



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on January 25, 2005

Date of Meeting: February 2, 2004

The Mayor and Council of the City of Tucson met in regular session, in the Mayor and Council Chambers in City Hall, 255 West Alameda, Tucson, Arizona, at 5:09 p.m. on Monday, February 2, 2004, 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
Shirley C. Scott	Council Member Ward 4
Steve Leal	Council Member Ward 5
Fred Ronstadt	Vice-Mayor, Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused:

Kathleen Dunbar	Council Member Ward 3
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Staff Members Present:

James Keene	City Manager
Michael House	City Attorney
Kathleen S. Detrick	City Clerk
Michael D. Letcher	Deputy City Manager

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Pastor Otis F. Brown Jr., Siloam Freewill Church, after which the entire assembly presented the pledge of allegiance.

Presentation

- a. Mayor Walkup introduced Tiffany Jo Allen, "Arizona's Yodeling Sweetheart". Ms. Allen made a presentation telling about herself and her participation in yodeling. She entertained the audience by yodeling two songs. Mayor Walkup then presented Tiffany Jo Allen, "Arizona's Yodeling Sweetheart," with a copper plaque in recognition of her achieving first place in an international yodeling contest held in Wichita, Kansas.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 51, dated February 2, 2004, would be received into and made a part of the record. He also announced this was the time for any member of the Mayor and Council to report on current events and asked if there were any reports.

There were no reports.

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

Mayor Walkup announced City Manager's communication number 52, dated February 2, 2004, would be received into and made a part of the record. He also announced this was the time for the City Manager to report on current events and asked for that report.

James Keene, City Manager, reported:

- a. Andrew Singelakis was appointed the new Deputy Director of the Comprehensive Planning Task Force

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 49, dated February 2, 2004, would be received into and made a part of the record. He asked the City Clerk to read the liquor license agenda.

Kathleen S. Detrick, City Clerk, noted that on the liquor license agenda, under item 5b1, there was a new license for Axis Food Mart which had protests filed and would need to be considered separately. Items 5b2 and 5c1 carried recommendations for approval.

b. New License

1. Axis Food Mart
1540 E. Broadway
Applicant: Maen F. Mdanat
City #117-03, Ward 5
Series 10
Public Opinion: Protests Filed
Support Filed
Action must be taken by: February 12, 2004
Considered separately.
- Staff Recommendation
Police: In Compliance
DSD: In Compliance
Revenue: In Compliance

Person Transfer

2. Elbow Room
1145 W. Prince Road
Applicant: Edward W. Lorenz
City #118-03, Ward 3
Series 6
Action must be taken by: February 14, 2004
- Staff Recommendation
Police: In Compliance
DSD: In Compliance
Revenue: In Compliance

c. Special Event

3. Southern Arizona Aids Foundation
516 N. Fifth Avenue
Applicant: Judith McDaniel
City #T008-04, Ward 6
Date of Event: February 7, 2004
- Staff Recommendation
Police: In Compliance
DSD: In Compliance

Mayor Walkup asked the council's pleasure.

It was moved by Council Member West, duly seconded, and passed by a voice vote of 6 to 0 (Council Member Dunbar absent/excused), that liquor license applications 5b2 and 5c1, be forwarded to the Arizona State Liquor Board with a recommendation for approval.

b. New License

1. Axis Food Mart
1540 E. Broadway
- Staff Recommendation

Applicant: Maen F. Mdanat
City #117-03, Ward 5
Series 10

Police: In Compliance
DSD: In Compliance
Revenue: In Compliance

Action must be taken by: February 12, 2004

Public Opinion: Protests Filed

Supports Filed

Ms. Detrick reported that staff recommended approval, however, protest and support letters had been received. The license is located in Ward 5.

Mayor Walkup recognized Council Member Leal.

Council Member Leal called on the representative for the applicant.

Thomas R. Aguilera, Attorney at Law, the representative for the applicant, said he knew this was a Ward based issue. He had done this a couple of times and knew how these things worked. Over the years, he has discussed with Council Member Leal neighborhood concerns regarding the issuing of new licenses. This was a series 10 license. It was a non-transferable license and they would have to go through a location test.

He added that on the Mayor and Council agenda, they state the law very clearly. He said it was his burden tonight to show the Council that the public convenience supported the issuance of this license. The personal qualifications of the applicant, at this point, were not an issue. If it goes to Phoenix, the Board would address the location issue and move past the personal qualifications. The Arizona State Liquor Board and Tucson Police Department completed their investigation and Mr. Mdanat would be the shareholder of Axis Food Mart along with his wife. Together they own another convenience Food Mart with a series 10 license.

Mr. Aguilera said he looked at their history with the department and found that a couple of years ago, there was a failure to amend their application to put in a window and they were cited for that minor administrative issue. There has been no underage service; the types of issues that they are so concerned about. He said this was an applicant who knew Title 4. This was an applicant who also would be the sole shareholder of the company who wants to own the land. He would be renting from himself. He thought that was important. The reason he told the Council was because, who would be better to be fully vested to watch that business, make an impact on the community, than a guy who owned the dirt, the building and the business. He said that was Mdanat. He told the Council that these were tough cases for him to bring in front of them. He said he had protest letters that said, do not issue this license. So what he has to do is go out and say, what is really going on.

He said the Red Cross was a protestor, who withdrew their protest and he hoped the Council Members received a copy of the withdrawal. They spoke with the Red Cross

regarding their concerns and learned they had a parking issue. To resolve this issue Axis Food Mart would provide a fenced parking area, much like the Circle K in that area. It helps the community and helps the Red Cross. Right now it was a vacant lot. He explained that after watching the Mayor and Council meetings, they have tried to do infill. It had been a vacant lot for five years and why not make it an ongoing business. Why not make it a part of the community. Why should they have to continue to keep a vacant lot, when they know what happens in vacant lots. The trade off there is filling an inner city void. He asked why have voids. They are saying let's make this an ongoing business. They would not be selling gas. This would be a convenience Food Mart. Yes, it would have a liquor license for beer and wine sales only.

Mr. Aguilera said they walked a half-mile radius circle and the law tells him that he has to be concerned about a mile radius. What they did was just go a half a mile and they got 380 signatures within this half-mile. He said that he called Vice Mayor Ronstadt's Office to speak with his liaison about this issue, because Vice Mayor Ronstadt had a number of constituents who signed their petition. They were north of Broadway, but they were within the mile so he had to address them. They went south of Broadway in Council Member Leal's Ward and many of the signatures were from his Ward as well. So there were two constituencies impacted by this application. Three hundred and eighty of the signatures said they wanted this license. They addressed the public convenience of the location head on. They have talked to the Red Cross and to the residences near there. They provided the Council with all of this information and they talked to Council Members and neighborhoods about their concerns. They felt that given a chance, even the seventeen people who signed protest letters, which by the way had an erroneous fact in it, were not within three hundred feet of a school. That was shown to them by Revenue when they went out to do their measurements. He said that what the Mayor and Council were going to see was an applicant who would take this very seriously. The applicant was at the meeting and he was ready to make a go of this application at this location that has been empty for five years.

Mr. Aguilera asked that if Council Member Leal made a decision to recommend denial, then he would ask each of the council members, especially Vice Mayor Ronstadt, to take a look at this and say, this might be the one time that he would vote in favor of it, even though it was a Ward based issue. He said it was not always like this during the application process and he did not want to create an "unholy war" or anything, but he just wanted to say that this might be that one time. He thanked the Council and he hoped the Council would support their application. He said he was available for questions.

Council Member Leal said he appreciated the thought that Mr. Aguilera put into his presentation and the effort of the family. Council Member Leal said these really were not Ward based issues in many ways. It started out being that way six years ago, but he thought what had happened over time was that the entire Council had seen that this was an issue in the entire City.

The primary issue before the Council was one of convenience, as Mr. Aguilera stated at the beginning of his presentation. To succeed at that, Mr. Aguilera would have to show that there was currently a lack of convenience for people in the adjacent area, and that granting this license would in fact create a convenience where currently there was not, or it was deficient. For him, that was the first way he had to approach this. When he saw the number of other licenses in the area, one right across the street, it led him to the conclusion that the issue of convenience was not an issue here because there were currently plenty of locations in the immediate area for the community to take advantage of. For that reason he would recommend that the Council forward a recommendation for denial to the Arizona State Liquor Board.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Dunbar absent/excused), that liquor license 5b1 be forwarded to the Arizona State Liquor Board with a recommendation for denial.

6. CONSENT AGENDA ITEMS A THROUGH G

Mayor Walkup announced 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 by letter and title only.

A. INTERGOVERNMENTAL AGREEMENT: WITH AMPHITHEATER SCHOOL DISTRICT FOR THE INSTALLATION OF A SCHOOL CROSSING “HAWK” FLASHING SIGNAL

1. Report from City Manager FEB2-04-50 W3
2. Resolution No. 19769 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and Amphitheater School District for the installation of a school crossing “HAWK” flashing signal; and declaring an emergency.

B. REAL PROPERTY: VACATION AND SALE OF SURPLUS CITY PROPERTY LOCATED AT 541 SOUTH MAIN AVENUE TO ADJ VENTURES, LLP

1. Report from City Manager FEB2-04-53 W6
2. Ordinance No. 9933 relating to real property; vacating and declaring certain City-owned property at 541 S. Main Avenue, Tucson, Arizona, to be surplus, and authorizing the conveyance thereof to ADJ Ventures, LLP; and declaring an emergency.

**C. APPROVAL OF MINUTES: March 17, 2003
April 21, 2003**

May 5, 2003
May 19, 2003
June 2, 2003
September 2, 2003

D. FINANCE: SALE OF CERTIFICATES OF PARTICIPATION FOR CAPITAL IMPROVEMENTS; REFUND OF SERIES 1999 CERTIFICATES OF PARTICIPATION

1. Report from City Manager FEB2-04-48 CITY-WIDE
2. Resolution No. 19766 relating to real property; authorizing the execution and delivery of a Series 2004 Ground Lease, a Series 2004 Lease-Purchase Agreement, a Certificate Purchase Agreement, a Depository Trust Agreement, a Continuing Disclosure Undertaking and Amendments to existing Lease-Purchase Agreements; acknowledging and approving the execution, sale and delivery of one or more series of Certificates of Participation in the Series 2004 Lease-Purchase Agreement and refunding Certificates of Participation in existing Lease-Purchase Agreements; and declaring an emergency.

E. FINANCE: LOAN AGREEMENT WITH THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA TO BORROW UP TO \$3,000,000 FOR WATER IMPROVEMENTS

1. Report from City Manager FEB2-04-57 CITY-WIDE
2. Ordinance No. 9929. An ordinance relating to finance; authorizing the City of Tucson to borrow up to \$3,000,000 from the Water Infrastructure Finance Authority of Arizona; authorizing the execution and delivery of a loan agreement setting forth the terms of such loan and providing for the repayment thereof; pledging the net revenues of the City's water system to the repayment thereof; and declaring an emergency.

F. FINANCE: LOAN AGREEMENT WITH THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA TO BORROW UP TO \$2,500,000 FOR WATER IMPROVEMENTS

1. Report from City Manager FEB2-04-54 CITY-WIDE
2. Ordinance No. 9930. An ordinance relating to finance; authorizing the City of Tucson to borrow up to \$2,500,000 from the Water Infrastructure Finance Authority of Arizona; authorizing the execution and delivery of a loan agreement

setting forth the terms of such loan and providing for the repayment thereof; pledging the net revenues of the City's water system to the repayment thereof; and declaring an emergency.

G. TUCSON CODE: AMENDING (CHAPTER 11A) RENAMING THE DEPARTMENT OF OPERATIONS TO THE GENERAL SERVICES DEPARTMENT

1. Report from City Manager FEB2-04-58 CITY-WIDE
2. Ordinance No. 9934 relating to the Department of Operations; authorizing and approving the Department of Operations' change of name to General Services Department, and the Director of Operations' change of title to Director of General Services, both changes to take effect July 1, 2004; providing that all of the Department of Operations' official acts and documents in force as of June 30, 2004 were unaffected by the name change and shall automatically continue in force as official acts or documents of the renamed General Services Department; authorizing the General Services Department to provide those architectural, engineering, communications, facilities management, fleet maintenance, and other technical, support, and administrative services that the City Manager assigns to it; authorizing the City Manager, or the Director of General Services with the City Manager's approval, to establish, alter, combine, or abolish divisions within the General Services Department as necessary for its efficient functioning; effective July 1, 2004, amending Tucson Code Chapter 11A (Chapter heading and Tucson Code Sections 11A-1 through 11A-3); and declaring an emergency.

Item G was considered separately at the request of Council Member Scott.

It was moved by Council Member Scott, duly seconded, that Consent Agenda Items A through F, be passed and adopted and the proper action taken.

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

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Dunbar

Consent Agenda Items A through F were declared passed and adopted by a roll call vote of 6 to 0.

G. TUCSON CODE: AMENDING (CHAPTER 11A) RENAMING THE DEPARTMENT OF OPERATIONS TO THE GENERAL SERVICES DEPARTMENT

Kathleen S. Detrick, City Clerk, announced that Item G was removed at the request of Council Member Scott.

Mayor Walkup recognized Council Member Scott.

Council Member Scott asked why this item was before the Mayor and Council when they had not had any budget talks. She said they were talking about establishing a brand new consolidation. The Council had not talked about whether that was in the best interest and served the community. Council Member Scott stated that on item 3 it said that this was authorization that the City Manager or the Director of General Services, with the City Manager's approval, could establish, alter, combine or abolish divisions within their department as necessary. She asked if there was any other department that had that authority as well.

James Keene, City Manager, responded that the authority is granted under the City Charter and was basically the case everywhere across the City, in the Council/Manager form of government. There was nothing as far as purpose or intent that was being changed in this Ordinance other than a restatement, making more explicit what the practice was and what was allowed under the Ordinance as it was adopted. Mr. Keene thought there was some confusion that had been generated about the intent of the Ordinance. There was hardly a department in the City that did not potentially have some movement of personnel or reorganization that took place, either by the City Manager or by the Department Director.

Mr. Keene said the reason this was before the Council was that the Council needed to approve the name change. The primary reason for the change was the need to recruit a new Department Director. The term Operations Department was much more of a local anachronism than what was used in the industry around the country. Agencies that had these consolidations of function: fleet vehicles, building maintenance, communications, and facilities, referred to the department as General Services. They knew they would be able to increase recruitment interest and attract somebody by making it clear that this was a General Services Department.

Mr. Keene noted that at the Federal level they had heard of General Services Administration (GSA) and in other cities this was the name they would see. The intent was to get the name changed, but in the course of doing this they thought they would make the language clearer about exactly how this functions. Mr. Keene said Mr. Sander was available to answer more questions if needed.

Council Member Scott asked if Mr. Keene was saying that other department heads already had the language to abolish certain parts of their division.

Mr. Keene responded that under the Council/Manager plan the administration and management of the City has been delegated to the City Manager. This includes hiring and firing all employees in the City other than the City Manager, City Clerk and the City Attorney, they report directly to the Council.

Mr. Keene continued that the Council's role clearly dealt with establishing the budget and voting on those things. If the City were to propose changes that had budget impacts, then those would be matters that would be brought to the Council. He thought there had been some misinformation about where the City was in its review of operation. They had planned reorganizations that would have budget impacts. Those were matters he would bring up with the Council when they are in budget discussions with them. This was driven to clarify the department and to let them get started on the recruitment for the position.

Mr. Keene added that Todd Sander, Chief Information Officer, has been in conversations with staff about how to make the Department of Operations customer friendly and positive. In the course of that, they talked about a lot of alignments within the department, however, none of those have been formalized. Again, he said that anything having a financial impact would be something he would have as part of the budget discussions with the Council this spring.

Council Member Scott thanked Mr. Keene for his response and asked if the Real Estate portion of the department was going to be moved also. She had heard other people besides the Council who were concerned about that and that these were not trivial matters. Without having discussed it in the light of the overall good and services that they gave to the community, she thought that was where they were in terms of trying to understand why this was a Consent Agenda item and how it might affect the budget.

Council Member Scott wished they had more information because there were constituents that had expressed their concerns. She asked where the Real Estate Department was headed and what their duties would be. She also asked if that was convenient and serving the public. Those were some of the questions that she thought were out there.

Mr. Keene said, that with all due respect to the Council, those were out there because they had been prematurely and inaccurately vetted by some employees who had been part of

the discussions. He said that was not where they were at this point in time. They were considering if there were some alignments that could be made, but the idea of moving Real Estate out of downtown to Park and Ajo was a decision that they had not even formulated on the staff side.

Mr. Keene said they were looking at what functions could best be performed in Operations, General Services Administration (GSA), that were both inside the department that might be looked at and consolidated with some other functions in a way that made sense. He said they did this all the time in the City. In a six thousand employee organization they were doing reorganizations all the time. He said he could probably bring any department head up there when they were in budget and they could go over the past couple of years and they could tell the Council some things. For example, in Operations the Council, in recent years, added some functions related to telecommunications. In looking at this Ordinance, he asked where telecommunications was in the following description of divisions: Fleet Services, Communications Division, which was dispatch and that sort of thing, and Facilities Design. So what was being said was that they had an Ordinance that was out of keeping with their practice anyway and they were just trying to clarify this.

Lastly, Mr. Keene noted there was nothing in the existing Ordinance that would preclude the anxiety or the concerns that were out there about Real Estate. There was nothing in the existing Ordinance that was any different than where they were with the new Ordinance that had any bearing on Real Estate. Let alone some other conversations that Mr. Sander has had, stating that they did some of the telecommunications work in Operations right now, so maybe they ought to look at consolidating that with the Information Technology function, which did another piece of it and have it all in one place. He said that was sort of the background on it.

Mayor Walkup recognized Council Member Leal.

Council Member Leal said he had read Mr. Sander's memo some time ago and had listened to the City Manager's comments at that time, and thought most of that was pretty well thought through. He said the Council's involvement was beyond the budget in the narrow sense. What he meant by that was the Council creates policies and the budget was a reflection and a crystallization of policies, so the departments and how the departments are structured are a reflection of policy. He thought it was appropriate for the City Manager and the Council to have a conversation on whether a division would be abolished, shifted, or privatized; because it might get at some policy issues that the Council had taken the trouble to forge and define over time. He noted that over time, the Council and staff had those kinds of conversations and he thought that they were helpful and good discussions. He said he came into this thinking it might not be a problem, but Council Member Leal thought that maybe it would be good to schedule it for a study session and have a bigger discussion about it.

Mayor Walkup recognized Council Member Ibarra.

Council Member Ibarra said he would hold his comments if they would like to schedule this for a study session. He thought that in the discussions at the study session staff should show the Council where this was in other departments.

It was moved by Council Member Ibarra, and duly seconded, to continue Consent Agenda Item G to a future study session agenda.

Mayor Walkup said there was a motion and a second and asked if there was any further discussion.

Mr. Keene wanted to clarify the issue because he thought some of the discussion they were having was dealing with matters that were outside the item that was before the Council. He said what was before the Council was whether or not they would like to rename the Department of Operations to the General Services Department. That was what he was specifically asking.

Mr. Keene thought the Council needed to ask the City Attorney if any of the other things they spoke about would be changed by the Ordinance that was before the Council. If they were not changed, then he thought it would be appropriate to ask the Council to move on this and let them make a name change. If they wanted to talk about the other issue, then he was all for it. He wanted to talk about those roles specifically, but he did not think that should hold up a name change and recruitment. He also thought it was important that they hear from the City Attorney, whether or not the concerns they were raising were different in the Ordinance as rewritten, versus the way it existed right now. If not, he asked that they proceed on this matter. Then they would deal with the larger question, however the Council would like.

Mayor Walkup recognized Mr. House.

Michael House, City Attorney, said the Ordinance that was before the Mayor and Council would not essentially change the issues that they had been discussing as far as the ability of the City Manager to make organizational changes. It was simply a revision of the wording of what was already in the Ordinance and it clarified some functions that were in the department that were not set forth in the original Ordinance.

Mayor Walkup recognized Council Member Ibarra.

Council Member Ibarra said in reading legislation for many years, they were talking strikeout and underline. The strikeout said under 11A-3: *'Such divisions shall have the functions and duties as may be assigned to them by the Director of Operations, together with such additional functions, powers and duties as may be designated by the City Manager'*. The new language said: *'The City Manager or Director of General Services,*

with the City Manager's approval, may establish, alter, combine or abolish divisions within the General Services Department as necessary for efficient functioning”.

Council Member Leal said that the old language did not have the words establish, alter, combine or abolish. The new language, because it was underlined, had the words establish, alter, combine or abolish. If they wanted to change the name, they could change the name. If they wanted to talk about Items 11A-2 and 11A-3, then they could have those in study session. He asked if he was correct, because there were two different paragraphs. He repeated that what was there previously and what they were putting in now were two different paragraphs. The first paragraph did not have those four words in it and he said he would be curious to see if any other department had those four words in it. That was the question at hand.

Mr. House responded that in the City Charter the City Manager had the power to do all those things.

Council Member Ibarra responded that he understood the City Charter.

Mr. House said that it did not matter whether it was expressly stated, the Director of Operations works for the City Manager.

Several spoke at once.

Mr. House repeated that under the City Charter, the City Manager has the ability to do all the things that Council Member Ibarra mentioned, plus the existing Ordinance, which seemed to give some authority to the Director of Operations who works for the City Manager. He said it was up to the Council whether or not they wanted to pass the Ordinance change. He said the Council did not have to do it.

Council Member Ibarra suggested they give the name change only and then they could talk about the rest of the language. The City Manager could show the Council in what other departments this also exists. Then they could have a cleanup of all the other old Ordinances, as in this case. In essence the City Manager was only asking the Council for the name change.

Mayor Walkup said he believed that was correct and acknowledged the City Manager.

Mr. Keene said that being the case, he thought there was another discussion here that was being confused. He apologized, but said that since they wanted to look at the specificity of the language he thought it was important to be clear. He said that the old language identified a Fleet Services Division, Communications Division, and Facilities Design and Management Divisions. He said these were strikeouts. He continued that such divisions should have the functions and duties, as may be assigned to them by the Director of Operations, together with additional functions, powers and duties as may be designated by the City Manager.

Mr. Keene proceeded to explain what that meant. As an example they could say Fleet Services would no longer take care of Solid Waste trucks. They would abolish those duties; they would be unassigned. They would not be allowed to do it anymore. They could do that, and he could say that Fleet Services was now going to have some other function in the City and they would assign it to Fleet Services. So they were going to have an organizational chart that was not even going to make sense to the public or the organization, because they would be defined by this extra language. But, all of the duties to create or not were all there. He told the Council that what they were trying to do was be clear to the community, to the Council, and the organization because all of this could happen.

Mr. Keene said if they did what Council Member Ibarra was asking, he would tell them that there was nothing in the Ordinance that would preclude him, as City Manager, from making any of the changes that they were talking about as it related to the Ordinance. That being said, he was asking them to change the Ordinance because it would read better, it would make more sense, and it would be clearer. He added that if they wanted to have a deeper policy discussion about roles and process, he welcomed that and was all for that. He thought that was a different conversation and that the item did not need to be held up for it.

Mayor Walkup thought there was some concern on the part of the Council, that they did not understand all of the words and the potential implication. He thought the important issue was that they should move ahead on changing the name of the organization. Then they could give the City Manager more of an opportunity to explain how improving the language would affect this department and other departments as well. His expectation was that this was something that cleaned up the language of the City Charter, which established what they were doing anyway, and that they would concur with that. He believed that Council Member Leal was also correct that they had the assigned right to be sure that the budget and changes within the organizations were well understood and that they agreed with them.

Council Member Leal thought it would be helpful, when they had this discussion in the future, to have some language that states any time changes were recommended these changes in language would not frustrate or reduce the City's capacity to pursue its chosen missions and was not in contradiction with any policies. He said they could have that discussion later.

Mayor Walkup recognized Vice Mayor Ronstadt.

Vice Mayor Ronstadt said he found the dialogue interesting and that it was intriguing that Mr. Reus was in the audience because this was the sort of issue that he has brought up time and again. He thought the real frustration was a stark recognition that the Council was not in control of the organization, in terms of the administration. He said the City Charter was clear that all these things were within the purview of the City Manager. He added that all they were being asked to do was to change a name and to recognize the powers of the City Manager, which were given to him in the City Charter. For example, the union contracts had very similar language that recognized the fact that the City Manager administers all the departments, all the

personnel and that the City Manager was responsible for all of those decisions, not the Council and not anybody else. The reality was that this was really a fight against the City Charter. The reality was that the City Manager was in charge of those things, not the Council. He was sure that Mr. Reus would come up during “call to the audience” and repeat what he had said.

Vice Mayor Ronstadt said when the prior Director of Parks and Recreation took over the reigns a couple of years back, he reorganized the entire department without contact or approval of the City Council. That was a purview of the Director of Parks and Recreation and the City Manager. The City has an Emergency Response Team that was put together because of the direction of the Fire Chief, not because of the direction of the Mayor and Council. This happened throughout the organization. The Council does not micro-manage the departments. The Directors manage the departments and the City Manager oversees the Directors. He was sorry that his colleagues wanted to have more power than was granted to them in the City Charter, but again he said that was just the stark reality.

Mayor Walkup recognized Council Member Ibarra.

Council Member Ibarra said in response to Vice Mayor Ronstadt, he did agree with him on terms of the City Charter. He disagreed with him in terms of power. It was not a power shift that one was asking for. One was asking for a level of courtesy and respect from the City Manager to the Council. For them, they were the seven who were elected, who put their names out there in front of the public every four years, to get shot up or down and they were the ones who had to deal with the accountability and the ramifications if a mistake were made. No one called up the City Manager at home at ten o'clock at night on the weekend if they had a complaint or a problem, but they did call the seven members of the Council when there was a problem. He said it was not a power issue. It was an issue of courtesy and respect that one gives to their bosses when there was going to be some level of change made. That being the case, Council Member Ibarra said he thought the issue on hand right then was to continue it to a study session.

Council Member Leal asked the Mayor to call for the question.

Council Member Ibarra said that he would call for the question and they would go that route.

Mayor Walkup thought the appropriate thing would be two motions. One was to change the name and one was to ask that the subject be brought on a special study session. This would give them an understanding of what the powers of the City Manager were in order to manage his departments. He said that he would stay with Council Member Ibarra so then they would do that on discussion.

Mayor Walkup called on Council Member Ibarra.

Council Member Ibarra said he would do it in one motion.

It was moved by Council Member Ibarra, duly seconded, that they change the name of the Department of Operations to the General Services Department and the Director's title from the Director of Operations to the Director of General Services, only, and then they would have a study session agenda item for a future study session to talk about the relationship the City Manager has in terms of his departments and the Mayor and Council.

Mayor Walkup asked if there were any further discussions.

Council Member West said that she was going to pin them down on when this was going to come back to the Mayor and Council. She did not want to have it come back in March of 2005. She said it had to come back sometime during the month of February.

Mayor Walkup asked a date to be made specific and to put it in the motion.

Council Member Ibarra responded the last study session of February.

Mr. Keene said that they would be ready at the next Council meeting.

Mayor Walkup said they had the last study session in February and asked if that was sufficient and if there were any further discussions.

Kathleen S. Detrick, City Clerk, said she believed they needed to have the City Attorney address the amendment so that they knew exactly how they were adopting the Ordinance.

Michael House, City Attorney said he believed the motion should be to adopt Ordinance 9934, with the following change: that in Section 3, everything after the amendment to Section 11(A)-1, would be stricken in Section 3.

Council Member Ibarra agreed and clarified his motion.

It was moved by Council Member Ibarra, and duly seconded, to pass and adopt Ordinance 9934 with the change that everything after the amendment to Section 11(A)-1 in Section 3 was to be stricken. Furthermore, a study session discussion would be scheduled for February 23, 2004 to discuss the respective responsibilities of the City Manager and the Mayor and Council in relation to department structure and organization.

Ms. Detrick noted that the caption would be amended to reflect that.

Mayor Walkup asked if there was any further discussion. There being none, he asked for a roll call vote.

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Dunbar

Ordinance 9934 was declared passed and adopted by a roll call vote of 6 to 0.

7. CALL TO THE AUDIENCE

Mayor Walkup announced this was the time that any member of the public was allowed to address the Mayor and City Council on any issue except for items scheduled for a public hearing. Speakers would be limited to three-minute presentations. He said he had received a number of cards and called on the first speaker.

- a. Lisa Marie DeLong addressed the Mayor and Council about public housing policy concerns and service dog issues.
- b. Mardi Hadfield advised the Mayor and Council that her dog “Lily” had died due to numerous vicious dog attacks and contracting valley fever resulting from unmonitored construction activity.
- c. Michael Toney continued his advocacy for a larger planetarium.
- d. Robert Reus noted concerns with the new schedule and format of the Mayor and Council meetings, especially the 5:00 p.m. start time (competes with traffic) and the elimination of the second call to the audience. Mr. Reus also pointed out problems with the City Charter.

8. ANNEXATION: VILLAGE AT ORILLA DEL RIO ANNEXATION DISTRICT ORDINANCE ADOPTION

Mayor Walkup announced City Manager's communication number 55, dated February 2, 2004 would be received into and made a part of the record. He asked the City Clerk to read Ordinance 9849, by number and title only.

Ordinance 9849, relating to annexation; extending and increasing the corporate limits of the City of Tucson, Pima County, Arizona pursuant to the provisions of Title 9, Chapter 4, Arizona Revised Statutes, by annexing thereto certain portions of Section 20, T. 13S., R. 14 E., G.& S.R.B.&M., Pima County, Arizona, more particularly described in the body of this Ordinance and declaring an emergency.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member West, duly seconded, that Ordinance 9849 be passed and adopted.

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

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Dunbar

Ordinance 9849 was declared passed and adopted by a roll call vote of 6 to 0.

9. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

Mayor Walkup announced City Manager's communication number 56, dated February 2, 2004, would be received into and made a part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member Scott, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Dunbar absent/excused), to reappoint Jennifer Walker and Sharon Ferrari to the Commission on Disability Issues.

Mayor Walkup asked if there were any personal appointments to be made at that time.

Council Member Leal announced his personal appointments of Eva Macias and Eddie Escalante to the Small Business Commission and Dan Garcia to the Redistricting Advisory Committee.

Council Member West announced her personal appointment of Jim Aslin to the Citizens' Water Advisory Committee (CWAC).

10. ADJOURNMENT: 6:17 p.m.

Mayor Walkup announced the Council would stand adjourned until its next regularly scheduled meeting to be held on Monday, February 9, 2004, at 5:00 p.m., in the Mayor and Council Chambers of 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 2nd day of February 2004, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:km/sac