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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on June 7, 2005

Date of Meeting: November 1, 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 5:35 p.m., on Monday, November 1, 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 Reverend Lee Milligan, United Church of Christ, The Church of the Painted Hills, after which the pledge of allegiance was presented by the entire assembly.

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

Mayor Walkup announced City Manager's communication number 612, dated November 1, 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. Mayor Walkup reminded everyone that November 2, 2004, would be Election Day and urged everyone to vote if they had not done so already.
- b. Vice Mayor Ronstadt announced on November 5, 2004, the Tucson Fire Department would hold their Annual Chili Cook-off and the Ward 6 Office would have a booth. Council Members Scott and Leal would be judges.

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

Mayor Walkup announced City Manager's communication number 613, dated November 1, 2004, would be received into and made a part of the record. He also announced this time had been scheduled to allow the City Manager to report on current events, and asked for the City Manager's report.

James Keene, City Manager, reported:

- a. On October 28, 2004 staff from Development Services and Finance held a Peddler Ordinance workshop. Approximately sixty people attended along with the media and Channel 12. The ordinance would be effective on April 14, 2005 and applications were being accepted as of today.

**5. LIQUOR LICENSE APPLICATIONS**

Mayor Walkup announced City Manager's communication number 608, dated November 1, 2004, would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. New Licenses

1. The Fat Greek  
994 E. University Blvd.  
Applicant: George A. Markou  
City 071-04, Ward 6  
Series 12  
Action must be taken by: November 8, 2004  
Staff Recommendation  
Police: In Compliance  
DSD: In Compliance  
Revenue: In Compliance
2. Green Bambou Thanh-Truc  
Restaurant  
4210 E. Speedway Blvd.  
Applicant: Du Van Nguyen  
City 075-04, Ward 6  
Series 12  
Action must be taken by: November 11, 2004  
Staff Recommendation  
Police: In Compliance  
DSD: In Compliance  
Revenue: In Compliance
3. Café Bonita  
6151 E. Broadway Blvd.  
Applicant: Alejandro Diaz  
City 076-04, Ward 6  
Series 12  
Action must be taken by: November 15, 2004  
Staff Recommendation  
Police: In Compliance  
DSD: In Compliance  
Revenue: In Compliance

Person Transfers

4. Sunrise Liquor and Hardware  
6130 S. Nogales Hwy.  
Applicant: Sary Phim  
City 072-04, Ward 1  
Series 9  
Action must be taken by: November 8, 2004  
Staff Recommendation  
Police: In Compliance  
DSD: In Compliance  
Revenue: In Compliance
5. Food City 165  
428 W. Valencia Road  
Applicant: Michael J. Basha  
City 074-04, Ward 1  
Series 9  
Action must be taken by: November 12, 2004  
Staff Recommendation  
Police: In Compliance  
DSD: In Compliance  
Revenue: In Compliance

c. Special Events

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| 1. | Tucson Symphony Orchestra<br>140 N. Main Avenue<br>Applicant: Susan M. DeBenedette<br>City T095-04, Ward 1<br>Date of Event: November 5 2004<br>(Fundraising)                  | Staff Recommendation<br><br>Police: In Compliance<br>DSD: In Compliance                         |
| 2. | Tucson Symphony Orchestra<br>140 N. Main Avenue<br>Applicant: Susan M. DeBenedette<br>City T096-04, Ward 1<br>Date of Event: January 7 2005<br>(Fundraising)                   | Staff Recommendation<br><br>Police: In Compliance<br>DSD: In Compliance                         |
| 3. | Tucson Firefighter's Chili<br>Cook-Off<br>El Presidio Park (Church & Alameda)<br>Applicant: Gerry R. Bowlin<br>City T101-04, Ward 1<br>Date of Event: November 5 2004          | Staff Recommendation<br><br>Police: In Compliance<br>DSD: In Compliance<br>Parks: In Compliance |
| 4. | Jewish Federation of<br>Southern Arizona<br>3233 E. Speedway Blvd.<br>Applicant: Marlyne J. Freedman<br>City T103-04, Ward 6<br>Date of Event: November 7 2004<br>(Fundraiser) | Staff Recommendation<br><br>Police: In Compliance<br>DSD: In Compliance                         |

Mayor Walkup asked the council's pleasure.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 7 to 0, that liquor license applications 5b1 through 5b5, and 5c1 through 5c4 be forwarded to the Arizona State Liquor Board for approval.

**6. CONSENT AGENDA ITEMS A THROUGH F**

Mayor Walkup announced that the reports and recommendations from the City Manager on the Consent Agenda Items would be received into and made a part of the record. He asked the City Clerk to read the Consent Agenda.

A. FINANCE: SALE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2004

1. Report from City Manager NOV1-04-609 CITY-WIDE
2. Ordinance No. 10066 an ordinance relating to finance; authorizing the issuance and sale of City of Tucson, Arizona, General Obligation Refunding Bonds, Series 2004, in a principal amount not to exceed \$50,000,000; providing for the levy and collection of Ad Valorem Taxes for the payment of the principal of and interest on the Series 2004 Refunding Bonds; providing for the sale thereof; providing for the application of the proceeds therefrom to the refunding of the bonds to be refunded and providing for the payment of principal and interest thereon; providing certain terms, covenants and conditions relating to the Series 2004 Refunding Bonds; authorizing the execution and delivery of a depository trust agreement and appointing a depository trustee with respect to the bonds to be refunded; authorizing the execution and delivery of a Bond Purchase Agreement and a continuing disclosure undertaking with regard to the Series 2004 Refunding Bonds; appointing a Bond Registrar, Transfer Agent and Paying Agent for the Series 2004 Refunding Bonds; authorizing the preparation and delivery of an official statement with respect to the Series 2004 Refunding Bonds; and declaring an emergency.

B. FINANCE: SALE OF WATER SYSTEM REVENUE REFUNDING BONDS, SERIES 2004

1. Report from City Manager NOV1-04-610 CITY-WIDE
2. Ordinance No. 10067 an ordinance relating to finance; authorizing the issuance and sale of City of Tucson, Arizona, Water System Revenue Refunding Bonds, Series 2004, in a principal amount not to exceed \$100,000,000; providing for the sale thereof; providing for the application of the proceeds therefrom to the refunding of the bonds to be refunded and providing for the payment of principal and interest thereon; providing certain terms, covenants and conditions relating to the Series 2004 Refunding Bonds; authorizing the execution and delivery of a depository trust agreement and appointing a depository trustee with respect to the bonds to be refunded; authorizing the execution and delivery of a Bond Purchase Agreement and a continuing disclosure undertaking with regard to the Series 2004 Refunding Bonds; appointing a Bond Registrar, Transfer Agent and Paying Agent for the Series 2004 Refunding Bonds; authorizing the preparation and delivery of an official statement with respect to the Series 2004 Refunding Bonds; and declaring an emergency.

- C. MAYOR AND COUNCIL: MEETING SCHEDULE FOR 2005 AND AMENDING MAYOR AND COUNCIL RULES AND REGULATIONS
1. Report from City Manager NOV1-04-614 CITY-WIDE
  2. Ordinance No. 10074 relating to administration; cancelling the Mayor and Council meetings of January 18, 2005, February 22, 2005, March 15, 2005, March 29, 2005, May 31, 2005, July 12, 2005, July 19, 2005, July 26, 2005, August 9, 2005, August 16, 2005, August 23, 2005, November 29, 2005, and December 27, 2005; and declaring an emergency.
  3. Resolution No. 19966 relating to the Rules and Regulations of the Governing Body; effective January 1, 2005, eliminating the deadline for agendas of 5 p.m. on the Wednesday next preceding the meeting for which the agenda is prepared; repealing Section I(E)(4) of the Rules and Regulations of the Governing Body; and declaring an emergency.
- D. FINAL PLAT: (S04-055) 15<sup>TH</sup> STREET STUDIOS CONDOMINIUM SUBDIVISION UNITS 1 TO 6 AND COMMON AREA "A" AND LIMITED COMMON AREAS 1 TO 6
1. Report from City Manager NOV1-04-615 W5
  2. The City Manager recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- E. REAL PROPERTY: EXPANDING THE "REMNANT SALES PROCESS" AND RENAMING IT THE "ALTERNATE SALES PROCESS"
1. Report from City Manager NOV1-04-606 CITY-WIDE
  2. Ordinance No. 10077 relating to real property; authorizing the Mayor to execute and the City Clerk to attest on behalf of the City of Tucson all contracts for sale of real property meeting certain conditions; and declaring an emergency.
- Item E was considered separately at the request of Council Member Dunbar.
- F. RIO NUEVO: DEVELOPMENT AGREEMENT AND AMENDMENT TO OFFER TO PURCHASE WITH RIO DEVELOPMENT COMPANY, LLC., FOR THE MERCADO DISTRICT OF MENLO PARK PROJECT
1. Report from City Manager NOV1-04-605 W1

2. Ordinance No. 10078 relating to real property; authorizing and approving a Development and Exchange Agreement with Rio Development Company, LLC to design and construct a mixed use subdivision in the Mercado District at Menlo; and Amendment Three to Offer to Purchase with Rio Development Company LLC; and dedicating certain portions of city-owned property as rights-of-way; and declaring an emergency.

It was moved by Vice Mayor Ronstadt, duly seconded, that Consent Agenda Items A through F, with the exception of Item E which would be considered separately, be passed and adopted and the proper action taken.

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

E. REAL PROPERTY: EXPANDING THE “REMNANT SALES PROCESS” AND RENAMING IT THE “ALTERNATE SALES PROCESS”

1. Report from City Manager NOV1-04-606 CITY-WIDE
2. Ordinance No. 10077 relating to real property; authorizing the Mayor to execute and the City Clerk to attest on behalf of the City of Tucson all contracts for sale of real property meeting certain conditions; and declaring an emergency.

Kathleen S. Detrick, City Clerk, announced that Consent Agenda Item E was removed at the request of Council Member Dunbar.

Council Member Dunbar asked the City Manager for a brief explanation since this item dealt with buying and selling City property. She wanted one more explanation for the people who might be watching the Mayor and Council meeting.

James Keene, City Manager, reported that the City’s existing remnant sales process, which was a process that had been used historically to sell small pieces of properties left over from other transportation actions, had been in place since 1995. He said as staff looked at the existing process, they thought it was good, but a bit cumbersome for current property values. This recommendation tried to get more flexibility for sales that are under twenty-five thousand dollars and do a few other things. The current process required appraisals for properties valued under twenty-five thousand dollars, the City would spend money on an appraisal and very often bids were above the appraised value. The new process would have more net savings and provide faster

service, which would take one to three months less time. Most of the other conditions remain on those properties over twenty-five thousand dollars.

It was moved by Council Member Dunbar, duly seconded, that Consent Agenda Item E be passed and adopted and the proper action taken.

Upon roll call, the results were:

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

Nay: Council Members Ibarra and Leal

Consent Agenda Item E was declared passed and adopted by a roll call vote of 5 to 2.

For the purpose of the emergency clause and that purpose only, Mayor Walkup called for a roll call vote:

Upon roll call, the results were:

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

Nay: None

Consent Agenda Item E was declared passed and adopted by a roll call vote of 7 to 0, with the emergency clause.

## **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 items scheduled for a public hearing. Speakers would be limited to three-minute presentations.

- a. Michael Toney shared his designs for the Science Center.
- b. Ruth Beeker thanked the Mayor and Council and staff for her Miramonte Neighborhood "Pocket Park" at Third and Richey, and encouraged the Mayor and Council to consider the question, "What makes good neighborhoods", when reviewing the Design Development Option. She also and invited the Mayor and Council to the Community Infill Forums November 17, 2004 in the Randolph Clubhouse, held in conjunction with the Drachman Institute.

**8. PUBLIC HEARING: ZONING (C9-98-25) STARR PASS BOULEVARD SR TO C-1, REQUEST FOR TIME EXTENSION (CONTINUED FROM MEETING OF OCTOBER 4, 2004)**

Mayor Walkup announced City Manager's communication number 618, dated November 1, 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 a request for a five year time extension for property located south of Starr Pass Boulevard and west of Players Club Road. The original five-year authorization expires November 8, 2004. Mayor Walkup also asked if the applicant or a representative was present and if they had any brief comments before beginning the public hearing.

Chris Ainsley, on behalf of the property owners Starr Pass Resort Developers LLC, said he had no comments.

Mayor Walkup announced the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentation.

Rob Kulakofsky stated that seven years ago Starr Pass proposed developing a hotel on the northwest corner of Starr Pass Boulevard and Greasewood. It was only three hundred feet away from Tolson School and they had no guarantee that there would be no liquor license at the facility. The neighborhood was unhappy about the situation and that proposal was withdrawn. The City Planning Department realized that the Tumamoc Area Plan was grossly outdated and needed revision. Approximately six years ago, they began meeting and set up a Tumamoc Area Plan Revision Committee. The Developers of Starr Pass had representatives in attendance. The Committee approved a hotel. The area is now within the City limits and the developer wants zoning for two hotels. Mr. Kulakofsky thought it was inappropriate and suggested this rezoning not be extended. He thought if the developer wanted to come back with specific plans, meet and go over the full process with the neighborhood and work out a compromise, that would be more appropriate. What they were working on now was a five-year old plan with two hotels instead of one. It was not fair to the neighborhood. The neighborhood did not want any hotels, but accepted one and they really did not want two.

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

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 declared a potential conflict of interest and recused himself as advised by Michael Rankin, City Attorney. Mayor Walkup turned Item 8 over to Vice Mayor Ronstadt.

Vice Mayor Ronstadt asked the Council's pleasure.

Council Member Ibarra reminded Council that they had continued this item twice. The agreement with the neighborhood was to go back and talk with the developer and then come to an agreement and a decision would be made on November 1, 2004. Council Member Ibarra facilitated a meeting between the developer and the neighborhood in the area and read a statement from Steve Witherspoon, head of the Neighborhood Committee stating;

“Dear Mayor and Council, this notice is to confirm the Starr Pass Subdivision Home Owners Association Presidents did not oppose the request to extend the time to complete the conditions of the above rezoning. Pursuant to efforts of Councilman Ibarra, the Subdivision Home Owners Association Presidents met with Mr. Chris Ainsley on October 14, 2004. As a result of that meeting, it was agreed that Mr. Ainsley and the Subdivision Home Owners Association Presidents would continue to work on resolving their outstanding differences. We appreciate Councilman Ibarra assistance on this matter and hope a mutually accepted resolution can be reached”. Signed Steve Witherspoon.

Council Member Ibarra thanked the developers and homeowners.

Council Member West asked for clarification on the two hotels.

Ernie Duarte, Development Services Director, stated the zoning proposal for this time extension included two hundred and fifty time-share casitas. It was not a hotel, but a small-scale development.

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 6 to 0, (Mayor Walkup recused) to approve the applicant’s request for a time extension subject to the revised conditions of rezoning as recommended by the City Manager.

**9. ZONING: (C9-03-24) ABRAMS/ACEDO – FOURTH STREET, R-1 AND R-2 TO R-2, CITY MANAGER’S REPORT (CONTINUED FROM MEETING OF OCTOBER 4, 2004)**

Mayor Walkup announced City Manager’s communication number 611, dated November 1, 2004, would be received into and made a part of the record. This was a request to rezone property located on the south side of Fourth Street between Richey Boulevard and Dodge Boulevard. The preliminary development plan proposes eleven one and two story single-family detached residences. 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 aware of and agreeable to the proposed requirements.

Stan Abrams, the applicant, asked for a one week extension.

It was moved by Vice Mayor Ronstadt, duly seconded, and carried by a voice vote of 7 to 0 to continue this item for one week.

**10. ZONING: (SE-04-13) UNIVERSITY MEDICAL CENTER CORPORATION – CAMPBELL AVENUE, R-2 ZONING, SPECIAL EXCEPTION LAND USE, CITY MANAGER’S REPORT AND ORDINANCE ADOPTION**

Mayor Walkup announced City Manager’s communication number 616, dated November 1, 2004, would be received into and made a part of the record. This was a request to allow a communications use for property located on the northeast corner of Campbell Avenue and Allen Road. The preliminary development plan proposes a 75-foot tall cellular communications tower. The Zoning Examiner and the City Manager recommended approval subject to certain conditions. He asked if the applicant was present and if they were aware of and agreeable to the proposed requirements.

Keri Silvyn, of Lewis and Roca LLP, representing University Medical Center, said they were agreeable to the recommendation.

Mayor Walkup asked the City Clerk to read Ordinance 10075 by number and title only.

Ordinance 10075 relating to zoning; a special exception land use – communication use – University Medical Center (UMC) – northeast corner of Campbell Avenue and Allen Road; approving with conditions the construction of a seventy-five (75) foot tall cellular tower in the R-2 zone – case SE-04-13; and setting an effective date.

It was moved by Council Member Dunbar, duly seconded, to pass and adopt Ordinance 10075.

Michael Rankin, City Attorney, confirmed that Council Member Ibarra’s wife being employed by University Medical Center did not create a conflict of interest.

Upon roll call, the results were:

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

Nay: None

Ordinance 10075 was declared passed and adopted by a roll call vote of 7 to 0.

**11. ZONING: (C9-04-07) MENLO PARK MERCADO DISTRICT PAD CONGRESS STREET, R-2, C-1, C-3 AND I-1 TO PAD-10, CITY MANAGER'S REPORT, AND ORDINANCE ADOPTION**

Mayor Walkup announced City Manager's communication number 617, dated November 1, 2004, would be received into and made a part of the record. This was a request to rezone property located on the south side of West Congress Street, west of Interstate 10. The request was for mixed use and single family residences. The zoning Examiner and the City Manager recommended approval subject to certain conditions. He asked if the applicant or a representative was present and if they were aware of and agreeable to the proposed requirements.

Kerry Dixon, representing the property owner Rio Development Company, asked the Council to please consider the application and said he had no further comments.

Mayor Walkup asked the City Clerk to read Ordinance 10076 by number and title only.

Ordinance 10076 relating to zoning; amending zoning district boundaries in the area located on the south side of West Congress Street 1,500 feet west of Interstate 10 in case C9-04-07, Menlo Park Mercado District PAD, R-2, C-1, C-3, and I-1 to PAD-10; and setting an effective date.

It was moved by Council Member Ibarra, duly seconded, to pass and adopt Ordinance 10076.

Council Member West said she thought they did a marvelous job and it was certainly going to go a long way with getting Rio Nuevo moving further ahead. She did not have a concern with this development, but thought a study needed to be done on the sewer capacity in the Rio Nuevo development. As Rio Nuevo expands, the sewer capacity also needs to expand. She requested staff provide information regarding sewer capacity in the Rio Nuevo development area.

Upon roll call, the results were:

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

Nay: None

Ordinance 10076 was declared passed and adopted by a roll call vote of 7 to 0.

**12. REAL PROPERTY: APPROVING LEASE AGREEMENT AND BILLBOARD REMOVAL WITH CLEAR CHANNEL OUTDOOR, INC. (CONTINUED FROM MEETING OF OCTOBER 25, 2004)**

Mayor Walkup announced City Manager's communication number 619, dated November 1, 2004, would be received into and made a part of the record. He requested the City Clerk to read Ordinance 10080 by number and title only.

Ordinance No. 10080 relating to real property; authorizing and approving the extension of a lease of certain city owned real property south of the southeast corner of Stone Avenue and Sixth Street to Clear Channel Outdoor, Inc., and declaring an emergency.

It was moved by Vice Mayor Ronstadt, duly seconded, to pass and adopt Ordinance 10080.

Michael Rankin, City Attorney, confirmed that Council Member Leal could make a separate motion for the other five billboards.

Upon roll call, the results were:

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

Nay: None

Ordinance 10080 was declared passed and adopted by a roll call vote of 7 to 0.

Michael Rankin, City Attorney, responded to Council Member Dunbar's questions on the legality of requesting that the billboard be removed within thirty days. He said the motion was appropriate, as the billboards were trespassing on City property.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 7 to 0, to direct staff to send a notice to the owner of the billboard located at 4150 South Campbell requesting that the billboard be removed within thirty days.

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

Mayor Walkup announced City Manager's communication number 607, dated November 1, 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 West, duly seconded, and carried by a voice vote of 7 to 0, to reappoint Gordon Zaft to the Citizens Transportation Advisory Committee; reappoint David Smutzer to the Citizens' Water Advisory Committee; reappoint Sherwood Burr to the Development Review Board; appoint Michael McDonald and Linda Leatherman to the Metropolitan Housing Commission; reappoint Andy

Gunning to the Metropolitan Housing Commission; and to appoint Barry Arcala and Charles J. Moore to the Veterans' Affairs Committee.

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

**14. ADJOURNMENT:** 6:17 p.m.

Mayor Walkup announced the Council would stand adjourned until its next regularly scheduled meeting to be held on Monday, November 8, 2004, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 W. Alameda, Tucson, Arizona.

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MAYOR

ATTEST:

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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 1<sup>st</sup> day of November, 2004, and do hereby certify that it was an accurate transcription.

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DEPUTY CITY CLERK

KSD:kv/jk