



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on December 20, 2004

Date of Meeting: November 22, 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 5:38 p.m. on Monday, November 22, 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
Mike Letcher	Deputy City Manager

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Bishop John McLeod, Central Ward, Tucson Arizona Stake, The Church of Jesus Christ of Latter-day Saints, after which the pledge of allegiance was presented by the entire assembly.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced that City Manager's communication number 650, dated November 22, 2004, would be received into and made a part of the record. He also announced that 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 Dunbar announced a recent bill passed by Congress had resulted in a grant award of five hundred thousand dollars for sidewalks and streetscapes on Campbell. She also announced a Landfill tour scheduled for January 29, 2005, which would be leaving from the Ward 3 Office at 8:45 a.m.
- b. Council Member Scott announced that Ward 4, Pima County Supervisor Ray Carroll's Office, Davis Monthan, Pima College East, Santa Rita High School and KGUN 9 have all partnered to celebrate TROOPS night (Thanks and Recognition of Our Overseas Personnel Serving) which will be held December 7 from 5:00 to 7:00 p.m. at Santa Rita Football field.

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

Mayor Walkup announced that City Manager's communication number 651, dated November 22, 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. The Tucson Police Department was recognized as a finalist for the Community Policing Award from the International Association of Police Chiefs.
- b. The Sun Tran shuttle for Friday's UA vs. ASU Football game will move from Tucson Mall to the Rillito Park to avoid overcrowding the shopping malls. The Hi Corbett and Fry's Shuttle remain unchanged.
- c. The Edith Ball Therapeutic Recreation Center celebrated a grand opening over the weekend.
- d. Filming of Stephen King's ABC miniseries "Desperation" will cause temporary closure of Congress near the Rialto Theatre on Tuesday, November 30. Traffic will be rerouted beginning at 4:00 a.m.
- e. Reid Park Zoo has a new member, Kobe, who is a female polar bear.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced that City Manager's communication number 646, dated November 22, 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. Café Ramey
1661 N. Swan Road, Suite 120
Applicant: Jacki L. Dugan
City #078-04, Ward 6
Series #12
Action must be taken by: November 20, 2004
Staff Recommendation
Police: In Compliance
DSD: In Compliance
Revenue: In Compliance

Person Transfer(s)

2. Rockett J's Classic Rock Café
6255 E. Golf Links Road
Applicant: Jay H. Metz
City #086-04, Ward 4
Series #6
Action must be taken by: December 10, 2004
Staff Recommendation
Police: In Compliance
DSD: In Compliance
Revenue: In Compliance

Person/Location Transfer(s)

3. Bum Steer
1910 N. Stone Avenue
Applicant: Joseph M. Ciolli
City #084-04, Ward 3
Series #7
Action must be taken by: November 26, 2004
Public Opinion: Protests Filed
Support Filed
Staff Recommendation
Police: Denied
DSD: In Compliance
Revenue: In Compliance

Application was withdrawn.

c. Special Event(s)

1. Tucson Botanical Gardens
2150 N. Alvernon Way
Applicant: Nancy R. Laney
City #T098-04, Ward 6
Date of Event: December 3, 2004
(Fundraising Event)
Public Opinion: Protest Filed
Support Filed
Staff Recommendation
Police: In Compliance
DSD: In Compliance

Considered separately.

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| 2. | North Fourth Avenue
Merchants Assoc.
329 E. 7th Street
Applicant: Daniel G. Matlick
City #T099-04, Ward 6
Date of Event: December 10, 2004
December 11, 2004
December 12, 2004
(Fundraising Community Event) | Staff Recommendation

Police: In Compliance
DSD: In Compliance |
| 3. | The Tucson Rodeo
Committee, Inc.
4801 S. 6th Avenue
Applicant: Gary G. Williams
City #T100-04, Ward 5
Date of Event: February 19, 2005
February 20, 2005
February 21, 2005
February 22, 2005
February 23, 2005
February 24, 2005
February 25, 2005
February 26, 2005
February 27, 2005
(To stage the Annual Tucson Rodeo - La Fiesta De Los Vaqueros) | Staff Recommendation

Police: In Compliance
DSD: In Compliance
Parks: In Compliance |
| 4. | Tucson Museum Of Art
140 N. Main Avenue
Applicant: Charlie E. Bodden
City #T104-04, Ward 1
Date of Event: 12/2/04
(Fundraising Event) | Staff Recommendation

Police: In Compliance
DSD: In Compliance |

Kathleen S. Detrick, City Clerk, announced that the application for Item 5b3, Bum Steer, had been withdrawn by the applicant. She also announced that the remaining items had no protests and carried recommendations for approval. There were four requests for special event liquor licenses and they all had recommendations for approval, however, 5c1 had received protests and should be considered separately.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 7 to 0, that liquor license applications 5b1 and 5b2 and 5c2 through 5c4 be forwarded to the Arizona State Liquor Board with a recommendation for approval.

c. Special Event(s)

- | | |
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| 1. Tucson Botanical Gardens
2150 N. Alvernon Way
Applicant: Nancy R. Laney
City #T098-04, Ward 6
Date of Event: December 3, 2004
(Fundraising Event)
Public Opinion: Protest Filed
Support Filed | Staff Recommendation

Police: In Compliance
DSD: In Compliance |
|---|---|

Ms. Detrick, announced that liquor license special event application 5c1, Tucson Botanical Gardens, had a staff recommendation for approval. However, a protest had been filed so it was to be considered separately. It is located in Ward 6.

Mayor Walkup recognized Vice Mayor Ronstadt.

Vice Mayor Ronstadt asked if the protestor was present. He was not.

It was moved by Vice Mayor Ronstadt, duly seconded, and carried by a voice vote of 7 to 0 that liquor license application 5c1, Tucson Botanical Gardens, be forwarded to the Arizona State Liquor Board with a recommendation 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 items by number and title only.

A. FINANCE: SALE OF CERTIFICATES OF PARTICIPATION FOR CAPITAL IMPROVEMENTS, SERIES 2004-B

1. Report from City Manager NOV22-04-645 CITY-WIDE
2. Resolution No. 19970 relating to real and personal property; authorizing the execution and delivery of a Ground Lease, an Assignment, an Equipment Lease, a Lease-Purchase Agreement, a Sublease, a Certificate Purchase Agreement and a Continuing Disclosure Undertaking; acknowledging and approving the execution of an Amendment and Supplement to a Declaration of Irrevocable Trust and the sale and delivery of one or more Series of Certificates of Participation in the Lease-Purchase Agreement pursuant thereto: and declaring an emergency.

B. INTERGOVERNMENTAL AGREEMENT: WITH SUNNYSIDE UNIFIED SCHOOL DISTRICT FOR RECIPROCAL USE OF DISTRICT FACILITIES AND CITY PARKS

1. Report from City Manager NOV22-04-652 W1 & W5
2. Resolution No. 19973 relating to parks and recreation; approving and authorizing an Intergovernmental Agreement with the Sunnyside Unified School District for reciprocal use and development of District facilities and City parks for public park or school areas and/or recreation activities; and declaring an emergency.

C. SERVICE CONTRACT: WITH THE SOUTHERN ARIZONA CENTER AGAINST SEXUAL ASSAULT TO PROVIDE SUPPORT FOR JOINT EDUCATIONAL COMMUNITY PRESENTATIONS AND OUTREACH ACTIVITIES

1. Report from City Manager NOV22-04-644 CITY-WIDE
2. Resolution No. 19974 relating to law enforcement; approving and authorizing execution of a service contract with the Southern Arizona Center Against Sexual Assault to provide support for joint education community presentations and outreach programs; and declaring an emergency.

D. TUCSON CODE: AMENDING (CHAPTER 10) RELATING TO CITY OF TUCSON EMPLOYEE CONDUCT AND DISCIPLINE

1. Report from City Manager NOV22-04-654 CITY-WIDE
2. Ordinance No. 10088 relating to civil service and human resources; amending Tucson Code Chapter 10 (“Civil Service & Human Resources”) by amending Section 10-12(8); and declaring an emergency.

Item D was inadvertently removed by Council Member Leal to be considered separately. Item E was the correct item to be removed.

E. STATEWIDE LEGISLATION: EXPRESSING THE CITY’S INTENT TO APPLY POLICIES SET FORTH IN CITY MANAGER’S ADMINISTRATIVE DIRECTIVE 2.02-23 TO CITY OFFICERS AND EMPLOYEES WHO BECOME INVOLVED IN LITIGATION AS A RESULT OF PROPOSITION 200

1. Report from City Manager NOV22-04-653 CITY-WIDE

2. Resolution No. 19975 relating to the City's indemnification and defense of its officers and employees; expressing the City's intent to apply the policies set forth in existing Administrative Directive 2.02-23 to officers and employees who become involved in civil or criminal litigation arising out of Proposition 200, the statewide initiative approved by the voters on November 2, 2004; and declaring an emergency.

Item E was considered separately at the request of Council Member Leal.

F. REAL PROPERTY: APPROVING A LEASE AGREEMENT FOR OFFICE SPACE AT 345 EAST TOOLE AVENUE FOR THE DEPARTMENT OF URBAN PLANNING AND DESIGN

1. Report from City Manager NOV22-04-655 W6
2. Resolution No. 19976 relating to real property; authorizing and approving the modification of a lease agreement for office space at 345 East Toole Avenue for the Department of Urban Planning and Design; and declaring an emergency.

It was moved by Council Member West, duly seconded, that consent agenda Items A through F, except for D, 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 D, were declared passed and adopted by a roll call vote of 7 to 0.

Council Member Leal began to make a motion on item E.

Vice Mayor Ronstadt noted and Council Member Leal confirmed that the wrong item had been removed from the consent agenda. The Council needed to pass item D and consider item E separately.

Kathleen S. Detrick, City Clerk, stated that the Mayor and Council would need a motion to reconsider the previous motion before proceeding.

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 7 to 0, to reconsider the motion to approve consent agenda Items A through F, with the exception of item D.

It was moved by Council Member West, 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. STATEWIDE LEGISLATION: EXPRESSING THE CITY'S INTENT TO APPLY POLICIES SET FORTH IN CITY MANAGER'S ADMINISTRATIVE DIRECTIVE 2.02-23 TO CITY OFFICERS AND EMPLOYEES WHO BECOME INVOLVED IN LITIGATION AS A RESULT OF PROPOSITION 200

1. Report from City Manager NOV22-04-653 CITY-WIDE
2. Resolution No. 19975 relating to the City's indemnification and defense of its officers and employees; expressing the City's intent to apply the policies set forth in existing Administrative Directive 2.02-23 to officers and employees who become involved in civil or criminal litigation arising out of Proposition 200, the statewide initiative approved by the voters on November 2, 2004; and declaring an emergency.

Mayor Walkup recognized Council Member Leal.

It was moved by Council Member Leal, duly seconded, to pass and adopt Resolution 19975 with one addition and that was that the working group and community clearinghouse made up of needed City staff, County staff, the State and the school districts look at questions that come in and create unified responses to the community around the interpretation and enforcement and applicability of Proposition 200 as it moves through the community.

Mayor Walkup asked if there was any discussion.

He recognized Council Member Scott.

Council Member Scott asked for a friendly amendment indicating that she thought it would be worth it to ask the County to join with the City in asking for the State, through the Governor's Office, to create a hotline or something like that for people who were having difficulty interpreting Proposition 200. She also wondered if it would be helpful for City employees to receive a letter of clarification from the City Attorney's

Office or the Manager's Office clarifying for City staff exactly what ramifications, if any, applied to any department within the City, just so they had it in writing. She understood that the State Attorney General had said that it would apply to welfare recipients only and he had rather narrowed it, but she thought it would be helpful to have something like that. She reiterated that the County Board of Supervisors should be asked if they would be willing to go to the Governor to ask for the hotline, and that she would like a letter from within the City to go to City employees.

Council Member Leal accepted the amendments offered. He said that he was not going to mention specifics because he thought that when the working group got together, they would probably generate a list of particulars. He said that the ones that Council Member Scott mentioned were ones that he expected would be put on the table and done, so he had no problem accepting those now.

Mayor Walkup asked if there was further discussion.

There was none.

Ms. Detrick asked if the amendment was acceptable to the second and clear to the City Attorney.

It was.

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 Item E with amendments was declared passed and adopted by a roll call vote of 7 to 0.

7. CALL TO THE AUDIENCE

Mayor Walkup announced that 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. Michael Toney commented to the Mayor and Council on various issues including: music as a social indicator and the rise in crimes committed by thirteen to seventeen-year-olds, Tucson Water's Long Range Plan, and Davis-Monthan airplane paths.
- b. Bill Katzel updated the Mayor and Council on the El Tour Platinum Challenge and the Mayor's Challenge.

- c. Robert Farnstein, representing Church Without Walls, commented to the Mayor and Council regarding the positive impacts of the Church Without Walls.
- d. Raymond Rodriguez, representing Pima County Interfaith Council, addressed the Mayor and Council on the consequences of the passage of Proposition 200.
- e. Mike Sousa urged the Mayor and Council to consider banning the use of “less than lethal” weapons by Tucson Police Department.
- f. Adelene Sampson urged the Mayor and Council to consider banning the use of “less than lethal” weapons by Tucson Police Department.
- g. Kathryn Rodriguez, representing Derechos Humanos Coalition, applauded the Mayor and Council action taken regarding Proposition 200, noting the creation of a task force will be beneficial to the community.

8. ZONING: (C9-03-23) LOWE’S – KOLB ROAD C-1 TO C-2, ORDINANCE ADOPTION, CORRECTION OF ZONING LINE

Mayor Walkup announced that City Manager’s communication number 647, dated November 22, 2004, would be received into and made a part of the record. He asked that the City Clerk read the Ordinance by number and title only.

Ordinance No. 10087 relating to zoning: amending Ordinance No. 10017 to amend the map showing the zoning district boundaries in the area located at the northeast corner of Speedway Boulevard and Kolb Road in case C9-03-23, Lowe’s – Kolb Road, C-1 to C-2; and declaring an emergency.

Mayor Walkup recognized Council Member West.

It was moved by Council Member West, duly seconded, to pass and adopt Ordinance 10087.

Mayor Walkup asked if there was any discussion.

There was none.

Upon roll call, the results were:

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

Nay: None

Ordinance 10087 was declared passed and adopted by a roll call vote of 7 to 0.

9. ZONING: (C9-04-11) LANDMARK SERIES I – FIRST AVENUE, MH-1 TO C-1, CITY MANAGER’S REPORT

Mayor Walkup announced that City Manager’s Communication number 648, dated November 22, 2004, would be received into and made a part of the record. He said that this was a request to rezone property located on the northeast corner of First Avenue and Limberlost Drive and that the preliminary development plan proposes retail uses. The Mayor also said that the Zoning Examiner and the City Manager recommended approval subject to certain conditions.

Mayor Walkup asked if the applicant was present and agreeable to the conditions.

Wayne Swan, representing Intertech Architects, stated that they were agreeable to the conditions.

Mayor Walkup recognized Council Member Dunbar.

Council Member Dunbar stated that she saw some of the neighborhood people who had been working on this project for the last nine months. She said that Bonnie Poulos had put in a card to speak and called for her to come up.

Bonnie Poulos, representing Campus Farm and the Limberlost and Amphi Neighborhood Associations, stated that she asked to speak because they had a number of development issues within their neighborhood and they would like for their concerns to be part of the public record so that in the event that things change in the future there would be some ability to come back and readdress their concerns. This parcel on the northeast corner of Limberlost and First is one of the largest undeveloped parcels remaining within their neighborhood. They were very interested in what happened to this parcel, as were the residents of the Limberlost and Amphi Neighborhood Associations. Part of that concern dealt with the number of commercial and residential developments that were currently in process or had been approved for redevelopment on Limberlost Road. Limberlost in their neighborhood is the local street and to the west of them it is a collective street. She stated that there was a Home Depot that was going in as part of a large commercial development at Oracle and Limberlost, which was estimated to generate several thousand cars per day. There was this commercial development at First and Limberlost and there was a townhome development just a few hundred yards to the east of this development on Limberlost and there was a Trader Joe’s that was being developed as part of the Plaza Antigua at Limberlost and Campbell, all of which would generate an enormous amount of new traffic within their neighborhood.

Ms. Poulos said that they worked with the developer and his architects over a several month period and although they had a rocky start she thought that they had developed a lot of trust and had entered into an agreement to continue meeting throughout the construction of this development. They did have some concerns that she wanted to briefly reiterate. One was that throughout the negotiations they had an expectation that what would be built on this parcel would be what was presented, they

would like to know that there would be substantial compliance with the plan and that if anything major changed they would all come back to the table to reexamine and to reevaluate whether or not it was a good idea for this parcel. Second, they have had a very significant problem with drainage in their neighborhood and they had been told that everything met City Code. What they found was that the City Code was usually not enough. They live in the Rillito River Floodplain and whenever a parcel of this size was developed they would have flooding problems on adjacent properties regardless of whether or not the City Code was met. She stated that they had an adjacent property owner present, who lives north of the property in question and that she was very much concerned about drainage issues. She said that they would like to ask staff to pay particular attention to the details when this drainage plan comes before them for final approval. She said that they did not want to see any more flooding on the property to the north than had already existed as a result of other developments in the area.

Ms. Poulos stated that they also had an issue with access points onto Limberlost Drive and that they had reached an agreement with the developer to limit one of those access points to emergency only and to limit the other access point on Limberlost with a right in/right out with a concrete constructed median on Limberlost to help prevent traffic from coming through the neighborhood if First Avenue was congested. She said that they had a number of other issues that were addressed. They would like to state that this was a compromise on their part as well as on the part of the developer and that they hoped that this plan would proceed as it had been presented there tonight and at the Zoning Examiner's hearing a month ago. She thanked the Mayor and Council for allowing her to speak and she reiterated that they do support the rules and conditions as presented to the Mayor and Council this evening.

Council Member Dunbar thanked her and stated that Ms. Poulos had said a couple of things that the Council Member did not know where to find in her materials. She asked Ms. Poulos about the agreement to meet with the developer quarterly throughout the construction and what item that was in the materials.

Ms. Poulos stated that this item was not in the materials. It was an agreement between the neighborhood associations and the developer. She said that her understanding was that the City could not enforce such an agreement and therefore it could not be part of the rezoning conditions, but they signed an agreement that they would continue meeting.

Council Member Dunbar stated that she had another question for staff. She said that she had received a call at her office asking what the City did to make sure that the developer followed through with the conditions placed upon him. The caller wanted to know what mechanism was used to enforce them.

Ernie Duarte, Director of Development Services, stated that the item that was presented that evening was a zoning authorization, so subsequent to that evening's action the applicant must submit a development plan that addressed all the Code requirements as well as the issues that were pointed out by Ms. Poulos. City staff would review those

plans to make sure they would be in compliance with the requirements as well as the conditions. Once it has met the requirements and the conditions it would come back to council for consideration of the ordinance.

It was moved by Council Member Dunbar, duly seconded, to approve the request for rezoning in Case C9-04-11 as recommended by the Zoning Examiner with the conditions put in place by the City Manager.

Mayor Walkup asked if there was any discussion.

Council Member West stated that she wanted to commend the neighborhood for the very fine job that they have done in tailoring the conditions. She thought it was one of the best examples that had come before the Council in some time. She also wanted to thank Council Member Dunbar because this took a lot of time. She stated that she had known for a long time about the drainage on Limberlost and the Council had to figure out a way to harvest that water. She thought that this was an example of fine work. They started out well and she knew that the developer would follow through on those things. She thought it would be a great development.

Mayor Walkup stated that he thought that they should receive an award of some kind. He also asked if there was any further discussion, hearing none he asked for a vote.

The motion to approve the request for rezoning in Case C9-04-11 as recommended by the Zoning Examiner with the conditions put in place by the City Manager passed by a voice vote of 7 to 0.

10. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

Mayor Walkup announced that City Manager's communication number 649, dated November 22, 2004, would be received into and made a part of the record. He asked if there were any personal appointments by any member of the council.

There were none.

11. ADJOURNMENT 6:30 p.m.

Mayor Walkup announced that the Council would stand adjourned until its next regularly scheduled meeting to be held on Monday, December 6, 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 22nd day of November, 2004, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:cf/lp