scope of things that they could address that pertain to whether or not a license was appropriate at this location. Staff had referred to two of them. No site plan, no certificate of occupancy, and he understood that those were in process. However, that still brought him cause for concern. Mr. Sylvester is a developer and it was in that world for acquiring site plans and those sorts of things are part of every day life and when appointments were made with his office to speak with them, it was the property owner who was sent, not the applicant. His office had to tell the man who wanted to talk with him not to talk with him, because he was not the applicant.

In the beginning, the property owner was the one who wanted the appointment, and it gave his office concern that this was not a hands-on situation, which would never be a good situation in a liquor establishment. Thirdly, there was the issue of the number of licenses in the area. The issue for the state is, does saying yes to the license create convenience? That meant that there had to be an absence of convenience in the first place. There were currently plenty of licenses in the area, so there was no absence of convenience, so saying yes to this would not create that. For those reasons, Council Member Leal thought it would be appropriate to send this application with a recommendation for denial.

It was moved by Council Member Leal, seconded by Council Member Dunbar, and carried by a voice vote of 7 to 0, to forward liquor license city #040-03, to the state liquor board with a recommendation for denial.

Council Member Leal addressed Mr. House that it was his understanding that there may be some question of the particular activity that this business sought to engage in beyond liquor. Tucson may have the ability to further monitor beyond what it currently does and there may be some ordinances that some other cities have utilized in this area that might be helpful to the mayor and council. This location just sort of begged the question that they learn more about this and do a better job of protecting both the community and also the employees of such establishments. He asked if the city attorney could elaborate on that point.

Michael House, city attorney, explained that the city presently has an adult entertainment ordinance that applies to this type of entertainment in establishments that do not have liquor licenses. However, the ordinance does not apply to similar types of businesses that do have liquor licenses. Under state law, it is now possible for cities to adopt regulations of the conduct of erotic entertainers in liquor establishments, so it would be possible for the city of Tucson to adopt an ordinance that regulates the conduct of such entertainment. Other cities had done so.

Council Member Leal said just so everyone was not confused by this. He was not interested in doing this so that it would be okay to say yes to a liquor license. This had just come up that it might be a good thing to do for the other locations that already exist that have licenses, not to facilitate this location for getting a license, and then the city would have the comfort level to monitor them. He asked if that was correct.

Mr. House said that was correct.

Council Member Leal asked that the attorney's office bring that forward to the mayor and council for a study session in the future, he thought the mayor and council would all like to see that.

Mr. House said yes, that could be done. He assumed there was no objection to that.

Council Member Leal said he didn't think there was any objection. There was no response.

7. LIQUOR LICENSE APPLICATIONS – (b)(5) (Reconsidered)

Ms. Detrick said that perhaps the mayor and council could go back and reconsider item 7(b)(5), the Wilde Playhouse in ward six.

Council Member Ronstadt did not know if Mr. House wanted to comment, but the council was discussing Title IV and the actual law was fairly vague on the kitchen requirement. There were two options. One would be to delay this item, or continue it until there was a recommendation from staff or they could work with the state liquor board and figure out a way to get a 12, or the other option would be to make a motion for denial of the number seven based on saturation in the area and the fact that the seven establishes location, regardless of the good intentions of the property owner. His goal was to preserve the long-term interest of Congress Street and downtown in establishing location was not in the best interest of that area. It was up to the applicant if he would agree to a continuance, then he thought they could work out a 12. He asked the applicant to come forward.

Ms. O'Dwyer agreed to the continuance.

It was moved by Council Member Ronstadt, seconded by Council Member Scott, and carried by a voice vote of 7 to 0, to continue the liquor license for the Wilde Playhouse.

Council Member Ronstadt pointed out that his office would work with the applicant for the Series 12.

Ms. Detrick informed the applicant that this liquor license would be considered at the mayor and council meeting of August 4, 2003.

8. ZONING: (C9-98-09) BRACAMONTE ALVERNON WAY, R-2 TO O-2 ZONING, ORDINANCE ADOPTION

Mayor Walkup announced that city manager's communication number 395, dated June 30, 2003, would be received into and made a part of the record. He requested the city clerk to read ordinance no. 9871, by number and title only, without objection.

Ordinance No. 9871

Relating to zoning: amending zoning district boundaries in the area located at the southeast corner of Alvernon Way and Glenn Street in Case C9-98-09, Bracamonte – Alvernon Way R-2 to O-2; and setting an effective date.

Mayor Walkup recognized Council Member Dunbar.

It was moved by Council Member Dunbar, seconded by Vice Mayor Scott, that ordinance no. 9871 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. 9871 was declared passed and adopted by a roll call vote of 7 to 0.

9. ZONING: (C9-02-31) US HOME – BENSON HIGHWAY, I-1 TO R-1

Kathleen S. Detrick, city clerk, reported that zoning case C9-02-31 would be continued until September 2, 2003.

10. PUBLIC HEARING: PROPOSED AMENDMENT TO THE *NORTHSIDE AREA PLAN* TO ALLOW OFFICE USES ON LIMBERLOST ROAD EAST OF NORTH FIRST AVENUE

Mayor Walkup announced that city manager's communication number 383, dated June 30, 2003, would be received into and made a part of the record. He also announced that this was the time and place legally advertised for a public hearing on an amendment to the Northside Area Plan (NAP) to allow office use on a 1.7-acre site located on the north side of Limberlost Road. Before the public hearing began, Mayor Walkup announced that staff had a brief presentation.

Albert Elias, comprehensive planning task force director, announced that this was a public hearing on a request to amend the *Northside Area Plan* to allow for office use on a site that's located on Limberlost Road, just east of First Avenue. The Planning Commission held a public hearing on June 4, and they recommended that the plan amendment be adopted. He also understood that at that public hearing, there was support for the plan amendment, not only from the applicant, but also from the Campus Farms Neighborhood Association. He believed that representatives, including the applicant, were at the meeting if there were any further questions.

Mayor Walkup announced that this was a request by Bill and Sherry Mehle, the property owners. He asked if the applicant had any brief comments that they would like to make.

Bill Mehle, said he was educated at the University of Arizona in 1955, had been teacher/coach in Tucson for 30 years and retired for 14 years. He and his wife, Sherry, had owned the subject 1.7-acre parcel since 1961. Their family had been raised and was scattered throughout the United States. The subject property was a little more property than they cared to handle anymore, a little bit more than they needed, yet the property was not a good place to build another home because of the location. The east and north sides of their property are surrounded by three-story apartments of university housing, on the west side there are 6.9 acres open at present, and that would probably end up being converted to a mall or office buildings.

Mr. Mehle said that when they first moved to the area, the property was all two, three, four-acre parcels called ranchettes. All of those now had been incorporated into large land parcels. Their property was zoned business for seven years when they were with Greg Wexler of Wexler Associates Real Estate Company, but that ran out so the property had not been rezoned. He had his property advertised as business and had a potential buyer, Dr. Judy Hutt, and she came down to the city and found out that the area was having a problem with Limberlost that was changed to a neighborhood street. At that time, he and his wife talked about the possibility of changing the zoning to O-2 and R-2. They had their meeting with the neighborhood association and all of those people agreed with the zoning change and they also met with the Planning Commission who voted 13 to 0 to approve the amendment to the neighborhood plan. Mr. Mehle hoped the mayor and council saw fit to approve the plan amendment, also. He introduced his wife, Sherry, to add to their presentation.

Sherry Mehle, wanted to let the mayor and council know that the problem with the property was not something that they could just let go. In 1937, there was an ingress/egress road that came to be beside them on the east and their property line, that went in back of them, so that the people in the ranchettes behind them could come out to Limberlost and then out to the regular arterial streets. She and her husband did everything that they knew how to keep that open from Limberlost. It cost them about thirty-six thousand dollars, they lost. She said their pockets weren't deep enough, but they did try and she wanted the mayor and council to know that. She also wanted them to know that this was a wonderful place to raise their five children on their 1.7 acres. Their children had all their go-cart circles on the property and their own bow and arrow targets and bulls-eye things to hit. There were rules, but they were very, very happy there.

Ms. Mehle had post polio syndrome and the house that housed all of her family in the beginning was getting a little bit too large for her to keep and she and her husband were not getting any younger. The Mehle's would appreciate it if the mayor and council approved their amendment to the *Northside Area Plan*.

Mayor Walkup announced that this was the time and place legally advertised for a public hearing on the amendment to the *Northside Area Plan* and asked if anybody wished to address the council.

Dr. Judy Hutt, a Naturopathic Physician, said for any individual not familiar with what that is, she is an alternative medicine doctor. She was really drawn to this property. It is in the neighborhood that was near and dear to her for many years. Although she never lived in the neighborhood, she had a best friend who lived there with her young children when Dr. Hutt's kids were small, right in the trailer park that is adjacent to that property. Her kids spent most of their birthday parties in that area. Her son, Justin, who was going to be 18 in a couple of months, went to first grade and kindergarten at the Rio Vista School right there in that neighborhood.

Dr. Hutt said it was her desire to purchase that property for her practice. As a Naturopathic Physician, unlike the regular HMOs, they do not see a patient every five minutes or every seven minutes, they usually see one patient an hour, spend a lot of time, so it would not create a lot of traffic for the area. Dr. Hutt had met several times with the neighborhood association and with some of the people in the neighborhood and they were very much in favor of having her practice there. She practiced three days a week, one patient at a time and was very much in favor of the *Northwest Area Plan Amendment*, which would allow her patients to access her practice onto Limberlost.

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

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

Mayor Walkup asked the city clerk to read resolution no. 19638, by number and title only, without objection.

Resolution No. 19638

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

Mayor Walkup recognized Council Member Dunbar.

It was moved by Council Member Dunbar, seconded by Council Member West, that resolution no. 19638 be passed and adopted.

Upon roll call, the results were:

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

Nay: None

Absent/Excused: None

Resolution no. 19638 was declared passed and adopted by a roll call vote of 7 to 0.

9. ZONING: (C9-02-31) US HOME – BENSON HIGHWAY, I-1 TO R-1 (Reconsidered)

Kathleen S. Detrick, city clerk, requested that before the mayor and council moved on to item number 11, if the mayor and council could return to item 9, the U.S. Home – Benson Highway, I-1 to R-1, that the city attorney had advised her that there would need to be a motion to continue the rezoning request until September 2.

It was moved by Council Member Leal, seconded by Vice Mayor Scott, and carried unanimously by a voice vote of 7 to 0, to continue item 9 until the September 2, 2003 mayor and council meeting.

11. ELECTIONS: RESOLUTION OF INTENTION TO HOLD A SPECIAL ELECTION ON NOVEMBER 4, 2003 RELATING TO A COMPREHENSIVE TRANSPORTATION PLAN

Mayor Walkup announced that city manager's communication number 406, dated June 30, 2003, would be received into and made a part of the record. He requested the city clerk to read resolution no. 19641 by number and title only, without objection.

Resolution No. 19641

Relating to elections: giving notice of the Mayor and Council's future intent to call a Special Election to be held in the City of Tucson, Arizona on November 4, 2003 for the purpose of submitting to the city's qualified electors a proposed amendment to the Tucson Charter Chapter IV, Section 2, to increase the business privilege tax to provide revenues for a Comprehensive Transportation Plan ("Plan") and proposed associated amendments to Tucson Code Chapters 19 ("License and Privilege Taxes") and 30 ("Department of Transportation"), relating to funding and implementing the plan; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member West, seconded by Council Member Ibarra, that resolution no. 19641 be passed and adopted.

Council Member West acknowledged that Clague Van Slyke and Joy Herr-Cardillo were in the audience and requested that perhaps they could come forward and address the council. She thought that they had brought their hard work of the last fifteen/sixteen months and requested that that information be put on camera and perhaps they would want to say something. She also wanted to have anybody stand who had gathered signatures during that time because she thought the mayor and council should thank them for a very hard, well-done effort. She invited Ms. Herr-Cardillo and Mr. Van Slyke to address the mayor and council if they so desired.

Joy E. Herr-Cardillo, said a suggestion had been made at the study session that perhaps she did not have the signatures that she was supposed to have for the petitions and that they had supposedly called someone's bluff. To allay any concerns that her group was bluffing, the fact of the matter was she brought the petitions with her and she had the petitions for anybody to take a look at who would like to see them. She had half of the petitions for the ordinance, which was the five-page document, so it actually filled two boxes. Ms. Herr-Cardillo also had another box of the charter amendment petitions.

To put this in a little bit of perspective, Ms. Herr-Cardillo also brought with her a spreadsheet that she maintained on Excel as petitions were brought in. They had the name of the circulator, the address of the circulator, and the number of signatures on each petition for both the charter amendment and the proposed ordinance.

Ms. Herr-Cardillo said they had over 200-300 individual volunteers, circulating these petitions, and some of them had actually collected over 1,000 signatures. She knew that Steve Farley, who many of the members of the governing body had already met, had collected well over 1,000 signatures. In fact, Steve had planned to be at the meeting except that he was very ill and was in the hospital in the afternoon. That was the only thing that kept him away from the meeting. He was not infatigable on the issue and had worked very, very hard to see that Tucson voters had an opportunity to vote on the amendments to the charter.

Many of the people who were at the meeting had stood in the hot sun, or had stood outside of Casa Video. They had a young volunteer, a 23-year old woman who has been outside of Casa Video every night for the past six weeks collecting signatures. It had been hard work. It had also been extremely rewarding. Ms. Herr-Cardillo could not tell the mayor and council how many people thanked them when her group explained to them what they were trying to do, what they were trying to get on the ballot, and they enthusiastically signed both of the petitions. They did not have to get just one signature, because they had to do the charter amendment, they had to get two out of everybody, and people were so grateful that somebody was moving forward trying to bring alternative transportation to Tucson. So it had been a very rewarding experience, but as she indicated earlier, it had been exhausting.

Their volunteer effort generated more than 10,000 signatures on volunteer circulators. To get them over the hump, they had now retained paid circulators and they had helped make up the difference and they were all going to continue collecting signatures. They planned to turn in those boxes on Thursday if the council chose not to place this on the ballot.

Ms. Herr-Cardillo wanted to address a couple of things that had been addressed and she knew Mr. Van Slyke had some things he would like to say as well. There was a suggestion at the study session that somehow mayor and council, by placing this matter on the ballot, would somehow be thwarting the rights of the approximately fifteen thousand voters who had now signed a petition asking to have this on the ballot. Now, she did not see how expediting, getting that on the ballot, somehow thwarted their right or their request. It was simply complying and doing that in the most expeditious manner possible.

Secondly, the idea that somehow they were thwarting democracy by putting something on the ballot, which then required a vote of the entire voting public, was a little mind boggling to her. That was democracy and it was true, you can take things to the voter through direct democracy, through initiative, or one can do it through referral by mayor and council or here was a novel idea, how about a little cooperation. They had done their work. They were not asking for something on a silver platter. They had 15,000 signatures. They had done what the city of Tucson had asked them. Let this get to the voters. Let's stop the procedural shenanigans and let's get to the merits. People said they support light rail. Let's let the voters say. Are they willing to support it? Are they willing to pay for it? Nobody gets anything for free. We all recognize that. But let's take it to the voters. That was all they were asking.

Clague Van Slyke III, thanked the mayor and council for the opportunity to talk to them. He was a lifelong Tucsonan and had been involved in these kind of issues for many, many years and knew many of them had as well. We all want to make this a better community. We all want to move forward. We want to move into the new century, into the new millennium. He just returned from a weekend in San Francisco, where he spent a lot of time as a child. So he went around with his daughter, who is now ten and did things. Like he had said, they took the Light Rail line out to the zoo. He explained that when he was a kid, you had to take the historic trolley. It would chug its way across town to the zoo, and now you board the Light Rail. In the time he had grown up, having gone back and forth to San Francisco, they built the Bay Area Rapid Transit (BART). BART now runs past the airport in San Francisco, it goes out to Oakland, it goes way out into Alameda County. It carries hundreds of thousands of passengers every year. In the last ten years, since the earthquake, five light rail lines were built. The demand for public transit was so great in San Francisco they brought back the old historic trolleys with standing room only, the ones they took off the streets when they put BART and the Light Rail underground. People were waiting in line to get on those trolleys. What happened was that on Sunday afternoon, he went to Pachtel Park and took the light rail. They had a parade that afternoon on Market Street, which closed Market Street. They had 800,000 people in downtown San Francisco, 50,000 people at a baseball game. His group had to catch a flight from Oakland and they thought, "Oh, my gosh, we're going to have a nightmare of traffic getting out of there." It was a snap. There was no traffic. The 800,000 people were able to dissipate. They were able to come to the city, dissipate. You drive through there, you see the transformation of that city in large part because of transit. Transit is what makes that city happen.

Mr. Van Slyke continued that it was amazing that in the same time period that all those changes happened in San Francisco, Tucson on the opposite in the same time period went from two competitive bus lines to one bus line, which had stalled at its 1983 level and nothing happened. The reason his group was present, and he could specifically remember the day, he was a member of the Fifth/Sixth Street Citizens' Corridor Study Group, as President of the Peter Howell Neighborhood Association, they had a presentation by the city transportation department staff, and they brought up the issue of what happened to all those studies in the sixties, the seventies, the eighties that said that Tucson had the density, the capacity for a better mass transit. What happened to those studies? Why aren't we talking about that on Fifth/Sixth Street? Mr. Van Slyke said that Jim Glock was very candid and said to them, "Because we don't have the money to make that happen," and the group that founded Tucsonans for Sensible Transportation, only a handful at that time, Steve Farley, Mr. Van Slyke, and Steve Abernathy, now head of the transit department up in Washington, looked at each other and said, "We've got to make something happen." There had been so much work done in this community to make something happen, it was time for the people to step up and say, "Let's put mass transit on the agenda in the community." And that's exactly what they had done with the petitions.

Mr. Van Slyke was at the meeting with 15,000 petitions—15,000 registered voters. That did not include the children, the seniors, that did not include the disabled, and it did not include the nonvoters that disenfranchised. He said those 15,000 petitions were the equivalent of 50,000 people in this community who were saying, "We want a solution and we want it now." This is the only solution that could be enacted in the next six months. Mr. Van Slyke's group worked hard for three years to come to that point.

Mr. Van Slyke pointed out that there had been some discussion at the study session about the language. He would have to say they did imitate a great deal of what was in the city's transportation sales tax. They copied what they had done, they copied the Marana Construction Tax. They did not make up new language. They took other models to come up with something that they thought would be palatable. Their big fear, the reason they were asking the mayor and council to put this on the ballot in November now, was that if they go on Thursday with 15,000 signatures and something happened to those petitions, if some reason by court challenge, some ruling, or some machination of the system, that the people who signed up for this plan are not heard in November, the city would have an incredible break in trust between the community and the elected officials. There are times when the people need to lead the leaders, there are times when the leaders need to lead the people, but this was the time when we could all work together. That was why they asked the mayor and council to put this on the November ballot.

Council Member West said those were inspiring words. She thought the city owed the Tucsonans for Sensible Transportation a debt of gratitude for moving them forward, hopefully in some new directions as well as dusting off some old studies and trying to provide better mobility for all of our citizens. One of the things she thought was most appealing about this was that Tucson could improve their air quality as well as the transportation system by doing this. Council Member West had a woman send her a letter just this weekend asking for a sidewalk in her neighborhood. So we have citizens all over this community who really want some changes made and it seemed that this gave the city of Tucson an opportunity to do that. Council Member West thanked all the people for attending the meeting. Council Member West called for the question.

James Keene, city manager, questioned what motion was on the floor.

Council Member West said the motion on the floor was to pass and adopt resolution no. 19641.

Kathleen S. Detrick, city clerk, clarified that the motion on the floor was on the resolution as presented to the mayor and council on Friday with the materials, so that included some of the changes in the language.

Mayor Walkup called for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, and Leal

Nay: Council Members Dunbar and Ronstadt; Vice Mayor Scott and Mayor Walkup

Absent/Excused: None

Resolution no. 19641 was declared failed by a roll call vote of 3 to 4.

Vice Mayor Scott wanted to explain why she voted against the resolution. One thing was, there had been changes made that were not presented to the petition signers,

that made it different from what they said they were signing. She had a problem with that. She also had a small problem with the process. When there is an initiative, you are supposed to follow the rules, and the rules say, do X, do Y, and Z will happen. She believed that by asking this body to bypass a certain part of that process, they would be corrupting the process, and the next group that could come here and ask the mayor and council the same thing for a different initiative, they would then have established a precedent. Those were the very same reasons why she was going to say no.

12. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

Kathleen S. Detrick, city clerk, informed the council of the necessary appointments.

Mayor Walkup announced that city manager's communication number 391, dated June 30, 2003, would be received into and made a part of the record. He asked for a motion to approve the appointments on the report.

It was moved by Vice Mayor Scott, seconded by Council Member Ronstadt, and carried unanimously by a voice vote of 7 to 0, to appoint Brian McCracken and Danny Torres to the Commission on Disability Issues.

13. CALL TO THE AUDIENCE

Mayor Walkup announced that at this time, any member of the public would be allowed to address the mayor and city council on any issue. Speakers would be limited to three-minute presentations. He called on Debra Rollinson.

A. Access Tucson

Debra Rollinson, said she was a member of Access Tucson for seven years and she had been going to the board meetings and something recently happened there that she thought was very strange. The Executive Director, Sam Behrend, was talking about how they were recently down four employees and that they were very concerned about how well they were going to be able to serve the membership. Ms. Rollinson thought that was very strange for two reasons. One, they had only recently lost one employee that she knew of, so she asked an employee there who these employees were that left, because Sam was saying that they were down four employees. He told her, Carla, whom Ms. Rollinson knew had left. Ms. Rollinson asked who else. Mr. Behrend told her that Joy left. Ms. Rollinson pointed out that Joy had not been there in a year, she had been on unpaid leave. She asked who else left. He said Al had quit, but Al quit two years ago. Who else left? Dawn Petrie was the fourth one, but Dawn Petrie still worked there? He said, "Well, we moved her from the second floor to the first floor, so we lost her, too." Ms. Rollinson said she might not be the sharpest crayon in the box, but that logic did not really make sense to her.

The other thing, the same employee had told her sometime between six months and a year ago, and this was something that she had not mentioned to many people, that they had been working towards raising the income level of the numbers, and he said so far they had. At first they had a lot of homeless people and now they hardly have any, and that the income of the membership was going up. They wanted to have at least

middle income membership there. To her, that was like denying free speech to people who could not afford to pay for it. It was supposed to be for any member of the public, not just for the middle class and the wealthy. She thanked the mayor and council for allowing her to speak.

Dan Harrigan, also a member of Access Tucson, said what Ms. Rollinson was referring to was the upgrading of the income level of the member. He explained that before Cox Cable came here in 1983 as the first cable subscriber, if someone wanted to be on television, they pretty much had to pay for it or do something incredibly stupid and wind up on the six o'clock news, or find something newsworthy by a second or third party. With the advent of Cox Cable, that all changed. The individual, without concern for financial position, was allowed the opportunity to come in and utilize the resource free of charge.

The contract that Access Tucson holds with the city of Tucson calls for free public access, except for special cases where they want to use the satellite resource and they would charge a few bucks for that. He could understand charging for extended service. They do need to recover some income to keep the operation going. They say they need more money. He said the city of Tucson was giving them a boatload more than they really needed. The point being, if the city of Tucson wants public access, it cannot be for money. The mayor and council cannot allow the charging of membership. What Access Tucson had now had come full circle. They were anticipating charging a fee to utilize the resource. Well that flies in the face of free speech, it flies in the face of Cox Cable now sending a lot of money to the city's general fund that is doled out to Access Tucson. So he asked the mayor and council, if people had to pay to utilize the resource, what good was the money coming from Cox? Well, he would tell the mayor and council what good. He thought they were supplying funding to an overblown company. The larger of the two baby birds in the nest would invariably push the smaller of the baby birds out of the nest. That baby bird was public access. Public access generates no income, there was no reason to spend time and effort on nonprofit-making entities. Now community programming can charge the user for the services rendered, for the materials and for the resource used, because there is money there.

Mr. Harrigan mentioned the last time he spoke with the mayor and council when their budget was cut by ten percent. The fear was, there would be a decrease in services. Well, there would be no Sunday programming as of September, none whatever. It would be all tapes. That was the claim by the Executive Director that the place would be completely closed. Well, the problem was, there would be no need to close on Sundays. What needed to happen was to rebuild the structure. Turn it into a city-run operation similar to Parks and Recreation. It could be done for \$400,000 a year with nine full-time employees. The rest of the membership being allowed to utilize the resource and participate in the use of the resource for the sake of other producers, that was a volunteer helping another producer make television. The way to achieve volunteerism was not by charging them at the gate. You charge people to enter the fun house when it should be free. They have a \$300,000 van that goes out on these truck shoots that requires five staff members. Four to five employees go out for each one of these truck shoots. That's not public access, that's community access programming guided and controlled by Access Tucson. The big bird was winning; the little bird was about to fall out of the nest.

Public access cannot survive if the public access members are charged to take classes. They charge you to learn how to hook up a microphone, turn on the lights, and utilize the lights. Isn't that basic television? Without television and lights, there is no TV. The basic classes are supposed to be free, the extended service is supposed to have a charge. There is no money taken out of the allocation for the use of the \$300,000 truck, but people have to pay \$75, soon to be \$90, to learn how to work a microphone. Mr. Harrigan asked for the city's help. There were not too many of them down at Access Tucson who were not connected with the company. Mr. Harrigan said that Ms. Rollinson was exactly right. The same staff person told him that the intent was to upgrade the level of income of the member. That is not free speech; that is England. That is why we came here to get away from that, so a person on the street did not have to pay to speak. If they don't have any money, they're unheard from. What did the mayor and council think all the graffiti on the walls was all about? Millions of people have no other means of saying, "Here I am." Mr. Harrigan asked that the city of Tucson help fix public access.

B. Lights Outside of City Hall

Yolanda Herrera LaFond, was before the mayor and council with a housekeeping issue at city hall. This was the second week she had attended the council meeting at night and had noticed that there were several burned out lights outside of city hall. She knew the city was in a budget crunch, but also thought there should be funding for light bulbs. That was a safety issue.

Mayor Walkup requested that staff would look into the issue.

C. Comprehensive Transportation Plan

Ron Manzi, requested that the mayor and council reconsider resolution no. 19641, for the Light Rail System. It works in Portland, Oregon. It completely changed the city within ten years. Tucson desperately needed that. Mayor Walkup ran for election to put his positive mark on this city, as the rest of the council people had. He asked that Mayor Walkup put his positive mark here by bringing light rail and change to this city.

D. Remote Controlled Locomotives

Robert Svob, representing the Brotherhood of Locomotive Engineers, explained that one of the special conditions in Tucson which made remote control locomotives more dangerous is that the yard is almost a one percent grade and everything in the yard has to be tied down. Hand brakes have to be tied in the yard. People have to climb on those cars and tie them down to make sure they do not move. Then when the cars are ready to move, they have to be untied. They had runaway cars in the yard. They could break loose. That was seen in Los Angeles about ten days ago. It was a horrendous runaway train, with a conventional locomotive. There was a miscommunication between two crews. One crew said they would handle the brakes and another crew started to work the train and released the air brakes before the hand brakes were tied. Accidents could happen and could be terribly expensive and destructive.

The Brotherhood of Locomotive Engineers thought that remote control locomotives, as they had been implemented around the country, had been a failed experiment. Why were they having those accidents? Because implementation had

occurred too hastily without regulation. The people were given one week in the classroom and one week in the field to learn how to operate a bread box on their chest to move the locomotive. A 200-ton locomotive is not a toy, yet it was being run basically by a remote control just like one would use with their television or with a train set.

Locomotive engineers have at least six months training, much of it on the road learning how to handle all kinds of freight cars and engines. These people were doing a good job with what they were doing now. They were walking in the yard, they were tying and untying hand brakes, they were coupling air hoses and opening valves and checking the safety features of cars. They had never run a locomotive. They do not know what the tonnage feels like when the brakes release. When you are up against 20 cars of loaded cement, you have about three thousand tons and a 200-ton locomotive is holding that weight while the brakes are released. These people never experienced this sensation of having that tonnage come rolling against you when the brakes are released and they're afraid for their safety, for the safety of the cars, and for the people who are working in the track next to them. Obviously, his group was concerned for the safety of people in Tucson who may be impacted by a collision, which may result in a puncture of a tank car that's carrying hazardous materials.

The Brotherhood of Locomotive Engineers would be submitting a resolution for the mayor and council's consideration in the future and they hoped that they could educate the public about that dangerous situation.

14. ADJOURNMENT: 9:31 p.m.

Mayor Walkup announced that the council would stand adjourned until its next regularly scheduled meeting to be held on Monday, August 4, 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, Arizona, held on the 30th day of June, 2003, and do hereby certify that it is an accurate transcription of the magnetic tape record of said meeting.

MANAGEMENT ASSISTANT

KSD:LC:DD:NB:nd
pr agnst tp:dp