



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
On May 24, 2004 _____

Date of Meeting: September 8, 2003

The Mayor and Council of the city of Tucson met in regular session, in the Mayor and Council Chamber, City Hall, 255 West Alameda, Tucson, Arizona, at 7:36 p.m., on Monday, September 8, 2003, all members having been notified of the time and place thereof.

1. ROLL CALL

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

Present:

José J. Ibarra	Council Member Ward 1
Carol W. West	Council Member Ward 2
Kathleen Dunbar	Council Member Ward 3
Steve Leal	Council Member Ward 5
Robert E. Walkup	Mayor
Kathleen S. Detrick	City Clerk

Absent/Excused:

Shirley C. Scott	Vice Mayor Ward 4
Fred Ronstadt	Council Member Ward 6

Staff Members Present:

James Keene	City Manager
Mike Letcher	Deputy City Manager

Michael House	City Attorney
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Dana DeLong	City Clerk's Office
Ceci Sotomayor	Recording Secretary
Sandra Slate	Recording Secretary

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Kathleen S. Detrick, city clerk, gave the invocation after which the pledge of allegiance was presented by the entire assembly.

Presentations

A. Tucson City Court Mental Health Division

Mayor Walkup presented a copper certificate to City Magistrate Michael Lex in recognition of the Tucson City Court Mental Health Division as one of the top 100 programs in the country.

Mr. Lex accepted the award on behalf of the prosecutors, the public defenders, and the mental health experts who made the Mental Health Division one of the 100 best public programs in the United States according to the Kennedy School of Government at Harvard.

B. Foundation for Leadership Program

Mayor Walkup presented certificates of recognition to Betsy Conroy, Michael Letcher, and Suzanne Machain of the City of Tucson Human Resource Department, for its Foundation For Leadership Program, which was also recognized as one of the top 100 programs in the country by the Kennedy School of Government at Harvard.

Ms. Conroy said approximately 275 employees had graduated the Foundation For Leadership Program. They are ambassadors for excellence in public service and represent a new way of working. They are inclusive leaders and they touch everyone they work with and teach them how to work differently. She thanked the mayor and council for their support.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced that city manager's communication number 483, dated September 8, 2003, would be received into and made a part of the record. He also announced that this was the time scheduled for mayor and council members to report on current events and asked if there were any reports.

Council Member West said she had received an e-mail from a man at St. Margaret's Church who suggested that anyone who had bells to ring them at 12:00 noon on Thursday, September 11, for Patriots' Day, in commemoration of the victims of the horrible tragedy on September 11, 2001.

Mayor Walkup asked if there were any other reports. There were none.

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

Mayor Walkup announced that city manager's communication number 482, dated September 8, 2003, would be received into and made a part of the record.

A. Central Arizona Project

James Keene, city manager, advised that phase one of the Central Arizona Project water litigation had been concluded and checks to the claimants have been issued by the city and delivered to the claimants' attorney for dispersal to their clients in accordance with the judgement entered by the court.

B. False Alarm Policy

Mr. Keene said this was the very start of the police department's change in policy relating to the status of alarms and false alarms. After the first three days of the implementation of the new policy, the police chief reported that the transition and results have gone better than expected despite the concerns expressed by some of the alarm companies. Many companies worked well with the new policy and had eliminated about one-third of the calls they used to send to the police department by simply calling their subscribers to see if the alarm was false. That was one of the intentions of the policy change since there were 24,000 false alarm calls a year. After the first three days, response time on verified calls was cut in half by the new policy and only one alarm call was because of a real burglary. It was from a verified alarm and received a five-minute response. Before the implementation of this new policy that alarm would have waited for 30 minutes to an hour. Officers have elected to respond to the majority of unverified alarms and have responded significantly sooner than in the past and as the council was aware, the department issues a general broadcast so that officers in that vicinity are free to make the choice and follow-up. There had not been a spike in burglaries, as some had predicted.

Under the new policy the city still had 137 false alarms over that three-day period, but because the alarm companies took more of a stake in trying to verify whether or not there was a false alarm, it was about 30% fewer false alarms than during the same period last year. He said this was just a change in the departmental policy. The focus on making changes in the ordinance that would deal with fines and those sorts of things would begin with an advisory task force, as directed by the mayor and council, which would meet Thursday, September 11, to begin exploration of the kinds of issues and possible changes in the ordinance. He reiterated that his report covered only the first three days of the new policy.

C. September 11 Ceremony

Mr. Keene said that his office had also been informed about the bell ringing suggestion as Council Member West had commented and the Tucson Fire Department planned a brief, simple ceremony. All fire stations on Thursday, September 11, at 6:58 a.m., would assemble on the front apron with the apparatus bay doors open. At 6:59, which is the time the South Tower collapsed, dispatch would open all microphones and sound three sets of five dispatch tones. At 7:00 a.m. there would be a brief minute of complete silence and at 7:01 dispatch would open all microphones for Chief Newburn to make a few remarks in remembrance of the occasion, followed by TFD Inspector Nicky Springer singing "God Bless America".

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

Mayor Walkup announced that this was the time any member of the public was allowed to address the mayor and council on any issue that is not scheduled on the agenda. Speakers would be limited to three-minute presentations. He advised that there would also be a call to the audience at the end of the meeting. He said he had received a number of written requests from people wishing to speak and knew there were a number of other people who wished to speak. He again asked that speakers limit their comments to three minutes each.

A. Santa Rosa Neighborhood Center

Sean Arce, president of Barrio Santa Rosa, said a severe problem existed at the Santa Rosa Neighborhood Center. Youth are the community's most prized possession and most valuable resource and are being excluded from using the center. To use the basketball court, the very facility that was built in their name with funds given to the city of Tucson by the federal government, youth are made to pay a fee of \$1.25. That facility was built for them. Mr. Arce felt that was double taxation. Their parents are taxpayers and at the same time, their children are being taxed by having to pay the fees. He is a working person and can barely afford to pay \$1.25 a day to use the weight room or other facilities at the center. In solidarity with other neighborhoods, specifically Barrio Viejo he asked that the fees be abolished because they were exclusionary in nature. He thanked Council Members Leal and Ibarra for their support of the city's youth and families and said some of the youth also wished to comment.

Nancy Felix, said recently the Santa Rosa Center had been charging \$1.25 and she and her friends had been out on the streets when it would be better for them to be at the center. They could be at the center doing productive things rather than out somewhere. They could be playing basketball or getting involved in the community.

Eb Eberlein, said he is a past president of the Barrio Santa Rosa Neighborhood Association and he was cochairman of the Hope VI Oversight Committee. He had spoken with the project manager, Olga Osterhage, and he initiated conversations with the US Housing and Urban Development (HUD) representatives in Tucson because the Hope VI project was specifically designed to benefit the poverty level families of the Santa Rosa Neighborhood. The institution of a fee had de facto made it so that the facilities, both the recreation and learning centers, were off limits to the neighborhood. Graffiti had increased and he understood that police responses had also increased. That did not serve the purpose of improving the city's financial situation. He understood that the council faced many difficult decisions. He would be writing to Council Member Leal and Mayor Walkup in hopes of meeting and finding a solution to the problem so that the youth can be brought back into the centers. More than \$6.2 million of federal money and goodwill is being thrown away for \$1.25.

Martha Vargas, in Barrio Viejo, said she wanted to relate some experiences with the Santa Rosa Neighborhood Center. She has two children and grandchildren, and she knew a lot of children could not participate in the center's programs because of the fees, which is unacceptable. She asked the council to consider changing that. The center offers recreation programs and she tried to sign up for a pottery class with some children, and spoke to an instructor and went through the

process of recreational sign up only to find that the class was cancelled. The pottery wheels and kilns were new and they were not being used because there was not enough participation. To her that meant people could not afford to use the facility, yet there was a lot of equipment that could be used to teach the children.

She grew up near Carrillo School and used its pool. It had been stripped of its deep end, it was now five foot, four, and three, and no shade, but when she was growing up there were lots of shade trees. Her parents were able to sit and watch the kids. She did call the recreation manager and got a table and an umbrella, but that was not enough. More shade should be put up and the pool should be expanded like Menlo Park so that the teenagers can participate. When she was growing up the pool was big enough for the teenagers to use, but now they cannot. It is the little children who use it because it is geared toward them. She was concerned that the teenagers were not participating in the recreational facilities at Carrillo School. She asked the council to consider expanding the pool and offering more activities in the summer in order to keep the teens occupied.

B. Quincy Douglas KIDCO Program

Roger Carrillo, spoke to an issue that was a little broader than the one brought up by previous speakers. He had seen an increase in problems with the neighborhood centers and with KIDCO. He was speaking about Quincy Douglas, an area just south of Santa Rosa, which is just as impoverished and recently had a drop in crime. The Quincy Douglas KIDCO Program had a capacity of enrolling 45 students who, if charged \$50 per semester, would bring in \$4,500, but only two children were enrolled so the city is getting \$200 because of the increase in fees. The city has a sliding scale so that the poor people can come in and grovel to the city, bring in their award letters, fill out another form, and get a reduced rate. They do not do that. They have not done that and they are not going to do that.

There are two reasons that they will not and one is that they are tired of groveling. They grovel for AHCESS; they grovel for food stamps and subsidized housing. They are not paid living wages because the minimum wage is too low and what is happening is that all of the city's facilities are going unused. All of the tax dollars, all of the money spent to help the neighborhoods is being wasted by the miniscule fees that the city is not getting. That is a real problem. Another thing that really irritated him, being Mexican in origin and bilingual, is that the centers have leaflets that tell people they can pay a sliding scale, that state the \$50 fee in big letters and at the bottom it says that there is a sliding scale, but the pamphlets are all in English. The demography of that area, Barrio Santa Rosa, South Park, Las Vistas, Pueblo Gardens, Barrio Viejo, is Hispanic. Those people speak Spanish and they are not going to look at the small print and see there is a sliding scale. Everything the city has done excludes those people. The city is wasting tax dollars, double taxing, the sales tax is regressive and had already hit the poor people the hardest. The council needed to abolish the fees and open the public facilities that are paid for by tax dollars for the public to use, especially the public that needs them the most.

Crime is on the rise, graffiti is on the rise, and already there had been a break-in at the Santa Rose Center, which probably cost more to repair than the city made on any of the fees. Mr. Carrillo said the council needed to do something to change that because the youth are being forced out on to the street, which meant higher crime, a lot of recidivism, and a lot more problems for everyone. The current situation was a short-term solution that was creating long-term problems.

Council Member Ibarra said he remembered that when the council dealt with the Hope VI issue one of the things they asked the neighborhood to support, one of the negotiating points was that if a new recreation center was built the neighborhood kids would not be charged to use it. He asked the city manager to research that and report to the council because it was a controversial issue. One of the negotiating points that was given to the neighborhoods, Barrio Santa Rosa, Viejo, Membrillo, El Hoyo, and others was that area kids would not be charged to use the center. That was one of the biggest selling points.

Council Member Leal said he heard the same thing and some of the council anticipated that when the fees were raised. He asked the city manager to research how the change of usage had been materializing.

Mr. Keene said he would.

Mayor Walkup agreed and said he thought all of the council would like to see the data.

C. Kibble-Kolb Road Rezoning

Bill Katzel, said he was going to talk about smoke and mirrors, procedural deception, zoning reconsideration and the council's choice. He introduced for the record a copy of the September 4-10, 2003 *Tucson Weekly* with its two front page referenced articles entitled "There Goes the Neighborhood, Have Neighborhood Associations Lost Their Political Muscle?" and, "Analyze This, Honey, I Shrank the Ward Two Democratic Primary." He said both articles were relevant to his comments. He said there was no opposition in the General Election for the ward two Primary winner and asked that everyone go out and vote in the September 10 Primary Election.

On Monday, August 4, 2003, there was a public hearing on the Kibble – Kolb Road rezoning and there was a lot of objection to the approval of that rezoning by members of The Meadows Homeowners Association. The public hearing was closed by Council Member West, but the rezoning initiative was continued to Tuesday, September 2, 2003 without benefit of continued public hearing. On Monday, August 18, 2003, a neighborhood meeting was held at the Eastside City Hall and dissension against approval of the rezoning was reiterated.

On Thursday, August 28, 2003, Roger Carver and The Meadows Homeowners Association reached agreement on language regarding conditions of approval for the rezoning which was to be introduced on Tuesday, September 2, 2003. At that meeting Council Member West and Michael House, city attorney, preempted the conditions for approval by relegating them to a private agreement without benefit of the agreement even being read into the rezoning record. Mr. Katzel said he read the approved language into the public record at the last call to the audience at that meeting. At this meeting, as at each of their regular sessions, the mayor and council took a pledge, which read in part, "...with liberty and justice for all". He said the council had a choice to continue with the smoke and mirrors and procedural deception or to move to reconsider the Kibble – Kolb Road rezoning with the language that was agreed upon by the developer and The Meadows Homeowners Association as a preexisting condition for the rezoning approval. He was ready to assist in that matter with all of the necessary documentation.

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

D. Mt. Lemmon Aspen Fire

Brent Davis, said unlike the other speakers he had come to thank the mayor and council and submitted a pamphlet to the council and staff. He spoke of the tragedy at Mt. Lemmon this past summer where many city residents lost homes in the fire. People talked a lot about Pima County's participation in addressing those problems and devoting major resource and time to help. He wanted to let the council know that the American Institute of Architects had also been involved by assisting the county in rewriting the codes for building on Mt. Lemmon. They did that in three weeks when it usually would take three years. One of the ideas that came out of the restoration committee, which was chaired by the AIA president, Ed Marley, was to have a resource fair with all of the vendors who wished to sell services or products to the property owners to rebuild their homes or businesses. His first inclination as a coordinator of that was to go to Council Member West's office as she is the liaison to the convention center and she was able to arrange a meeting with the director and assistant director of the TCC and himself to plan the trade show. In a three-week period, they produced the trade show with 75 booths and about 10 or 15 nonprofit and public agency representatives.

The point of his appearing before the mayor and council was to thank them on behalf of the AIA and more importantly, on behalf of the people whose lives were impacted by the Aspen Fire. He thanked the staff, Richard Singer, and Tommy Obermaier, of the Tucson Convention Center, and especially Council Member West for spearheading the effort for the people of Tucson. They could not have done it without their support and the listed sponsors.

Mayor Walkup said it was an amazing accomplishment in that length of time and asked if anyone else wished to address the council.

E. Kinder-Morgan Pipeline

Ted Downing, State Representative, District 28, said that on the 28th of August he asked the Arizona Corporation Commission for records of the Kinder Morgan gasoline pipeline. That was before the July 30 rupture of their eight-inch pipeline, which sprayed five houses on the West Side of Tucson with gasoline. The Arizona Corporation Commission uses part of its own funds for such inspections and submits its findings to the federal office of pipeline safety. His request for information regarding the condition of the remainder of the pipeline was refused, so he asked the federal government for the inspection records, hoping that he would get them, as did many people in the media, for the purpose of understanding the safety of the remainder of the pipeline, which runs through the city. Friday afternoon the federal government sent him the information at the same time as he was being denounced by one of the corporation commissioners. He submitted the information to the council for its task force. The report was from 1994 to 1999, then there was a break with scattered records and the 2003 inspection report, which everyone wanted to see, was not included. He was in negotiations over that. The attitude is that at this point that information is part of the investigation. His position was that the report was written before the pipeline break and people should be able to see it. The information he submitted revealed multiple problems

with corrosion, that the former owner was cited for lack of release of public information, and some very serious fire issues, lack of extinguishers in the right spot, they were not charged, and smoking near the valves. There was a reason that some people did not want the report to see the light of day. He had not had an opportunity to see the final records, but he was pursuing it. He made a request to the Arizona Corporation Commission. There was a disagreement about who the records belong to and his position was that they belong to the state. The commission's position was that they ultimately belong to the state through the federal government. He said he would continue that and if he is not successful within ten days, he would pursue other options, which could include either changing the law or taking them to court to get the records.

Council Member Ibarra asked that the documents submitted by Representative Downing be distributed to the council before the end of its meeting.

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

6. CONSENT AGENDA – ITEMS A THROUGH E

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

A. FINAL PLAT: (S03-010) RITA RANCH RETAIL CENTER, LOTS 1 AND 2

- (1) City Manager's Report SEPT8-03-473 W4
- (2) The City Manager recommends 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.

B. INTERGOVERNMENTAL AGREEMENT: WITH ARIZONA GAME AND FISH DEPARTMENT FOR THE URBAN FISHING PROGRAM

- (1) Report from City Manager SEPT8-03-475 CITY-WIDE
- (2) Resolution No. 19673 relating to parks and recreation; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and the Arizona Game and Fish Department for an urban fishing program; and declaring an emergency.

*** C. FINANCE: CONTINGENCY FUND TRANSFER FOR A TUCSON YOUTH MARIACHI GROUP TO TRAVEL TO ALMATY, KAZAKHSTAN**

- (1) Report from City Manager SEPT8-03-476 CITY-WIDE

*See page 9

- (2) Resolution No. 19674 relating to finance; approving and authorizing the transfer of Five Hundred Dollars (\$500.00) from the Contingency Fund to Organization 001-183-1838-268, for the Tucson-Almaty Sister City Youth Mariachi Travel; and declaring an emergency.

D. APPROVAL OF MINUTES: December 9, 2002; February 3, 2003;
February 24, 2003; March 3, 2003

E. INTERGOVERNMENTAL AGREEMENT: WITH SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY FOR CONTRIBUTIONS TO THE ARIZONA STATE MUSEUM

- (1) Report from City Manager SEPT8-03-477 CITY-WIDE

- (2) Resolution No. 19675 relating to finance; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and the Salt River Pima – Maricopa Indian Community for making contributions to the Arizona State Museum; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member Ibarra, seconded by Council Member Leal, that consent agenda items A through E, with the exception of item C, be passed and adopted and the proper action taken.

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

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Ronstadt and Vice Mayor Scott

Consent agenda items A through E, with the exception of item C, were declared passed and adopted by a roll call vote of 5 to 0.

6. **CONSENT AGENDA – ITEM C**

C. FINANCE: CONTINGENCY FUND TRANSFER FOR A TUCSON YOUTH MARIACHI GROUP TO TRAVEL TO ALMATY, KAZAKHSTAN

Resolution No. 19674

Relating to finance; approving and authorizing the transfer of Five Hundred Dollars (\$500.00) from the Contingency Fund to Organization 001-183-1838-268, for the Tucson-Almaty Sister City Youth Mariachi Travel; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

Council Member West said it was her pleasure to introduce the Tucson Youth Mariachi Group, which would soon be travelling to Kazakhstan.

Jerry Gary, chairman of the Tucson-Almaty Sister Cities Committee, noted that a lot had been said about the pride of Arizona, the very great band at the university of which he was a member in the 1950s. He wanted to say a few words about a program that is coming out of the Tucson-Almaty Sister City Committee, of which Tucson has a right to be proud. Three years ago the committee sponsored a project to take 20 students from Tucson High Schools to Almaty, Kazakhstan to spend a month, and brought the same number of students with teachers to Tucson. That was just an example of what the committee is doing. They are very focused and interested in the development of the youth in the community. Tucson has had a 14-year relationship with Almaty and the capabilities and realities of the group are only now coming into perspective. Tucson has a great deal of pride in having Almaty and other sister cities under its banner. The future direction of the committee are to have a people-to-people diplomacy approach through education, culture, and economic development and the committee would adhere to that.

The young Mariachis and adults that make up the group of 21 would be leaving on the 29th of September, at the invitation of the mayor of Almaty, Kazakhstan, to perform in their very festive and famous All City Day, which they have every year. That occurred when the mayor of Almaty visited Tucson and happened to hear the Mariachi group play. He was enamoured with them and said immediately that they should visit Almaty. Mariachi Monarca, from Salpointe High School and Los Changitos Feyos produced some great mariachi in their time and the group that is going to Almaty is a composite of those two groups suitably renamed "The Mariachi on the Silk Road." Under the direction of Ruben Moreno, who is known around town as the "Mariachi Fool." The group did a great job of developing a fresh view musical approach and would be performing this form of music for the first time on a stage in Central Asia. It was a first and the city is living its cultural commitment with a youth program.

He thanked the council, the mayor and Council Member West for taking the initiative and offering to support the group financially and invited everyone to join them on Thursday evening in commemoration of the people who died on September 11, 2001, and to also help celebrate the trip to Almaty. He thanked the adults who would accompany the youth and for making the program a possibility.

Mayor Walkup asked if there was any discussion.

Council Member West asked if any of the other council members had funds to contribute. She noted that the mayor had committed \$250.

Mayor Walkup said he had and he thought that all of the council members wished they had more to contribute, but they had been zeroed out. He thought they all had listened to the committee and participated over the years with the wonderful things they do. He hoped they would have a great time. He could not imagine anything that would be more fun than to be in the audience and see the reaction to the "Mariachi on the Silk Road."

Council Member Dunbar said she would add \$500 from her contingency fund and asked how much money the group still needed. She also pledged \$100 of her personal money and thought a lot of people who were watching would do the same.

Mr. Gary said they were almost \$6,000 short of the \$55,000 they needed. They hoped to raise some funds on Thursday at El Charro with a nice meal and some visiting dignitaries. They would be auctioning an original oil painting commemorating the event by a local artist, David Tineo.

Ms. Dunbar said if Mr. Gary would stop by her office, he would get his check.

It was moved by Council Member West, seconded by Council Member Ibarra, that resolution number 19674, authorizing the transfer of \$1,250 from the contingency fund to the Youth Mariachi Travel, be passed and adopted.

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

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Ronstadt and Vice Mayor Scott

Resolution no. 19674 was declared passed and adopted by a roll call vote of 5 to 0.

Kathleen S. Detrick, city clerk, advised that consent agenda items B, C, and E would be brought back to the council on September 15 for the emergency clause as there were an insufficient number of council members present to do so at this meeting.

7. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced that city manager's communication number 474, dated September 8, 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)

(1)	PEI WEI ASIAN DINER 5285 E. Broadway, #151 Applicant: Russell G. Owens City #059-03, located in Ward 6 Series #12 Action must be taken by: September 19, 2003	<u>Staff Recommendation</u> Police: In Compliance DSD: In Compliance Bus. License: In Compliance
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(2)	CHIPOTLE MEXICAN GRILL #2129 3055 N. Campbell Avenue, Suite #183 Applicant: H. J. Lewkowitz	<u>Staff Recommendation</u> Police: In Compliance
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| <p>(6) TUCSON KITCHEN MUSICIANS ASSOC. <u>Staff Recommendation</u>
 900 S. Randolph Way
 Applicant: Mark P. Oliver
 City #T073-03, located in Ward 6
 Date of Event: September 20, 2003
 (To promote blues & heritage music)</p> | <p>Police: In Compliance
 DSD: In Compliance
 Parks & Rec.: In Compliance</p> |
| <p>(7) FOX TUCSON THEATRE FOUNDATION <u>Staff Recommendation</u>
 Congress – between Stone & Church
 Applicant: Herb R. Stratford
 City #T074-03, located in Ward 6
 Date of Event: September 20, 2003
 (Fundraiser)</p> | <p>Police: In Compliance
 DSD: In Compliance</p> |
| <p>(8) ARIZONA THEATRE COMPANY <u>Staff Recommendation</u>
 330 S. Scott Avenue
 Applicant: Eileen Marie Bagnall
 City #T076-03, located in Ward 6
 Date of Event: September 20, 2003
 (Annual Benefit)</p> | <p>Police: In Compliance
 DSD: In Compliance</p> |
| <p>(9) SOUTH TUCSON LIONS <u>Staff Recommendation</u>
 4823 S. 6th Avenue
 Applicant: Fernando Acevedo
 City #T077-03, located in Ward 5
 Date of Event: September 13, 2003
 (Fundraiser)</p> | <p>Police: In Compliance
 DSD: In Compliance
 Parks & Rec.: In Compliance</p> |

Kathleen S. Detrick, city clerk, reported that under new licenses they had two applications for approval and under special events they had nine applications with a recommendation for approval.

It was moved by Council Member West, seconded by Council Member Dunbar and carried by a voice vote of 5 to 0 (Council Member Ronstadt and Vice Mayor Scott absent/excused) to forward liquor license applications city #059-03, city #060-03; city #T060-03; city #T064-03; city #T066-03; city #T068-03; city #T069-03; city #T073-03; city #T074-03; city #T076-03; city #T077-03, to the state department of liquor licenses and control with a recommendation for approval.

8. ZONING: (C9-03-03) WALGREENS – CRAYCROFT ROAD, R-3 TO C-1, ORDINANCE ADOPTION

Mayor Walkup announced that city manager’s communication number 471, dated September 8, 2003, would be received into and made a part of the record. He asked the city clerk to read ordinance no. 9890 by number and title only.

Ordinance No. 9890

Relating to zoning: amending zoning district boundaries in the area located on the southwest corner of Craycroft Road and 22nd Street in Case C9-03-03, Walgreen’s – Craycroft Road, R-3 to C-1; and setting an effective date.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member Leal, seconded by Council Member Ibarra, that ordinance no. 9890 be passed and adopted.

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

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Ronstadt and Vice Mayor Scott

Ordinance no. 9890 was declared passed and adopted by a roll call vote of 5 to 0.

9. HUMAN RESOURCES DIRECTOR: APPROVING THE APPOINTMENT OF THE HUMAN RESOURCES DIRECTOR FOR THE CITY OF TUCSON

Mayor Walkup announced that city manager's communication number 481, dated September 8, 2003, would be received into and made a part of the record. He asked the city clerk to read ordinance no. 9889 by number and title only.

Ordinance no. 9889

Relating to the Department of Human Resources; approving the appointment of Teri J. Traaen as the director of Human Resources and fixing compensation; and declaring an emergency.

It was moved by Council Member West, seconded by Council Member Ibarra, that ordinance no. 9889 be passed and adopted.

Mayor Walkup recognized James Keene, city manager, who introduced Dr. Traaen.

Dr. Traaen said it was an honor and privilege to come before the council in the potential role of Human Resources Director for the city of Tucson. It would be a great opportunity to serve in a leadership capacity with the best practice human resources team in Tucson.

Mayor Walkup said at the earliest opportunity all of the council members would like to meet with Dr. Traaen individually to get to know her thoughts on the city. He looked forward to that.

He asked for the roll call on the motion to pass and adopt ordinance no. 9889.

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Ronstadt and Vice Mayor Scott

Ordinance no. 9889 was declared passed and adopted by a roll call vote of 5 to 0.

10. PUBLIC HEARING: BINGO LICENSE – WESTERN WINDS APARTMENTS, 4131 N. WESTERN WIND DRIVE

Mayor Walkup announced that city manager's communication number 478, dated September 8, 2003, would be received into and made a part of the record. He asked if the applicant or a representative was present. There was no one. He announced that this was the time legally advertised for a public hearing on bingo license application city no. 194, applicant Helen Zeigler. He advised that the public hearing was scheduled to last for no more than one hour and asked if anyone wished to address the council. There was no one.

It was moved by Council Member Ibarra, seconded by Council Member West, and carried by a voice vote of 5 to 0 (Council Member Ronstadt and Vice Mayor Scott absent/excused) to close the public hearing.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member Dunbar, seconded by Council Member West, and carried by a voice vote of 5 to 0 (Council Member Ronstadt and Vice Mayor Scott absent/excused) to forward bingo license application city #194 to the state tax commission with a recommendation for approval.

11. PUBLIC HEARING: (C15-03-01) ESTABLISHING ORIGINAL CITY ZONING FOR THE VALENCIA/CRAYCROFT ANNEXATION DISTRICT

Mayor Walkup announced that city manager's communication number 484, dated September 8, 2003, would be received into and made a part of the record. He also announced that this was the time and place legally advertised for a public hearing regarding the establishment of original city zoning for the Valencia/Craycroft Annexation District. He announced that the public hearing was scheduled to last for no more than one hour and asked that speakers limit their comments to no more than five minutes. He asked if anyone in the audience wished to address the council. There was no one.

It was moved by Council Member Ibarra, seconded by Council Member West, and carried by a voice vote of 5 to 0 (Council Member Ronstadt and Vice Mayor Scott absent/excused) to close the public hearing.

Mayor Walkup asked the city clerk to read ordinance no. 9891 by number and title only.

Ordinance No. 9891

Relating to zoning; establishing original city zoning for approximately 21.44 acres generally located on the south side of Valencia Road east of the Craycroft Road alignment which was annexed to the city of Tucson by ordinance no. 9822, adopted on April 7, 2003; and setting an effective date.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member Leal, seconded by Council Member Ibarra, that ordinance no. 9891 be passed and adopted.

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

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Ronstadt and Vice Mayor Scott

Ordinance no. 9891 was declared passed and adopted by a roll call vote of 5 to 0.

12. PUBLIC HEARING:ZONING (C9-91-19B) LEWIS – TANQUE VERDE ROAD (SOUTHERN PORTION) C-2 ZONING, CHANGE OF CONDITIONS AND DEVELOPMENT PLAN

Mayor Walkup announced that city manager's communication number 485, dated September 8, 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 with respect to a change of conditions in a preliminary development plans for property located at the northwest corner of Desert Links Drive and Tanque Verde Road. He asked if the applicant was present.

Mike Marks, MJM Consulting, representing the Lewis family, said they were working on a couple of issues with staff and had actually come to an agreement on those issues as of last Friday. They were formalized in the morning and then Mr. Marks was informed that they needed a revised preliminary development plan, which they submitted before the meeting. Staff recommended that this request be continued for two weeks and he agreed with that. At this point all of the items had been submitted and would be included in the council's material when the case comes back.

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

It was moved by Council Member West, seconded by Council Member Leal, and carried by a voice vote of 5 to 0 (Council Member Ronstadt and Vice Mayor Scott absent/excused) to close the public hearing.

Council Member West noted that plans called for three new commercial pads and it seemed to her that the development plan she was shown had only two pads plus another piece.

Mr. Marks said there was actually a third pad north of the existing batting cages that was earmarked for potential additional outdoor recreation and that has been referred to as a pad as well.

Council Member West asked if the developer was working with staff on a traffic plan. The area was heavily congested and needed a plan.

Mr. Marks said one of the conditions that the developer and staff were in agreement with was the evaluation of the need for a deceleration right-turn lane. He said the developer had no objection to that.

It was moved by Council Member West, seconded by Council Member Ibarra, and carried a voice vote of 5 to 0 (Council Member Ronstadt and Vice Mayor Scott absent/excused) to continue this item for two weeks.

Kathleen S. Detrick, city clerk, announced that ordinance no. 9892 would be continued to the meeting of September 22, 2003, at or after 7:30 p.m., in the council chamber at 255 W. Alameda.

13. PUBLIC HEARING: ZONING (C9-99-25) ALVERNON WAY I-1 TO R-1, REQUEST FOR TIME EXTENSION AND CHANGE OF CONDITIONS AND DEVELOPMENT PLAN

Mayor Walkup announced that city manager's communication number 480, dated September 8, 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 with respect to a request to change the conditions and the preliminary development plan for property located at Alvernon and North Valencia. He recognized the city manager.

James Keene, city manager, said this item was brought up by Vice Mayor Scott in the context of a larger question about a requirement for roads to be private. He reported to the council that that was not a practice and she pointed out that this particular item had a condition, condition number 24, which said that all interior streets would be private. He said he was surprised by that and subsequent to Vice Mayor Scott's bringing it to his attention he met with staff and directed them to remove that condition. That information had been shared with the applicant who was in agreement with it. He thought the intent of the reviewing staff was a concern about the city's ability to maintain new roads as the city continues to grow, which he thought was an interesting and legitimate point, but he did not think private roads was the solution. He asked staff if there were any other changes.

Ernie Duarte, director of development services, said there were not.

Mr. Keene recommended approval of the subject request as included in the council's material with the exclusion of condition number 24, which required the private streets. It was his understanding that the developer was in support of that recommendation.

Mayor Walkup asked if there was any discussion.

Council Member Leal said he was not aware that Vice Mayor Scott had taken issue with that condition. He also thought it was problematic for a couple of reasons. He was appreciative and not surprised that the developer's representative was supportive. He thought the city needed to be more circumspect about the kinds of things it does to solve problems. The council has been privatizing the responsibility for taking care of water detention facilities and the subject proposal raised the possibility that city streets will be privatized. Parks and recreation staff was looking at making neighborhoods responsible for maintaining neighborhood parks. To him the large issue that emerged was one of equal protection where people in one part of town were paying the same taxes as people in another part of town, but the city is doing a lot more for them with those taxes. Some people would be put in a position of having to pay twice. There was an issue of fairness and equity that comes out of that that is very large and potentially very divisive. He was glad that the city manager had asked that the condition for private streets in the subject development be removed.

He said that left the second issue and he was not clear if it was described in what he took to be item ten, which reads, "A note shall be provided on the tentative and final plat disclosing that adjacent parcels to the north and across the Antrim Loop Road to the south are currently zoned and approved for industrial uses." He said that was a softer description of what he has known to be the intent. He believed the intent was that all of those people who buy houses would sign away their political rights to protest anything that happened on the adjacent industrial property and he would not be supportive of doing that. He did not think that dealing away people's rights in a real estate deal is a practice the city should pursue or help others pursue. He asked if condition ten was another way of saying what he had just described.

Mike Grassinger, representing The Planning Center, said item ten was basically a disclosure statement that should be included in any sale agreement when there are nearby industrial properties. There was a separate agreement, not anything the city was party to, between the adjoining property owners stating just what Council Member Leal said, that buyers would be required to sign an agreement not to protest any development on the industrial properties. The Planning Center had determined that that is totally illegal and not enforceable, but at the same time in order to rectify the situation, and as Council Member Leal rightly pointed out at the original hearing when the zoning was approved, that had to go away. So, that agreement had been revised, there was some verbal agreement, striking all of the language regarding that requirement for those people. Virtually, his client had withdrawn his signature to that agreement, therefore, it no longer existed. It would return in a different form and Mr. Grassinger would be happy to return it to the council when it was completed, before the final ordinance adoption.

Council Member Leal said the council was not a party to it and Mr. Grassinger would not be either very soon. Council Member Leal was glad that would not be happening in the community.

Mayor Walkup noted Council Member Ibarra wished to comment.

Council Member Ibarra said he was disappointed to see the condition regarding private streets in the council's material because he always thought that policy was the purview of elected officials, not city staff. He saw the condition as a policy change and as an elected official, he did not appreciate staff making policy changes without going through the council because in the end they are responsible. He wanted an understanding that if it did come up again, and he hoped it would not, it would go through the appropriate process of mayor and council in study session, so it would be the council's choice as to whether or not to do it. He asked that if any other issues came up regarding privatization they go through the mayor and council so that it will have an opportunity to either endorse or reject them. The council should have that opportunity as elected officials. He reiterated that he was disappointed to see the condition in the material and understood that the manager did not know about it either, but he thought the manager should communicate with his staff on the issue.

Mr. Keene said he agreed wholeheartedly and that is why he interceded as soon as he became aware of it.

Mayor Walkup announced that the public hearing was scheduled to last for no more than one hour and asked if anyone in the audience wished to address the council. There was no one.

It was moved by Council Member Leal, seconded by Council Member Ibarra, and carried by a voice vote of 5 to 0 (Council Member Ronstadt and Vice Mayor Scott absent/excused) to close the public hearing.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member Leal, seconded by Council Member Ibarra and carried by a voice vote of 5 to 0 (Council Member Ronstadt and Vice Mayor Scott absent/excused) that in zoning case C9-99-25 the request for time extension and change of conditions and development plan be approved as presented and recommended by the city manager with the exception of condition number 24.

Council Member Leal said Mr. Grassinger's comments regarding condition number ten should be reflected in the council's material when this item comes back for final ordinance adoption.

14. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

Mayor Walkup announced that city manager's communication number 472, dated September 8, 2003, would be received into and made a part of the record. He asked the council's pleasure.

It was moved by Council Member West, seconded by Council Member Ibarra, and carried by a voice vote of 5 to 0 (Council Member Ronstadt and Vice Mayor Scott absent excused) to appoint Sharon Bonesteel to the Outdoor Lighting Code Committee; and ratify the appointment of Anna Harper to the Pima County/Tucson Women's Commission.

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

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

Mayor Walkup announced that this was the time any member of the public was invited to address the mayor and council on any issue and asked speakers to limit their comments to three minutes.

Bill Katzel, said his subject was the legal adversarial system. Not hearing a motion, second, and vote on the reconsideration of the Kibble – Kolb rezoning case of September 2, 2003, he presumed that the zoning would stand without the agreed upon condition of the developer and The Meadows Homeowners Association. That left the next series of actions for the affected 348 existing families, the 300 future families and the tenants and clients of the 30,000-square foot, 2½-acre office complex as part of the legal adversary system. He was investigating the use of new graduates of the James Rogers College of Law as well as the Southern Arizona Legal Society as counsel in these adversary matters.

Mayor Walkup recognized Council Member West who asked the city attorney if the case that was heard on the Kibble rezoning was a change of conditions, not a rezoning.

Michael House, city attorney, said that Council Member West was correct. It was a change of conditions.

Council Member West said an agreement was reached between the developer and the neighborhood that was considered to be a private agreement that the city would not enforce. She asked if that was correct.

Mr. House reiterated that there could be no discussions by council or staff under call to the audience, he could merely indicate that the council chose not to include the proposed condition as a condition of the zoning case and instead left it as a private agreement.

Council Member West reiterated that the item was a change of conditions, not a rezoning and the condition referenced by Mr. Katzel was a private agreement. She thought that needed to be stated in the record.

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

16. ADJOURNMENT: 8:44 p.m.

Mayor Walkup reminded everyone that Tuesday, September 9, 2003, was an election day and encouraged everyone to get out and vote.

Mayor Walkup announced that the council would stand adjourned until its next regularly scheduled meeting to be held on Monday, September 15, 2003 at 2:00 p.m., in the Mayor and Council Chamber, City Hall, 255 W. Alameda.

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 8th day of September, 2003, and do hereby certify that it is an accurate transcription of the magnetic tape record of said meeting.

MANAGEMENT ASSISTANT

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