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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on February 1, 2005

Date of Meeting: September 20, 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 Street, Tucson Arizona, at 5:37 p.m. on Monday, September 20, 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
Kathleen Dunbar	Council Member Ward 3
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:

None

Staff Members Present:

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

## **2. INVOCATION AND PLEDGE OF ALLEGIANCE**

The invocation was given by the Father Charlie Knapp, Our Mother of Sorrow's Church, after which the pledge of allegiance was presented by the entire assembly.

Presentations:

- a. Recognition of the Desert Cobras, an Age 12 and Under Amateur Softball Association Champion Team.
- b. Proclaiming September 25, 2004 to be International Ataxia Awareness Day.
- c. Recognition of Ray Murray, as an "Extraordinary Employee and Citizen".

## **3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS**

Mayor Walkup announced City Manager's communication number 502, dated September 20, 2004, would be received into and made a part of the record. He also announced this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

- a. Council Member Scott reported that on September 17, 2004, the Registrar of Contractors for the State of Arizona announced several "Building Blocks of the Community" awards to local companies, including: Canoa Builders, Arizona Builder's Alliance – Southern Arizona Chapter, Borderland Construction and Southwest Gas Corporation. Also, the Phase 2 construction of the Clements Recreation Center was underway and ahead of schedule with an anticipated completion date of March 2005. On Friday, November 5, 2004, the new Bike Jump will be dedicated. Council Member Scott also reported on the Ward 4 Back to Basics projects, which included the Groves-Lincoln Median Landscaping Work on Evergreen Avenue and Poinciana Drive and improvements to the Pedestrian Circulation System around Lakeside Park.
- b. Council Member Dunbar announced the First Annual 5-Neighborhood Crime Prevention Block Party for Ward 3 would be held Thursday, September 23, 2004, at Doolen Middle School from 6:00 p.m. to 8:00 p.m.
- c. Council Member West reported on last Friday's groundbreaking of the Kirk Library on Tanque Verde next to the Dairy Queen. Also, Ward 2's Back to Basics projects were underway for 2004-2005 featuring a Senior Home Repair Program for low-income seniors. The first Ward 2 Townhall of the fiscal year would be on Tuesday, September 28, 2004, at 7575 E. Speedway, regarding "How Tucson is Working to Prevent Contamination of Our Drinking Water".
- d. Mayor Walkup thanked the community for their continued patience and accommodating nature while the street resurfacing was underway.

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

Mayor Walkup announced City Manager's communication number 503, dated September 20, 2004, would be received into and made a part of the record. He asked for the City Manager's report.

James Keene, City Manager, reported:

- a. Tucson Police Department's "Web-based Crime Reporting" was now on-line, offering another way to report non-emergencies.
- b. Tucson Police Department's 7.2 million dollars, Automated Field Reporting System was now operational allowing for paperless fieldwork.
- c. Tucson Fire Department was recently awarded two federal grants. First, a federal assistance to firefighters grant would bring in about one hundred and seventy five thousand dollars, with the one-third match from the Tucson Fire Department, which would come to almost two hundred and fifty thousand dollars to assist firefighters to purchase handheld radios and assorted equipment. Second, the Director of Homeland Security, through the Governor's office, would be providing two million dollars for training, equipment and vehicles as part of the rapid response concept for the State of Arizona.
- d. The Department of Transportation's Safekid's Program featuring a "Dr. Tom Potter and Zack Rabbit Coloring Book" received the Arizona Public Works Association Exceptional Performance in Safety National Award for 2004.
- e. Arizona Planning Association State Conference would take place in Tucson September 22 through 24, 2004, at the University Marriott with over three hundred planning professionals attending. The City of Tucson organization was scheduled to receive the following awards: Community Services – Barrio Santa Rosa Neighborhood Revitalization won the Statewide Masterplan Project for Special Studies Award; Urban Planning and Design won the Public Education Award for the 5 Trends Tucson Report; and Urban Planning, Rio Nuevo & the WLB Group won the Historic Planning Landmark Award for the Tucson Origins Heritage Park. Also, the Arizona Department of Commerce won for the Davis Monthan-City of Tucson-Pima County Joint Land Use Study in the multi-agency category.
- f. This year at the National Association of Telecommunications Officers and Advisors Conference, Tucson 12 received nineteen awards, including "Station of the Year for Excellence in Government Programming".



c. Special Events

1. SALPOINTE CATHOLIC HIGH SCHOOL  
1545 E. Copper Street  
Applicant: Margaret L. Felici-Gessner  
City T067-04, Ward 3  
Date of Event: October 9, 2004  
(Reunion Banquet Class of 1954)  
Public opinion: protests filed  
support filed  
Item to be considered separately. Staff Recommendation  
Police: In Compliance  
DSD: In Compliance
2. SALPOINTE CATHOLIC HIGH SCHOOL  
1545 E. Copper Street  
Applicant: Margaret L. Felici-Gessner  
City T068-04, Ward 3  
Date of Event: November 6, 2004  
(Honor Sports Hall of Fame Inductees)  
Public opinion: protests filed  
support filed  
Item to be considered separately. Staff Recommendation  
Police: In Compliance  
DSD: In Compliance
3. SALPOINTE CATHOLIC HIGH SCHOOL  
1545 E. Copper Street  
Applicant: Margaret L. Felici-Gessner  
City T069-04, Ward 3  
Date of Event: April 16, 2005  
(Honor Distinguished Alumni)  
Public opinion: protests filed  
support filed  
Item to be considered separately. Staff Recommendation  
Police: In Compliance  
DSD: In Compliance
4. ARIZONA THEATRE COMPANY  
330 S. Scott Avenue  
Applicant: Eileen M. Bagnall  
City T074-04, Ward 6  
Date of Event: October 2, 2004  
(Annual Benefit) Staff Recommendation  
Police: In Compliance  
DSD: In Compliance

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| <p>5. OPTIMIST CLUB OF THE<br/>TUCSON AREA<br/>900 S. Randolph Way<br/>Applicant: Esthermarie Hillman<br/>City T077-04, Ward 6<br/>Date of Event: September 30, 2004<br/>October 1, 2004<br/>October 2, 2004<br/>October 3, 2004</p> | <p>Staff Recommendation<br/><br/>Police: In Compliance<br/>DSD: In Compliance<br/>Parks: In Compliance</p> |
| <p>6. BPO ELKS NR 385<br/>2404 E. River Road<br/>Applicant: Alfred W. Griffis<br/>City T086-04, Ward 3<br/>Date of Event: September 25, 2004</p>   | <p>Staff Recommendation<br/><br/>Police: In Compliance<br/>DSD: In Compliance</p>                          |

Mayor Walkup asked the council's pleasure.

It was moved by Council Member West, duly seconded, and carried by a voice vote of 7 to 0, that liquor license applications 5b1 through 5b4 and 5c4 through 5c6 be forwarded to the Arizona State Liquor Board with a recommendation for approval.

Ms. Detrick announced the items to be considered separately were 5c1 through 5c3. All were special event requests from Salpointe Catholic High School. They carried a staff recommendation for approval, however protests had been filed. The licenses are located in Ward 3.

Mayor Walkup recognized Council Member Dunbar.

Council Member Dunbar asked if any of the protesters were present or a representative from Salpointe. There were none.

It was moved by Council Member Dunbar, duly seconded, and carried by a voice vote of 7 to 0, that liquor license applications 5c1 through 5c3 be forwarded to the Arizona State Liquor Board with a recommendation for approval.

**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.

- A. TUCSON CODE: (CHAPTER 19) TECHNICAL CORRECTIONS TO THE USE TAX PROVISIONS OF THE MODEL CITY TAX CODE.
1. Report from City Manager SEPT20-04-506 CITY-WIDE
  2. Ordinance No. 10040 relating to use taxation; making technical corrections to the Use Tax Provisions of the Tucson Code by amending Sections 19-290, 19-415(b)(3), 19-416(c)(1)a; and 19-417(b)(1)a; and declaring an emergency.
- B. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR EVICTION PREVENTION PROGRAM
1. Report from City Manager SEPT20-04-505 CITY-WIDE
  2. Resolution No. 19938 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement with Pima County for Eviction Prevention; and declaring an emergency.
- C. REAL PROPERTY: ACQUISITION OF A VACANT PARCEL ON ALVERNON WAY FOR A NEW FIRE STATION
1. Report from City Manager SEPT20-04-508 W5
  2. Resolution No. 19939 relating to real property; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, certain real property located on Alvernon Way on the south side of Valencia Road to construct a fire station; and declaring an emergency.
- D. GRANT APPLICATION AND AGREEMENT: WITH THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS FOR SUPPORT STAFF TRAINING
1. Report from City Manager SEPT20-04-509 CITY & COUNTY WIDE
  2. Resolution No. 19940 relating to library agreements; authorizing and approving the execution of the grant application and agreement between the City of Tucson and the Arizona State Library, Archives and Public Records for a \$25,000 State Grant-In-Aid: County Library Development; and declaring an emergency.

E. GRANT APPLICATION AND AGREEMENT: WITH THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS FOR PUBLIC ACCESS COMPUTERS

1. Report from City Manager SEPT20-04-510 CITY & COUNTY WIDE
2. Resolution No. 19941 relating to library agreements; authorizing and approving the execution of the grant application and agreement between the City of Tucson and the Arizona State Library, Archives and Public Records for a \$27,573 State Grant-In-Aid: City Library Development; and declaring an emergency.

F. MEMORIAL: URGING THE ARIZONA STATE LEGISLATURE TO ADOPT LEGISLATION MAKING THE FAILURE TO UTILIZE SEAT BELTS A PRIMARY OFFENSE (CONTINUED FROM MEETING OF SEPTEMBER 13, 2004)

1. Report from City Manager SEPT20-04-500 CITY-WIDE
2. A Memorial relating to mandatory safety belt usage; urging the Arizona State Legislature to adopt legislation making the failure to utilize seat belts a primary offense, and urging the Governor to sign the same into law.

G. PETITION: RESPONSE TO PETITION FROM MICHAEL TONEY REGARDING ALLEGED VIOLATIONS OF SELECTION OF ARCHITECTS FOR UNIVERSITY OF ARIZONA SCIENCE CENTER

1. Report from City Manager SEPT20-04-499 CITY-WIDE

Mayor Walkup asked the council's pleasure.

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

Mayor Walkup asked if there was any discussion.

Referring to Item G, Council Member Ibarra said Mr. Toney had spent a lot of time on this issue with the Mayor and Council over the months. The only background the Mayor and Council received was that the City Manager was going to address the issue. He asked Mr. Keene if he would be meeting with Mr. Toney to address the issue or how was the issue going to be dealt with.

James Keene, City Manager, replied that they would be taking multiple approaches. This was designed to be on the agenda to report to Mayor and Council and to meet the Council time-lines and process for handling the petition. He said they would

be meeting with Mr. Toney. Also, he knew there had been some discussion with the University of Arizona.

Council Member Ibarra suggested that the City meet with Mr. Toney and he deserved answers to a lot of his questions as he had invested a lot of his time, energy and background into this issue.

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

Upon roll call, the results were:

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

Nay: None

Consent Agenda Items A through G, were declared passed and adopted by a roll call vote of 7 to 0.

## **7. CALL TO THE AUDIENCE**

Mayor Walkup announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for any items scheduled for a public hearing. Speakers would be limited to three-minute presentations. He said there were a number of speakers.

- a. David Thompson, spoke in favor of annexation.
- b. Charlotte Herdliska, spoke in opposition to pre-annexation agreements.
- c. Bruce Whitehouse, spoke in opposition to pre-annexation agreements.
- d. Zona Burns, spoke in opposition to pre-annexation agreements.
- e. Bob Ohlfest, spoke in opposition to pre-annexation agreements.
- f. Rex Burns, spoke in opposition to pre-annexation agreements.
- g. Betty Belschner spoke in opposition to pre-annexation agreements.
- h. Betty Jean Wine, spoke in opposition to pre-annexation agreements.
- i. George Abarca, spoke in opposition to pre-annexation agreements.
- j. Patrick Pate, spoke in opposition to pre-annexation agreements.

**8. PUBLIC HEARING: TUCSON CODE AMENDING (CHAPTER 7) - RELATING TO CHANGES TO THE PEDDLERS ORDINANCE**

Mayor Walkup announced City Manager's communication number 511, dated September 20, 2004, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on changes to the Peddlers Ordinance. The public hearing was scheduled to last for no more than one hour. Before the public hearing, staff would make a brief presentation. He called on the City Manager.

Karen Thoreson, Assistant City Manager, stated the informational sheets that the City Clerk was passing out summarized the proposed changes to be made to the peddler's ordinance. They were written in English and Spanish and a City staff member, Raul Gamez, was in the audience and would translate for anyone who needed help with the discussion. She told the audience if they needed help at the microphone and wanted Mr. Gamez to translate their comments, he would be pleased to do that. They wanted everyone to be able to participate.

Ms. Thoreson made a couple of brief comments regarding the material that was being passed out. Over the past decade, and in particular over the last twelve months, members of numerous Tucson neighborhoods, members of the City Council, the Tucson Police Department, local business groups and other City departments had been working with street vendors and peddlers to make simple corrections to the local ordinance. The corrections were intended primarily to address public safety, for neighbors and peddlers in the Tucson neighborhoods and to significantly ease the current enforcement burden on Tucson Police. The proposed changes would regularize hours, identify allowable locations and specify site requirements for peddlers. They would improve the look of the community by requiring that vending sites be cleaned up on a daily basis and physically removed at day's end. The proposed changes would also allow for a reasonable transition period that allows vendors currently registered as peddlers to move to the new license system. All of those changes were intended to still respect and retain a place in Tucson for the ready spirit that the Council knows exists among the some one thousand street peddlers.

Ms. Thoreson thanked the staff, neighborhoods, the Police Department, and all the others for the work that they had done on this. She said they believed it was the first step, and an important step, in protecting safety and protecting vulnerable neighborhoods.

Mayor Walkup announced the public hearing was scheduled to last for no more than one hour. Speakers would be limited to five-minute presentations.

Matt West moved here about six months ago from Washington State. He had a dream of bringing good coffee to Tucson because he could not find any here. In March, when he came into town, he thought they needed some more espresso. He bought a couple of coffee carts and he decided to bring them to Tucson. He spent several thousand dollars putting this project together, and when he came to Tucson he was caught in the

middle of this political conflict affecting the innocent peddlers. He was still confused at this time. He had finally finished with the Health Department and their final inspection and he did not understand who governed whom. What were the policy and rules and regulations of the peddler and vendor on the street.

Mr. West thought they should put a moratorium on it and stop issuing licenses at this point and the city was confused. There were quite a few peddlers out there and a lot of vendors. He thought they should put a moratorium on the peddlers ordinance and stop issuing licenses. They should organize what they have and get a peddler group together. They could pretty much oversee each other and they could be accountable to the City Council regarding changes and rules. About a month ago on Grant Road, after 5:00 p.m., he saw peddlers coming out because the City was closed. He asked about fifteen or so peddlers, and about eight of them did not have peddler licenses, yet they came out every night. He did not know whose responsibility it was to police them; but if it was the City of Tucson or the inspectors who go out and govern this, this issue needs to be tightened up and it needs to be clarified. He was very confused about the policy and what he needed to do.

He obtained all the permits and inspections that the City asked from him, but he hoped that other people putting in espresso carts out there did not have a problem. Washington was pretty good about having one cart on every corner, but he was not saying that Tucson did. He was saying that maybe people might want to go out and do it. He was willing to do whatever it took to go out there and make that difference, to make it easier for others. He thanked the Mayor and Council for letting him voice his opinion. He said Tucson was a great City and he was looking forward to bringing business here.

Lupe Rodriguez, from the Fairgrounds Neighborhood Association, said she gave the City Clerk some handouts, one from the Southside Coalition, who saw the need to support their efforts in trying to change some of the ordinances. Another paper she handed out was a map of their area. It had a circle with little dots and that was where the police had two vendors to one site. Right now the ordinance did not address the problem. The stress map of the City of Tucson showed that a lot of people in the area were elderly, most without transportation, and there was a small group in attendance to talk to the Mayor and Council.

She presented letters to Mayor Walkup that were signed by the neighborhood and some of the children that had moved away from the neighborhood, but were still concerned about the neighborhood. The Neighborhood Association hoped the Mayor and Council would change the code to the benefit of this community. It would equalize more or less where the vendors could have their businesses, but the residents could have public safety and a better quality of life, especially on the weekends.

Bruce Garrowitz, said he was a vendor and had been at the same location for fourteen and half years. It was outside of TD's on Speedway, in the back of the Brake Masters parking lot. Vice Mayor Ronstadt had been there for a hot dog and had seen him get taxicabs for people who were intoxicated or just made sure they just sat there until

they were safe to drive. There were already ordinances on the books if there was garbage on the ground, or if they did not throw things away, and there was an ordinance for too much noise at nighttime. There was already a law on the books for egress or ingress; they had to make sure that people could get in or out from the street. They had to have business site specific permits and health permits. They were inspected and those that did not have all of their licensing should be removed. The other vendors did not want them either.

Republicans were supposed to want less government, smaller government and more rights for the people, for the people to do what they need to do as long as they were doing it in a legal way. Democrats were supposed to be for the little guys, a little bit of privacy; people were supposed to do what they want to do. He said there were both Democrats and Republicans. He noticed that Council Member Ibarra left the meeting and said he did that on a regular basis. He accused them at the last meeting of attacking each other instead of talking about the issues. He apologized, but said he was attacking Council Member Ibarra because he was not there for most of the meetings like he was not there right now.

Mr. Garrowitz did not think it was right that Council Member Ibarra was sitting on a committee that was effecting the lives of all those good people. He was willing to say that everyone out in the audience was a hard working person; he was willing to bet a five-dollar bill. The five-dollar bill, Abraham Lincoln, they were talking about freedom before and they were talking about freedom now. None of them wanted to impede on the lives of the good people.

He said they had the right to live in their homes without noise, pollution, dirt and everything else. If there was a vendor who was too close or too dirty then yes, he needed to be moved away. There was not one person present who would not agree with that, but that was Chief Miranda's job. If someone was leaving garbage on the ground or causing noise, then it was the police's job to take care of it.

Mr. Garrowitz said that Council Member Leal came to his hot dog stand and they were talking. Council Member Leal told him about a television news story regarding the shooting at the Circle K on Rosemont. One person was killed and one person was wounded. He asked Council Member Leal if the Mayor and Council were going to close them down at 4:00 p.m. because there was violence. Council Member Leal said that it was a random act of violence and the Mayor and Council could not hold them responsible. The Compass Bank at Broadway and Pantano was robbed at 1:00 p.m.; so would the Mayor and Council close them at noon because they were robbed. No, because that was a random act of violence. How could they hold the vendors responsible for random acts of violence only because they were hot dog vendors.

The policemen over there said if the vendors were closed at 11:00 p.m. then people would not be going there. If Los Betos was closed and the Circle K's and 7-11's were closed, then people would not go over there and commit random acts of violence that they were not responsible for. If the banks were not open, then no one would go

there to rob anybody. That was a random act of violence and it was not right that the Mayor and Council blame it on the vendors. Mr. Garrowitz said he saw the flashing little light but he felt he needed to finish.

At one of the first meetings they had, Council Member Leal was presented with a list of two or three thousand signatures from people who said vendors were doing a good job and should be there. Council Member Leal said he was not interested in the petitions, they were not interested in numbers. That was part of the problem. Why were they not interested in the numbers. They were a lot of people; they were a thousand vendors strong. They were families that supported not only themselves, but also other businesses because they bought from them. He thought the Mayor and Council needed to listen to them and he thought their numbers were strong. When Council Member Leal said that to him and the audience, the petitions did not matter, it was about rights. That said to him that Council Member Leal's mind was already made up, that his agenda was already set up. He said there was something wrong when the agenda was set. He was sorry when the agenda was set and the Council did not care about what people said or how many of them said it. They could have brought ten, fifteen, twenty thousand signatures of people that thought they were doing a good job and they were feeding people. If they were not making a living, then people would not want them there. But apparently they were making a living.

Mayor Walkup asked Mr. Garrowitz to wrap up his comments.

Mr. Garrowitz concluded by saying that the Mayor and Council had appointed a group called the Small Business Commission. He was at their last meeting, where they discussed this issue. There were not enough people to have an official vote but every person there said that these suggestions were wrong. Currently, the Mayor and Council do not have the money to enforce the laws and rules and regulations. Now, Council Members Ibarra and Leal want to double and triple the amount of rules, regulations, and laws and Council Members Dunbar and West said the same thing. If no money was available now, how would they enforce it later. They could not support something like that if they were not shown where the money was coming from to pay for the enforcement of the new rules and regulations.

Mayor Walkup said that Mr. Garrowitz had to finish and thanked him.

Mr. Garrowitz said he needed to say one more thing. Members of the Chamber of Commerce were people that the Mayor and Council respected. They were at the meeting as well and they also thought this was a bad idea.

Mayor Walkup recognized Council Member Leal.

Council Member Leal said he needed to respond to one of the comments from Mr. Garrowitz, because it was directed to him. He had to explain the issue of the petitions. It worked like this. When the Mayor and Council are having a hearing on a liquor license, they take input from the people next door or within a certain distance. They hear from

the business owner and they hear from adjacent property owners. They do not accept petitions from the customers of the person who wants to have the liquor license because they do not live there and they were not impacted by it. So when he said these petitions were not as germane as other input, that was the context that it was said in. Not that their rights did not matter, not that petitions in certain context did not matter, but in this context the real input needed to come from the business owners and the adjacent property owners and that was why he said that.

Mayor Walkup called on Deb Turner.

Deb Turner, Chair of the Small Business Commission, said the Commission sent a letter out on this issue again and their status had not changed in the three years they had been reviewing this ordinance. They had not received a copy of the draft ordinance, so their recommendation was based on the information they had previously received. The Commission was still against the ordinance for obvious reasons. Their concerns regard the City stating what hours the business would be open. As a business owner she was also concerned down the road that it could effect her business. Regarding the fifty dollar fee, most of the Commissioners would love to be in that category and not pay a sales tax and pay only a fifty dollar yearly fee. She also cited the lack of resources as Mr. Garrowitz indicated.

The ordinance already called for a business license and a Health Department permit. If those were in compliance, then they needed to rock and roll with it as opposed to a adding more and worrying how they would enforce it. Enforcement was a very big issue for the Commission. It was brought up that it was a public safety issue. They repeatedly asked for numbers for how this worked for a public safety issue. After several months, someone came up and said that there were no statistics to back it up. The Commission was against the new ordinance.

Annabelle Nuñez, said her comments would be brief. This was an issue that had been studied for over four years. Ms. Thoreson had summarized very completely what the issues were. She asked the Mayor and Council to act prudently and responsibly; to listen to the Police Department's recommendations and to listen to the departments that had given information. It was very simple and very basic. It was not about taking away opportunities from vendors. It was about providing opportunities for them to prosper in the community. It was about giving to the community and the neighborhood residents. She asked the neighborhood that supported it to stand up to show their support. She said they had been meeting a lot and it was about these people forgoing dinners with their families. This was an issue that she hoped the Mayor and Council would take to heart. It was not a south side issue, but a community issue. It was going to grow and it would take into consideration the recommendations that were put forward to them.

Yolanda Herrera LaFond, President of the Sunnyside Neighborhood Association, said one of the reasons she did not like to list her address publicly was because she had been threatened more than once and she wanted to keep that at a low. The Sunnyside Neighborhood Association was Tucson's largest registered neighborhood association and

they represented eighteen thousand residents; and a total of four thousand, seven hundred and eighty one residences and businesses reside in this neighborhood. The majority of the residents were seniors and youths and that is why she was before the Mayor and Council. This was of great concern to their members. She sat on the Division Advisory Committee with the Tucson Police Department and also on the Chief's steering committee. They were supplied with constant information on the increase in crime in their particular areas. A lot of it had to do with the fact that they had so many peddlers and vendors, people selling their mattresses on the side of the road, and people leaving their tarps and garbage on the side of the road.

The Sunnyside Neighborhood Association's southern boundary is Valencia Road, one of Tucson's major highways into the south side. It welcomed visitors into Tucson and visitors were seeing Tucson's trashed up streets. She wondered if they were thinking why the residents did not think enough about their area to petition the Mayor and Council and the powers that be to clean up their area and to create a safer image.

This was Tucson's image and Ms. LaFond asked if this was really how the Mayor and Council wanted Tucson represented. Also, the broken window effect increases crime. The number of vendors increased violations to the sign code ordinance. There was an increase in graffiti and theft. People think that they did not care. She was at the meeting to tell the Council that they do care. The Neighborhood Preservation Ordinance was in place and there was a reason for that. They want to preserve their neighborhood, they want to preserve their safety, and they want to preserve their quality of life. On behalf of neighborhood preservation, protecting neighborhood safety and quality of life, they were recommending that the Mayor and Council adopt the proposed ordinance. The proposed ordinance was not perfect, but they could work on the details later. The time had come after ten years of visiting this issue. She was the second generation visiting this issue. Her dad sat on another committee five years prior to her five years. The time was now and they did not need anymore deaths.

Pat Martin, said she has lived in the Myers Neighborhood since 1961. They recently formed the Twenty Ninth Street Coalition, which had been working on major crime issues in the neighborhood, domestic violence and other issues. They were seeing that peddlers were moving into the area of the Twenty Ninth Street Coalition and also neighboring areas. They worked hard in the last three years to clean up their neighborhood and protect the safety and welfare and get their lives back to the way it used to be. About half the peddlers she observed in the area were not complying with the current code. They were leaving equipment or other things overnight. They were setting up to close to the curb. She urged the Mayor and Council to approve the proposed changes so that the ordinance would become enforceable with very specific requirements. They want to keep improving the life of the neighborhood.

Lori Tums, said they were asking only that the vendors meet the same requirements as small businessmen: the same laws; the same standards for the same health care, like hand washing and trash; and the same noise ordinance. If they did not put enforceable standards in place now it would be more difficult to do so later. She

urged the Mayor and Council to consider this and that they were only asking for the same requirements.

Frank Santo, said he was a vendor in town and had a few questions. He noticed that the Small Business Commission also indicated that they had trouble getting the specifics of their proposals and they had not been widely distributed to the vendors. His specific questions were on number eight on the list they provided. Peddler's licenses would expire twelve months after issuance. How much would the license cost the vendor. Number ten, a revocation procedure would be adopted for operating in violation of the ordinance or convicted of certain offenses. He asked which offenses. On number eleven, the vendor would have to pay an occupational license fee instead of a yearly sales tax. How much would the fee be and was it the same license as referred to in number eight. If these issues could have been addressed with the peddlers and further information provided to the vendors, they might have had a less contentious issue here.

Mayor Walkup said they would answer those questions at the end of the public hearing. He asked if anyone else wished to speak.

Jose Garcias, said he was in the Sunnyside Neighborhood and his English was not good and asked if someone could help him. The reason that he wanted to speak was because for 18 years he has lived in the Sunnyside Neighborhood and he never heard about the problems. He was never invited to the association meetings. He has four kids and one of those was going to Iraq and he was very proud. He was the owner of a food truck and he was in the Sunnyside area. They never had a meeting with them and he felt as if this was discrimination against people living in the area. He was in a neighborhood watch trying to prevent crime in the streets, so this was one of the reasons that he wanted to talk to them.

He said he was a Sunnyside resident and they sent the Police Department to check out his business license. Everything was okay, but they told him that the Sunnyside Neighborhood Association complained. In the last four years he supported and sponsored two teams for kids from Sunnyside and he asked why they did not want him to continue to do this for the neighborhood.

Mayor Walkup asked if there was anyone else who wished to speak.

Richard Casper, President of the Elvira Neighborhood Association, urged the passage of this ordinance. Every business has to have rules to govern it and these rules needed to be passed so that they could continue to serve the people.

Daniel Perez, said he did not speak English very well. He worked with Council Members Ibarra and Leal and Ms. Thoreson; and he was happy for everything they had done for him. He believed the new ordinance that had been developed was something that everyone could work with. He did not believe there was anything unrecognizable for anyone. They just wanted an opportunity and for all local residents to pay taxes as well as businesses.

Customers who had come to their business were pleased that they could come to a location that was clean and healthy. He did not believe that the points that had been presented were something that the vendors were not aware of. He was aware of them. He felt that if the ordinance did pass, business owners could work together with the City.

There was a representative from the Tucson Police Department stationed at his business on Friday and Saturday nights for the last three years. His business purchased insurance for a million dollars. That did not mean he had a million dollars, but he believed in the beautification of the City of Tucson. He came from a generation of humility and humbleness and he wanted to thank the Mayor and Council for this opportunity.

Joe Martinez, from Zeplin Dogs, said he had an article written in the *Tucson Citizen* from the June 28 issue. Everything he had to say was said in that article, except since then he had a few things to add. One was that he heard from two sources that work for the City that the discussion had already been made to pass this ordinance. He had to wonder what kind of wheeling and dealing had gone on and what kind of compromises went on behind closed doors. He knew that no one would admit to it. Many of his fellow peddlers were born in Mexico and came to the United States with the naive notion that this was the land of opportunity. Every year it becomes more of the land of laws, laws and more laws.

He was just a hot dog vendor and maybe he was a little slow, but after coming to all of the meetings he still did not understand how food vendors were the cause of crime. Many people come up to his cart at night on Fourth Avenue and they read the flyer he had about the ordinance. The first questions out of their mouths was, why. Why do they want to do this. He replied that they said they were attracting crime. This was the reaction he got even from a Police Sergeant. He said he was tired of being painted as a scapegoat for whatever problems they had in their neighborhoods. They should deal with it in their neighborhoods not with his business downtown. Not with Mr. Garrowitz' business who works east of Craycroft.

Jan Petroff, owner of New York Finest Hot Dog Company, said she works downtown and pays the City for her permit. She works at Udall, Tucson Museum of Arts, and for all of the festivals. She felt the Mayor and Council were blaming the food vendors for the problems in these neighborhoods. They worked the festivals and they donated money for charities most of the time they worked. She understood they had these issues, but felt like they were grouping the mattress people on the street with the food vendors. The food vendors were the ones getting blamed for this issue, crime or whatever. It was the Mayor and Council's responsibility to deal with it.

Peddlers get permits. They get checked at least once a month per cart by the health inspector. They were doing all they could. They also worked for the City. They paid the City every month. She understood this issue, but she felt it was more of a neighborhood issue, or maybe there were too many vendors. Maybe they were grouping

all the vendors. Maybe there were too many of one kind. They need to separate them and to have some kind of control over them.

The vendors were doing all they could. They were doing every single rule and regulation that was being given to them and now they were being penalized for something that was going on in a neighborhood that maybe was not their neighborhood.

Rocky Tims, Midvale Park Neighborhood President, said he really did not think that the rules had been discussed and made or directed to the right people. He thought that most of the people that were coming to these meetings were probably the law-abiding citizens of Tucson and were following the rules the best they could. There were a lot of other vendors out there that were not following the rules. He believed that the small changes that had been discussed were a positive step for everyone. They would provide vendors the support they needed to run their business legitimately without being interrupted by anyone. It would also take the vendors that were not following rules and get them out of the way so these people would stop being the fall guys for those breaking the rules.

Marisa Collara, said she was with the Southside Coalition and a program coordinator for neighborhood residents. She was at the Mayor and Council meeting because she had a neighborhood resident come to her asking her for help considering the fact that the target area was primarily on the south side of Tucson, interjecting primarily with Wards 1 and 5. This did not mean that she would not assist any other neighborhood that came to her. However, because even though this was not part of her grant, it was somewhat part of her grant because it was community mobilization, mobilizing communities that were in the neighborhood who were asking for assistance and wanted to start with the bottom up, not from the top to bottom approach. They asked her to help them out. But first she wanted to do some research, because their agency had goals and objectives and a mission statement that they had to follow and they could not just jump the gun on a lot of things that were being asked of them.

However, after investigating this ordinance thoroughly, it did make sense. She was not asking to get rid of the peddlers, but if they had a business then they should get a license and do whatever needs to be done. It was the same for her as a program coordinator. She had to get fingerprinted and she had to get a first-aid clearance card. She had rules and people she had to serve thorough the community. She did not see a problem with what had been described when talking about the fees. The fees were not that high and that might sound sarcastic, but she was not being sarcastic in any way.

People need to understand that these were neighborhoods that they were affecting. She was not saying this to the individual peddlers that might feel they were being offended or threatened. She thought it was an embarrassment to know that neighborhood residents had to come out and say, "help us out" because our neighborhoods are looking disgusting and smelling bad, and they are having violent crime. That was the point they were trying to make.

Mayor Walkup asked if anyone else in the audience wished to speak on this item. There was no one.

Mayor Walkup asked if there was any further discussion. Hearing none, he asked for a motion to close the public hearing.

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

Mayor Walkup recognized Mr. Keene.

James Keene, City Manager, said he had a department representative from the Police Department present who wanted to make some appropriate comments.

Council Member Leal asked if Richard Miranda, Police Chief, or Captain Rozema wanted to come forward.

Mayor Walkup said there were some questions he thought would be appropriate to answer at some point as well.

Council Member Ibarra said before Chief Miranda spoke, he wanted to apologize. He had to be away from the meeting a couple of times because he had a family emergency that he had to deal with on the phone. He was listening in the back room to the television and wanted to say he heard what was said and he appreciated it.

Mayor Walkup called on Chief Miranda.

Richard Miranda, Tucson Police Department Chief, said he thought the comments made at the meeting put the issue very simply in terms of what the problem was. In respect to the comments made for or against the complaints coming into the Police Department, people still call 911 and complain about the noise and the dust. They complain about the criminal activity that surrounds the peddlers and they ask for police help. His officers have become very frustrated about dealing with this issue, because they feel the current ordinance and current laws that the City had were insufficient in terms of providing remedy to any of the problems that occurred, whether they were criminal or City Code violations. Simply put, Tucson has a growing problem with peddlers. They talked about the second generation dealing with this problem. Back when he was a Lieutenant on the south side in 1984, they were talking about this problem and it was not much of a big deal then. But the problem now has grown to the point that it has become a nightly issue for the police and they need a stronger ordinance to deal with the problem and to provide a remedy to the neighborhoods.

The issue of broken windows had been brought up. The police did not believe that the peddlers were themselves criminals or dealing with crimes that were causing the police problems. As Ms. Herrera said, when criminals see that they do not care they feel that they are weak and they could go into those neighborhoods and cause problems. The

successes in this community are because neighborhoods had become energized. They became aware that they needed to become self sufficient in terms of dealing with their problems and when criminals see that strength they go other places.

Chief Miranda said the police were not asking for a ban on peddlers because there were a lot of people here with integrity trying to make a dollar and trying to be successful in the United States. The police were not asking to do what he believed that South Tucson had done and banned peddlers totally. One of the people from Midvale said all they were asking for was more control, so that the police could respond to the issues that come into them nightly.

Chief Miranda said he asked Captain Terry Rozema to address the council because he was a Captain on the south side and his people were the ones that had to deal with the problems. He thought that someone from the front lines might put it in a better perspective.

Captain Terry Rozema thanked the Mayor and Council and said there were a couple of issues for him to address. One of the issues was not only from the audience, but also from past meetings with the Mayor and Council and that was the Police Department not having the resources available to enforce what they had on the books. He asked how they would be able to address additional statutes and ordinance if the Mayor and Council enact them. As the ordinance currently stands it is not enforceable. Therefore, the recommended changes would take work off of the officers' plate.

He gave an example that under the current hours of operations, the peddlers could be in operation for twelve continuous hours at any time of the day. The difficulty with that was the police had no way of knowing, or keeping track of what time they start their business or what time they finish. It was absolutely unenforceable. This was one area that would take work off the Police Department's plate and make it more enforceable.

He gave as an analogy the parks closing at 10:30 p.m. The fact that the parks closed at 10:30 p.m. did not create more work for the police. It took work away because anyone that was in the park at that time had to leave. It was very simple and in that respect it made a lot less work for the police.

Additionally, what Captain Rozema heard at the Mayor and Council meeting was there were no statistics brought forward about how the peddlers contribute to crime. The fact of the matter was the police had no way of collecting statistics. The police collect statistics in two ways. One was by address and the other by crime classification. There was not a crime classification for peddlers. It was impossible to pull up a crime classification that does not exist.

Another issue was the peddlers do not have addresses. He said they could not pull up an address of a particular vendor of any kind, whether they were selling mattresses or hot dogs, and try to pull up the number of times the Police Department had to respond there. From a law enforcement perspective, they dealt with these issues on a weekly

basis and sometimes on a nightly basis. Over the course of last summer the police pushed a juvenile program to get juveniles off the streets past curfew. The police responded to a number of peddler locations and the police took ten to fifteen juveniles at a time out of those locations who were out there at one and two in the morning. Those were the types of issues the police dealt with - complaints of noise, loud music, large gatherings, shootings, fights and things of that nature that occur at those locations.

He could not tell the Mayor and Council at this meeting what all of those incidents were and which peddlers were responsible for them. The police were not able to tell because of the way that the police gather statistics. The hours of operation were an issue, along with the issue of light. A number of people already alluded to this as an issue for the police and the neighborhoods. Currently, there were a lot of vendors who would leave cabanas, picnic tables and things of that nature out that contribute to the broken window problem in the neighborhoods.

The licensing and property ownership needs to be addressed and were addressed in the current ordinance. Currently, although the vendor needs to get a license it was night site specific. The vendors could go to any place in the City and the police did not know whether or not the vendor had the permission of the property owner or if the vendor had a license or not. The Police would contact the County Recorder to find out who the owner of the property was and whether or not the vendor had permission to be there. Currently, when the police receive a complaint, they have to contact the County Recorder. It was more cumbersome and the proposed ordinance required notarized written permission from the owners. This would assist the police with this issue. The current ordinance was not enforceable and the proposed ordinance would enable the police to address many of the issues of concern to the neighborhood and police. It would not create additional work. It would actually take work from the Police Department's plate.

Karen Thoreson, Assistant City Manager, thought there were two key questions that Mr. Santo had asked and that was the cost of the license at fifty dollars per year per. If a vendor operated on two sites then the vendor would pay fifty dollars times two or one hundred dollars and the vendor would have to get a new license every year, but there would be no sales tax collected. This would be the fee per site.

Second, the proposed revocation process says essentially three things. One, if the peddler violated the terms in the peddler ordinance which basically were noise violations, hours violations, not removing equipment, encouraging unruly gatherings, or taking care of the trash, or causing a public nuisance. If the issue was not fixed in five days they would be served notice from the Development Services Department. The issue would then be heard in court. Second, the peddlers would also have to agree that the peddler, or the employee of the peddler, met those standards. The third way a peddler could have their license revoked would be to lie on their application. The peddler must meet the standards, or the peddler insures the employee meets the standards, or if the peddler lied on the application those would be ways the peddler could lose their license. If the

peddler lost their license it would be lost for a year and then they could reapply to be a peddler again.

Mayor Walkup asked if there was any further discussion.

Mr. Santo said that he currently operated at a set location ninety percent of the time, occasionally they would have a Downtown Saturday night or a special event somewhere. He asked if he would have to pay another fifty dollars each time he would be asked to provide services in another location.

Ms. Thoreson replied that the answer to the question was no. If a peddler were in a location ninety percent of the time, then the peddler would pay for that site. If the peddler was participating in any other special event where other licensing was needed like Downtown Saturday night, then the peddler would pay an event fee; but the peddler would not be getting a new license.

Mayor Walkup asked the City Clerk to read Ordinance 10041 by number and title only.

Ordinance 10041 relating to business license and occupational license tax; amending Tucson Code, Chapter 7, Article II, relating to Peddlers providing for licensing and operational requirements for Peddlers; amending Section 19-31 to add an occupational license tax on Peddlers; and declaring an emergency.

Mayor Walkup recognized Council Member Leal.

Council Member Leal thanked everyone who participated in the long journey and on coming forward at the Mayor and Council meeting. He thanked a number of City staff in the Planning Department, the City Attorney's Office, the City Managers staff, Finance, Revenue, Police and then all of the vendors who participated through all of this and all of the neighborhood representatives and contact people.

There were four hearings and they were not limited to an hour, sometimes they went three hours. There were six separate meetings with vendors and six separate meetings with neighborhood people. When mailing lists were not correct then it was corrected and done over. This was complicated; the ordinance that existed evolved over time and was a hodge-podge. They did not work together; there was no unity to the function as they existed. That created an unenforceable situation, frustrating for vendors, neighborhoods and staff. The Mayor and Council worked to have it make sense at the same time to have it be viable for neighborhoods and for vendors and it was a really big challenge. To have what was done to be a serious improvement and not compromise people on either end of it in a significant way. They felt they had accomplished this.

Many people thought there should be no on site generators and that was not accepted. Now generators were allowed if they met Federal specifications. Some people wanted a twelve hundred feet separation between vendors and the City said that was

untenable. The existing ordinance states vendors could not be in business for more than twelve hours per day. The proposed ordinance would expand it to eighteen hours per day. Some people wanted no after hours whatsoever and they thought that was unreasonable, so there now would be the ability to have after hours through a special use process. Some people wanted to have the site plan drawn by an architect and they thought that was unreasonable because why should a vendor have to spend one thousand dollars for an architect to show site ingress and egress.

The Mayor and Council wanted it to be simpler. They tried to craft something that had balance. He knew there were going to be people upset on both sides of this issue, but he hoped they would be able to bear the good will and hard work that was brought up to that point and they would be able to take this into the next eight months. He said he was going to ask his colleagues to adopt this and then to give it an eight-month pilot, a shake down cruise. They would take the ship out to sea and see how it sails. They could be collecting data and then it would come back to the Council and see what things made sense, if any, to future amend this ordinance.

It was moved by Council Member Leal, and duly seconded, to pass and adopt Ordinance 10041.

Mayor Walkup asked if there was any further discussion.

Council Member Ibarra asked to make a friendly amendment on Item 4, which was to include a restriction on all City right-of-way. He gave a public safety story that happened in his office recently.

There was a gentleman who had a permit to be on City property on the south side and that gentleman was selling only two days out of the week. The corner became pretty heavy and so when he came back one day there was already somebody there and that vendor would not move. As a result, the vendor came to his office and asked if he could make the other vendor move, because the first vendor had the right by City permission to be at the location. The Council office staff went and talked to the second vendor and he said he would not move. The first vendor went back to the second vendor and asked him to move because he had the City's permission and the City had asked him to move. It was on City property in the City right of way.

The second vendor pulled a gun on the first vendor and his family and threatened him. The first vendor got so scared that he left and refused to do anything about it because he was scared for his family.

The City of Tucson should not have that liability hanging over their head and he felt that because the first vendor was so scared, he did not want to pursue the issue. That was why he did not think that anyone should be allowed on City property or the City's right-of-way. If that turned into an escalating issue it could be dangerous for the City of Tucson, liability wise.

Council Member Ibarra said that as an amendment to the motion he would not allow anyone on City property the use of City right-of-ways.

Council Member Leal said that he was acceptable to the amendment.

Mayor Walkup recognized Council Member West.

Council Member West said she found the comments by the Small Business Commission interesting, because four years ago she received complaints of golf club vendors on Houghton Road, people selling car seat covers on Harrison, Christmas trees on Harrison and Kettle Korn at Kolb and Broadway. She decided to take this issue to the Small Business Commission. She asked them to give her some advice on drafting an ordinance and they did that. They did a good job and she then took it to the City Attorney's Office, and said that maybe the new City Attorney could find it buried somewhere because it never saw the light of day again. She was still rather resentful of that, although she was not resentful of the new City Attorney.

Council Member West said the City has over a thousand vendors and that was a lot of people out there vending and she just wondered how this would effect her golf club vendors and car seat cover people and toys and vegetables and other people on her street corners.

Ms. Thoreson replied yes, it would effect them. It would cover the entire City and it was not limited to food vendors. It would have an impact citywide.

Council Member West said she was really concerned. She was going to get to Mr. Garrowitz's issue, which was enforcement. She asked what the cost for enforcement would be. She knew that Captain Rozema said it would be less because there would be rules. She agreed because the present ordinance did not do it. She asked if anyone had any figures on what this would cost.

Council Member Leal replied nothing.

Ms. Thoreson said she could only repeat what the Chief told her, that this ordinance would be much easier and simpler to enforce and would be much more effective to enforce. The proposed fees were not intended to cover higher costs of enforcement because they did not expect that to be true. They thought the fees would cover the cost of licensing at least the first year.

Council Member West said she wanted to make sure because any time there was a new ordinance it took a while. She asked if the ordinance could start on April 2 instead of April 1, because people would not take it seriously if it started on April 1. She was still concerned this would not be enforced and she said she was glad they were doing it for eight months to start. The other point she wanted to make was that this ordinance should be circulated to all of the peddlers both in Spanish and English so that the good guys could get a special exception if they so desired. This was not a backroom deal.

There were four public hearings. She met with both neighborhoods and vendors and did not in anyway engage with any of her colleagues on this issue.

Mayor Walkup called on Vice Mayor Ronstadt.

Vice Mayor Ronstadt said about a month ago he went on a little road trip with representatives from the Mayor's Office, Ward 2 and Ward 3. They visited the south side and looked at the issue with the vendors. This was a major issue on the south and west sides. It was not a major issue in his Ward. There were real problems that were going on in the south and west sides, they were not citywide. He had to be careful because Ward 2 did have some problems, but they were not to the extent they saw in the south and west sides. The problem with an ordinance was when the City passed it and did not discriminate with where the net was cast. It would be cast citywide. People who were doing a good job and being lawful and providing a benefit to the community were being caught up in this net and being negatively impacted, and this was a real problem.

He remembered Joe Martinez when they had the riots on Fourth Avenue and he lost his cart and he lost his home. His mother used to live down the street from Vice Mayor Ronstadt and they currently were in support of Joe and his family because he was a small business person and he had nine kids; and he was working hard to make a living for his wife and his family. He knew that Mr. Garrowitz was putting kids through college and these vendors were the model of entrepreneurship in a small business person way.

These vendors put themselves on the line every day to make their lives and their families lives, and in a small part, the community better. He said he sits there and watched Mr. Garrowitz calling taxis and making sure that people were not getting into cars when they had too much to drink; and he knew a lot of vendors did this. The problem he had was there was this broad net that was intended to address a significant and a real problem on the south and west sides. However, a lot of good folks were getting caught in that net and being impacted by that problem. He spent his former life as a paramedic and he used to work out of St. Mary's Hospital and Kino Hospital for fourteen years and he saw what was going on down there. They used to run calls because of what issues might have occurred. He said that he understood the plight on the south and west sides, but in solidarity to the vendors, the small business people who work very hard in his ward, he was going to be voting no on this ordinance.

Mayor Walkup recognized Council Member Scott.

Council Member Scott had a question regarding how it was possible for the Small Business Commission not to have seen the final form of the ordinance and how could they vote on something they did not see. She asked if it was not available when they had their last meeting. The proposed ordinance was floating around for a long time.

Ms. Thoreson answered that over the last twelve months staff attended at least five of the Small Business Commission meetings. She believed that Council Member Leal had attended one of the meetings and they did attend the last one with the

memorandum, but the ordinance was not complete. The memorandum from their perspective in plain English described the changes that were proposed and that was the best they had at that point. She said they had done the best to communicate. It certainly took many forms over the last twelve months and that was why they had gone back many times.

Council Member Dunbar said she had some concerns and for those that felt this was done in a backroom, she said she had not even see it until the Council Members received their books last Wednesday. She said there was a public hearing and the Council was being asked to vote.

She knew Council Member Leal well enough to know that he felt the Council needs to be transparent and open with things. She felt that maybe because he sat on the subcommittee that did it, he felt they were. But she did not receive it until Wednesday and so she was a little concerned about not really having the information before her that was in that ordinance. She wished that Mr. Garowitz would have gone over the ordinance and the specific conditions that he found offensive. She did not hear that from him, so she was trying to sort through the people that came forward and testified. This was the first time she was hearing both sides of the issue. It was hard for her because she did not hear anything significant come from the peddlers. Everything the Council was looking at seemed very reasonable.

Council Member Dunbar also had a concern with the fee because she thought fifty dollars was ridiculous. She thought it should be five hundred dollars, because they were not paying any City sales taxes. There were currently one thousand fifty-five licenses and yet there were very few peddlers in the audience that came out to discuss this. It was absolutely imperative that they did not have peddlers in the right of way. If a non-profit wanted to use City parks they were made to have insurance and they had to jump through all kinds of hoops. Why would the City allow people to do business in the City right-of-way just because they could. This was very important. Another question was how this would affect the gem shows and that was not discussed.

Ms. Thoreson said that if a business had another type of license, then it would be exempted from the peddler's license and the gem show dealers had another license.

Council Member Dunbar said she was not talking about inside, she was talking about the outside, the food vendors.

Ms. Thoreson said it was the same thing. The gem show was a special event and it was treated as a special event. They would have a special event gem show license.

Council Member Dunbar asked how the fifty dollar fee came about.

Ms. Thoreson said that it certainly was not scientific. The peddlers pay twenty five dollars now and in theory some proportion of sales or times the number of employees could be included, none of which data has ever been collected. Today the fee

was twenty five dollars and staff felt it should be increased. The Finance Department felt moving toward collecting sales tax would initially cost more to try to collect than they could collect. It would be a revenue opposite bill and staff never wanted this to be about trying to gouge peddlers for a higher fee. They felt the more important part of this was getting some regulation around location, hours and site maintenance. The fees and such were less important.

Council Member Dunbar apologized, but said she disagreed. They were not paying sales tax and the City requires sales tax out of any other business.

James Keene, City Manager, said he wanted to add that it was not quite accurate for Council Member Dunbar to have the impression the staff thought this was the appropriate ending place, it was just the starting point. There would be an eight-month period to look at this ordinance again to see what changes in behavior occurred and if they needed to move to a higher fee. The point was to compare it relative to sales tax and whatever other businesses did. He thought that the City was walking before it could run, that was the thinking.

Council Member Dunbar said that though she came prepared not to support this, in the few changes that she had seen, she did not see anything that was unreasonable. She did not see any reason to vote no on this ordinance.

Mayor Walkup asked for a roll call on the motion.

Kathleen S. Detrick, City Clerk, clarified the vote was on Council Member Leal's motion to pass and adopt Ordinance 10041 with the amendment, made by Council Member Ibarra, to restrict the use of City right-of-ways.

Upon roll call, the results were:

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

Nay: Vice Mayor Ronstadt

Ordinance 10041 with the amendment was declared passed and adopted by a roll call vote of 6 to 1.

RECESS: 8:07 p.m.

Mayor Walkup announced that the Council would stand at recess for five minutes.

RECONVENE: 8:15 p.m.

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

Present:

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

Absent/Excused: None

**9. ZONING: (C9-04-14) HUNTER – VALENCIA ROAD P-I TO C-2 CITY MANAGER’S REPORT**

Mayor Walkup announced City Manager’s communication number 507, dated September 20, 2004, would be received into and made a part of the record. He also announced this was a request to rezone property located on the northwest corner of Valencia Road and Tucson Boulevard. The preliminary development plan proposes a 4,924 square foot office and maintenance building and commercial parking lot. The Zoning Examiner and the City Manager recommended approval subject to certain conditions.

Mayor Walkup asked if the applicant or a representative was present and if they were agreeable to the proposed requirements.

Janette Hunter, the applicant, said she was agreeable to the recommendations.

Mayor Walkup recognized Council Member Leal.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 7 to 0 to approve the request for rezoning in Case C9-04-14 as recommended by the Zoning Examiner.

\*

10. **ZONING: (C9-00-04) SOUTHWEST VALUE PARTNERS – TUCSON BOULEVARD R-1 TO P-I AND I-1, ORDINANCE ADOPTION, REPEAL OF ZONING ORDINANCE**

Mayor Walkup announced City Manager's communication number 512, dated September 20, 2004, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10042 by number and title only.

Ordinance No. 10042 relating to zoning: amending Ordinance No. 9829 to amend zoning condition 1.a for the area located on the west side of Houghton Road approximately 650 feet south of Golf Links Road in Case C9-00-04, Tucson Medical Center – Houghton Road, SR to R-1; and declaring an emergency.

Mayor Walkup recognized Council Member Scott.

Council Member Scott, asked Mr. Summerset a question regarding the discussion and debate about this when it first came up. At that time there were fifty-three written approvals and forty-three written protests. She asked if Mr. Summerset went back to the written protestors and checked with them or had he dealt with them in the ensuing weeks.

James C. Summerset, the applicant, replied that yes they had several meetings. There was one homeowners association that showed up and two neighborhood members that showed up and they had no objections.

Council Member Scott asked if they were part of the protestors in the initial phase.

Mr. Summerset replied that they were, he believed, on the first rezoning that occurred about a year and a half prior.

Council Member Scott said it was her understanding that some of the people in the area wanted something else at that location and asked if they were satisfied with this kind of amenity at this point.

Mr. Summerset replied that they were.

It was moved by Council Member Scott, duly seconded, to pass and adopt Ordinance 10042.

Mayor Walkup asked for a roll call on the motion.

\* **CITY CLERK FILE NOTE:** RR:NB:sac 10/31/08  
Clerical correction to the title to Item 10 – The title to Item 10 should read "ZONING: (C9-00-04) TUCSON MEDICAL CENTER – HOUGHTON ROAD, R-1 ZONING, CHANGE OF CONDITION AND ORDINANCE ADOPTION"

Upon roll call, the results were:

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

Nay: None

Ordinance 10042 was declared passed and adopted by a roll call vote of 7 to 0.

**11. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES**

Mayor Walkup announced City Manager's communication number 504, dated September 20, 2004, would be received into and made a part of the record. He asked if there were any personal appointments.

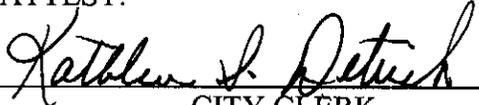
Council Member Dunbar announced her personal appointment of John Carlson, Sr. to the Citizen's Transportation Advisory Committee.

**12. ADJOURNMENT: 8:20 p.m.**

Mayor Walkup announced that the Council would stand adjourned until its next regularly scheduled meeting to be held Monday, September 27, 2004 at 5:30 p.m., in the Mayor and Council Chambers, City Hall, 255 W. Alameda, Tucson, Arizona.

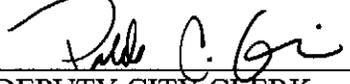
  
\_\_\_\_\_  
MAYOR

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 20<sup>th</sup> day of September, 2004, and do hereby certify that it was an accurate transcription.

  
\_\_\_\_\_  
DEPUTY CITY CLERK

KSD:lr/bp