



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on March 22, 2005

Date of Meeting: February 15, 2005

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 6:46 p.m. on Tuesday, February 15, 2005, 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	Vice Mayor, Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Steve Leal	Council Member Ward 5
Fred Ronstadt	Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused: None

Staff Members Present:

Michael D. Letcher	City Manager
Michael Rankin	City Attorney
Kathleen S. Detrick	City Clerk
Liz Rodriguez Miller	Assistant City Manager

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Pastor Bill Dunbar, Saguaro Christian Church, 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 80, dated February 15, 2005, 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. Vice Mayor Dunbar announced Ward 3 would be hosting a Landfill and Recycling tour on Saturday, February 19, 2005 at 9:00 a.m.
- b. Council Member West announced Ward 2 would host a Water Town Hall to discuss and receive input regarding the Long-Range Water Plan. The Town Hall was scheduled for Wednesday, February 16, 2005 at 7:00 p.m. and she invited the public to attend.
- c. Council Member Ronstadt announced the Ward 6 office was currently displaying artwork from Catalina Magnet High School, called Fiesta de Los Barrios.

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

Mayor Walkup announced City Manager's communication number 81, dated February 15, 2005, would be received into and made a part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

Michael D. Letcher, City Manager, reported:

- a. The City Clerk was now accepting requests for early ballots for the May 17, 2005 Water Bond election. To request a ballot, City residents should call 884-VOTE or submit their request online at the City Clerk's website.
- b. Governor Janet Napolitano was recently in Tucson filming a Public Service Announcement on water conservation. In the announcement she praised Tucson Water for their water conservation efforts.
- c. Todd Sander, Chief Information Officer and Director of Information Technology, has resigned to accept a position as the National Director of Amber Alert 911. He will begin his new position on March 1, 2005. Mr. Letcher recognized Mr. Sander for his contributions to the City and wished him well in his new endeavors. He said he would be missed by the City of Tucson.

Mayor Walkup also expressed his appreciation for Todd Sander and wished him well on behalf of the Council.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 72, dated February 15, 2005, would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. Liquor License Applications

Person Transfer

1. Famous Sam's, Ward 5
4801 E. 29th Street
Applicant: Gary A. Zimbler
Series 6, City 01-05
Action must be taken by: February 28, 2005
Staff Recommendation: Police review in process. Development Services, and Revenue in compliance.
Public Opinion: Support Filed
Considered Separately
2. Famous Sam's #10, Ward 1
2320 N. Silverbell Road
Applicant: Mark L. Rhude
Series 6, City 02-05
Action must be taken by: March 4, 2005
Staff Recommendation: Police, Development Services, and Revenue in compliance.
Public Opinion: Protest Filed
Considered Separately
3. Windsor Drive-In Liquors, Ward 5
4000 E. 29th Street
Applicant: Tanya M. Ramirez
Series 9, City 03-05
Action must be taken by: March 5, 2005
Staff Recommendation: Police, Development Services, and Revenue in compliance.
Public Opinion: Protest Filed
Support Filed
Considered Separately

Person/Location Transfer

4. Club Turbulence, Ward 5
6608 S. Tucson Blvd.
Applicant: Rosina Fleck
Series 6, City 04-05
Action must be taken by: March 6, 2005
Staff Recommendation: Police, Development Services, and Revenue in compliance.
Public Opinion: Protests Filed
Supports Filed

Considered Separately

c. Special Event

1. Friends of Western Art, Ward 1
140 N. Main Avenue
Applicant: Aline Goodman
City T08-05
Date of Event: February 17, 2005
Preview of Art Exhibition & Dinner honoring Artists
Staff Recommendation: Police and Development Services in compliance.

Kathleen S. Detrick, City Clerk, announced that on the Liquor License Agenda under Item 5b, there were three requests for person transfers. Of those, 5b1 for Famous Sams, located in Ward 5, carried a “no recommendation” from the Tucson Police Department and would be considered separately. Items 5b2, 5b3 and 5b4 also had protests filed and would be considered separately.

Mayor Walkup called on Council Member West.

It was moved by Council Member West, duly seconded, and carried by a voice vote of 7 to 0, to forward the special event liquor license application 5c1, Friends of Western Art, to the Arizona State Liquor Board with a recommendation for approval.

b. Person Transfer

1. Famous Sam's, Ward 5
4801 E. 29th Street
Applicant: Gary A. Zimbler
Series 6, City 01-05
Action must be taken by: February 28, 2005
Staff Recommendation: Police review in process. Development Services, and Revenue in compliance.
Public Opinion: Support Filed

Kathleen S. Detrick, City Clerk, announced the first application to be considered separately was 5b1, Famous Sam's. The license is located in Ward 5. The applicant was present, as well as the representative from the Tucson Police Department to explain their recommendation.

Mayor Walkup recognized Council Member Leal.

Council Member Leal asked for the representative from the Tucson Police Department to come forward to give the Council their overview.

Jeannie Nagore, Officer, Tucson Police Department, was recommending a "no recommendation" of Mr. Zimbler's application for a person/transfer of a Series 6 bar liquor license. A background check on the applicant revealed a record, stating that Mr. Zimbler was cited on June 15, 1983 for assault. The incident took place at 70 West Cushing. The application questionnaire indicated that the applicant had never been detained or cited for any criminal violations. During an interview, Mr. Zimbler stated he knew the other subject involved and there was a legal situation regarding landlord tenant issues. However, Mr. Zimbler insisted he was never cited. Due to the age of the incident, there was no record available in the City Court system. Due to the discrepancy in the application regarding the applicant's criminal history, the Tucson Police Department was recommending a "no recommendation" on the application.

Council Member Leal asked if the applicant was present and asked him to come forward and elaborate on the history.

Michael Vingelli, representing the applicant, said he had represented Mr. Zimbler for a number of years. It was his understanding the incident in question was during the course of a deposition in a civil case. There was a confrontation and he believed the police were called. As a result of that, a report was made. He represented Mr. Zimbler for over twenty years on various matters and at no time did he ever represent him on a criminal complaint or a complaint involving a criminal investigation.

Mr. Vingelli said he took the opportunity, after Mr. Zimbler advised him of this, to go to City Court to check the records. There was no record of any criminal proceeding before the City Court in 1993 or 1994. The only record was in 1978 for a traffic violation. That indicated to him, from doing this type of work for a number of years, what probably happened was a report was made to a police officer on the beat in that area. That report went to a detective who investigated it and no criminal charges were ever filed. He thought it was wrong and inappropriate for the application to go to the Arizona State Liquor Board with a "no recommendation" based on information that was available to the Police Department that they just refused to get out of archives the last two weeks.

Mr. Vingelli added that his investigator had been trying to get the same information and they said the Tucson Police Department went to archives every Friday of every week and the report would not be available, if there was one, until the following

Friday. However, Mr. Vingelli said he did not feel the report was that significant. The significance was whether or not there was ever a criminal charge filed in City Court and there was no record of any civil criminal charge being filed. His recommendation and his suggestion to the Council was that the recommendation go to the Arizona State Liquor Board recommending approval subject to any report being filed by the Tucson Police Department concerning the alleged allegation of an assault charge that may or may not have ever reached the City Court. For that reason, he asked that Council Member Leal, as the Council Member for the area, move that the application be approved.

Council Member Leal told Mr. Vingelli that there were two issues inter-related; the facts of the alleged violation and how the applicant was conducting themselves in business and whether they were being forthright in filling out the application. He said they did not have a lot to go by when they try to judge fitness. Things like that could call a person's credibility into question and show them to be self-regarding. He added that people who are self-regarding often compromise the public.

Council Member Leal thought that because they did not have paperwork, the only appropriate recommendation they should make would be to forward this application to the Arizona State Liquor Board with "no recommendation." That was to give them as much benefit of the doubt as he could consider. He said he could not recommend it for approval because of how this came forward. So to give them the benefit of the doubt, he recommended that it go forward without a recommendation from the Council.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 6 to 1 (Council Member West dissenting), to forward liquor license application 5b1, Famous Sam's, to the Arizona State Liquor Board with "no recommendation."

Mayor Walkup asked if there was any discussion.

Mr. Vingelli said he only wanted to comment that Mr. Zimbler had been a businessman in Tucson. He had a real estate license for over thirty years. There was no evidence before the Mayor and Council that there was ever a criminal charge filed against him. The only thing they knew at this point from the representative from the Tucson Police Department was that there was a report filed and there was an investigation. Based on that, this application was going to go to Phoenix with a recommendation by the Council that they take no position on this liquor license application. He thought that was an injustice to Mr. Zimbler.

Council Member Leal noted that it was probably not as bad as he thought.

Mayor Walkup asked if there were any further comments.

There were none.

b. Person Transfer

2. Famous Sam's #10, Ward 1
2320 N. Silverbell Road
Applicant: Mark L. Rhude
Series 6, City 02-05
Action must be taken by: March 4, 2005
Staff Recommendation: Police, Development Services, and Revenue in compliance.
Public Opinion: Protest Filed

Kathleen S. Detrick, City Clerk, announced the second application to be considered separately was Item 5b2, Famous Sam's 10, at 2320 N. Silverbell Road. It is located in Ward 1. Ms. Detrick said that a protest had been received and the applicant was present.

Mayor Walkup recognized Council Member Ibarra.

Council Member Ibarra asked the applicant to come forward and give his name and address for the record.

Mark L. Rhude, the applicant, said he would be happy to answer any questions the Council had.

Council Member Ibarra asked if the protester was present. There was no one.

Council Member Ibarra said he knew Mr. Rhude and his brother from a lot of projects they have done in Ward 1. They have brought in an Arby's and a Kentucky Fried Chicken to the area and they expanded their Ace Hardware. Now they were moving into the Famous Sam's. Council Member Ibarra said they were a great group of businessmen who were really committed to the community. He thought they were fantastic for his area of town and fantastic for Tucson.

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 7 to 0, that liquor license application 5b2, Fantastic Sam's 10, be forwarded to the Arizona State Liquor Board, with a recommendation of approval.

b. Person Transfer

3. Windsor Drive-In Liquors, Ward 5
4000 E. 29th Street
Applicant: Tanya M. Ramirez
Series 9, City 03-05
Action must be taken by: March 5, 2005
Staff Recommendation: Police, Development Services, and Revenue in compliance.
Public Opinion: Protest Filed
Support Filed

Kathleen S. Detrick, City Clerk, announced the third application to be considered separately was 5b3, Windsor Drive-In Liquors, 4000 East 29th Street. It had a recommendation for approval. Both protest and support letters had been filed. The applicant was present. The license is located in Ward 5.

Mayor Walkup called on Council Member Leal.

Council Member Leal asked if the representative from the Tucson Police Department was present.

Ms. Detrick restated that the application had a recommendation for approval.

Council Member Leal said he understood what the status was now, but he wanted to verify information he had been given. There was a partnership between two sisters, Tanya and Tamara Ramirez. Tanya was the applicant and the other principal who would be assuming responsibility for the character of the management that would occur there was Tamara. Council Member Leal said he had information that in 2001 there was a car accident. The boyfriend at the time was the driver, who had no license. Tamara told the police that she was the driver and later confessed to the police that it was a lie. She was later cited for that. Council Member Leal asked Officer Nagore if this was the information, as she understood it.

Jeannie Nagore, Officer, Tucson Police Department, replied “yes”, that information was sent to them as well through the City Clerk’s Office.

Council Member Leal asked the applicants to come forward.

Tanya Ramirez introduced herself and said she represented Windsor Liquors.

Tamara Ramirez introduced herself and said she also represented Windsor Liquors.

Council Member Leal told the applicants that the police history gave him some concerns. He also forgot to ask the representative from the Police Department whether or

not this was actually stated on the application or whether it was discovered through the investigation.

Officer Nagore replied that while conducting the investigation it was discovered that there was some information. She spoke to the applicant and she amended the application.

Council Member Leal said the applicant did not put this on the application, the information came out through further discussion.

Officer Nagore checked her paperwork and said that was correct.

Council Member Leal asked the two applicants how they came to pursue this business. He asked whether they saw the problem of withholding information and the significance of the information on whether that had bearing on their suitability to manage a significant item like a liquor license.

Tamara Ramirez replied that regarding the information she did not list in the application, she asked about it and was told that anything that had to do with drugs, alcohol and traffic violations were all she had to list in the application. She restated that she asked about it, but was told that she did not have to list that information.

Council Member Leal asked her who gave her that information.

Tamara Ramirez said it was the dark haired lady from the Liquor Board, when they went to file the original application. Again, she said she asked about it, but was told she only needed to list anything that had to do with drug and alcohol and there was no drugs or alcohol involved.

Council Member Leal told Ms. Ramirez he appreciated her explaining that. However, he said that was an issue they had to deal with, because that was an incorrect interpretation of the law. That was not her fault, but he was concerned. That still left the remaining issue of her telling the police she was driving the car and asked her to tell them about that.

Tamara Ramirez replied she was scared, she was younger. She has matured a lot more since then and they have been through a lot more. They know how to run a liquor store. They know how to manage a place like that. She was a bartender right now. She knows how to cut people off. She has taken the classes. Other than that, it was a mistake she made before and apologized for it now. She hoped the Council would not take that against them. She has matured since then.

Council Member Leal told Tamara that the license, if granted, would be under her sister's name, but she was also saddling her with half the responsibility of this being done in an appropriate way. Council Member Leal said he would stop the questions now and he knew there was a protester present. He called on Pat Martin.

Pat Martin said she was representing the Myers Neighborhood Association as their liaison to business and government and the Twenty-Ninth Street Coalition, as one of the steering committee members. She has resided in Tucson since 1961 in the same neighborhood. She had some concerns about this transfer of license for several reasons. That particular location had been in and out of business for the last several years. Even when the owners had an ongoing license, they closed down for a while and reopened later for various reasons. She believed the sisters had a true lack of business experience to run a liquor store. Also, when they met with them earlier, there was a lack of enthusiasm on their part for making it a gung-ho success. Ms. Martin said she did not see any sign that they were enthused or excited about it. There has been no improvement or cleanup inside the store, no changes on the outside of it to make it attract customers. The hours were set, but they were not keeping them. For instance, she said someone went at 8:00 p.m. on Sunday. They are supposed to be open until 10:00 p.m., but they were closed at 8:00 p.m. There was no telephone on the site or if there was, they do not answer it.

Ms. Martin added that both owners were also working other jobs, full time or a little less. On the application map, there was a charter school that was missed, which was within the mile. Ms. Martin said the applicants did not have a scanner yet to help them detect fraudulent licenses. She said the applicants say they checked everybody's identification, but without the scanner to help them, that was pretty difficult these days. Ms. Martin said that for those reasons, she did not believe the best interest of the community would be to issue the license transfer, based on the capability and qualifications of the owners.

Council Member Leal told Ms. Martin that as he understood it, there were a number of phone calls made to try to do outreach to the applicants, by default, given that they had not tried to contact any of the neighbors or his office.

Ms. Martin replied that was right. She said she called at least four times and finally gave up. Then Council Member Leal's office called and they realized that it might be helpful.

Council Member Leal said his office had to insist that there be a meeting.

Ms. Martin said that when they went to the meeting, the applicants were not prepared for them, even though they knew they would be coming at a certain time. She just did not see any great willingness to cooperate with the neighborhood or to work with them on the terrible issues that the neighborhood has. Alcohol problems was one of their basic crimes in the area, along with domestic violence and violent crimes, all of which were highly influenced by alcohol sales being so easy to get to.

Council Member Leal thanked Ms. Martin for her comments. He said that as a society, they want to be optimistic about opportunities for people. They want to be enthusiastic about seeing children progress and succeed in ventures and careers. But given the significance of what a license is about and a past history, though it may be

youthful, on withholding extremely significant information, not only withholding information but lying to the police, and the fact that there was no willingness to communicate with the adjacent neighbors or his office. He noticed that Ms. Ramirez was shaking her head and asked her to come forward.

Tanya Ramirez responded that when Ms. Martin was calling her to set up a meeting, they both had to work around their schedules also. When she brought it up to Ms. Martin, saying that the morning would be perfect, they had their schedules to work around also. Finally when Council Member Leal's office called her, she was totally agreeable. She was agreeable with Ms. Martin from the beginning. The evening was better for the neighborhood, but it was not better for the applicants. They were not avoiding the neighborhood representatives. Every time she received a call from Ms. Martin, she would answer the phone, but there may have been a couple times when she was busy. She was trying to make it so she could figure out her schedule and also her sister's schedule. She said Ms. Martin was right in stating that they both had other jobs; they were trying to help themselves and the business. She hoped the Council would not take her sister's past mistakes under consideration on their business. They have run a restaurant for many years and knew the responsibilities. They should take under consideration that on Sunday, they also had other things to do, but that was one day. That should not be taken against them.

Council Member Leal said that under the circumstances with this license, he would recommend that this application also be sent forward with "no recommendation". There were some questions and he thought that to give the applicants the benefit of the doubt, that would be his recommendation.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 6 to 1 (Council Member Dunbar dissenting), that liquor license application 5b3, Windsor Drive-In Liquors, be forwarded to the Arizona State Liquor Board with "no recommendation".

b. Person/Location Transfer

4. Club Turbulence, Ward 5
6608 S. Tucson Blvd.
Applicant: Rosina Fleck
Series 6, City 04-05
Action must be taken by: March 6, 2005
Staff Recommendation: Police, Development Services, and Revenue in compliance.
Public Opinion: Protests Filed
Supports Filed

Kathleen S. Detrick, City Clerk, announced the final application to be considered separately was item 5b4, Club Turbulence, 6608 S. Tucson Boulevard. This was a person/location transfer. This application had a staff recommendation for approval, however, protests and support letters had been filed. The license is located in Ward 5.

Mayor Walkup recognized Council Member Leal.

Council Member Leal said there was an applicant, their attorney and three other speakers who wished to address the Council on this item. He asked the applicant or the attorney to come forward and said they would then hear from the Tucson Police Department. After hearing from the Tucson Police Department, they would call on the other speakers.

Jerry Lewkowitz said he was the attorney representing the applicant. The agent was not there because she was ill, but her brother who had been helping her for years at the Airport Inn was there. Mr. Lewkowitz said they have run the Airport Inn for fifteen or twenty years. The Airport Inn was located on a well-traveled street, Valencia, and they have never had a violation at that location. They were reliable, capable and qualified to hold a license. They had an ownership, along with the owner who was present and would testify before the Council. They were now seeking to have an ownership in Club Turbulence. If this license was recommended for approval both by the Council and the Arizona State Liquor Board, Club Turbulence would open. They had a certificate of occupancy, which was issued by the City of Tucson. If they did not have a liquor license, they were scheduled to open on February 23, 2005. Under the provisions of the zoning law, it does not prohibit the opening of the 'all nude,' 24-hours a day. They could be open 24 hours or they could open late hours and anybody over eighteen years old would be the limit. Also, there would be no limit as to the dress. If they had a liquor license, the City would have control. With a Series 6 license, no one under the age of 21 would be allowed on the premises. It would be a violation if they were. In addition, the hours would be limited by the Arizona State Liquor Board, as well as the dress code. There would be a win-win situation in that it could be controlled. But even more of a win-win for the Council, he thought and proposed the following. The Airport Inn had a Series 6 license. They were transferring that license over to the Club Turbulence, with the Council's approval. If the license was transferred, it would be structured so that the property of the Airport Inn would be purchased by Ms. Lane and there would be a covenant or restriction that would be filed and recorded so that another liquor license would not be placed in that bar. He thought that was important, because in the past he knew the Council was concerned about saturation. He said they were not adding a license. In effect, they were just transferring it.

Mr. Lewkowitz said that although he had read the protest letters of the exposure and all, the Club was three hundred forty feet set back from the road. It was a very attractive building. It was already built. It would seem to him that it would be more desirable than having the Airport Inn and the Club Turbulence, which was scheduled to open as all nude. They were all trained. He added that Rose Fleck was the agent. She was ill and was not there, but everyone was trained. They have not had a violation at that

particular location. According to City staff, as the agenda related, moved forth that they were all in compliance. There was nothing against them.

Mr. Lewkowitz believed Rose was there initially, because she helped with the applicant's questionnaire. He believed many years ago she had a charge of disorderly conduct and that charge was dismissed. She amended the application question, because sometimes they received good advice from lawyers and sometimes it was bad advice. He said he was known for the latter. He proceeded to state she amended the application, and gave a copy of the dismissal. The liquor department was satisfied with that. To his understanding, so was the City's Police Department, because as the agenda said, they were in compliance. He just felt that they were not going to saturate by having an additional license. The Airport Inn would become a nice retail store with the restriction and covenant filed if the license was issued. If not, the license would remain with the Airport Inn, they would continue in business and the Club Turbulance would open as an all-nude establishment.

Mr. Lewkowitz said he would be happy to answer any questions. He added that Constance Lane was also available to answer questions.

Council Member Leal told Mr. Lewkowitz he might have some questions for him, but first he had a few questions for Ms. Lane and asked her to come forward.

Constance Lane said she resided just outside the city limits of Tucson, but she owned property in the City.

Council Member Leal said there were three things he wanted clarified. First, he asked her to give the Council a sense of how she got there with the application, why she chose this way to solve their business problem.

Ms. Lane said she could read a prepared statement and with Council Member's approval, she proceeded to read her statement. In her statement, she stated she came before the Council as the owner of Club Turbulance to ask the Council to approve the liquor license transfer from the Airport Inn to Turbulance. She lived in Tucson all her life and watched it grow. Her father, herself and her daughter were University of Arizona graduates and this was her home. She watched a hotel on Broadway become El Con Mall and laughed when Park Mall was built because it was so far out east. She rode horses with friends on Sabino Canyon Road, over to Rancho Del Rio and watched that become the Tack Room. Now that was gone as well. As a young adult, she wanted Tucson to have an upscale dinner club, but the timing was not right. But now in 2005, Tucson was no longer a small town, with only its cowboy heritage and sunshine as a claim to fame. Tucson was a town known for its golf courses, its resorts and tournaments. The Gem and Mineral Show, Rodeo, Spring Training and military bases were world renown.

Ms. Lane continued that the timing was right for this club. The planning and location were well thought out before she undertook this endeavor. A gentlemen's club that was clean, modern and upscale could enhance the City's reputation as a tourism and

business destination. The travelling dollars did not need to go to California nor even to Scottsdale, but they could stop in Tucson. The Airport Inn was a small neighborhood bar that had seen better days. The owners would like to transfer the license to a new secure location. With that transfer comes years of experience in the liquor industry as her partners. She was aware that the Council received letters of protest, along with letters of support. She read the protest letters and many of them referred to her new business in terms of drugs and prostitution. She tried to contact some of the protestors and met with the Sunnyside Neighborhood Association last year. She also met with Council Member Leal several times to discuss the matter.

Ms. Lane said the manager of the Clarion, also a liquor license establishment in the area, told her in no uncertain terms that the difference between his license and her potential license was the fact that she would have naked dancers and his did not. The entertainment in her Club was a First Amendment issue. It was not up for debate. It was properly zoned in an industrial area of the City, meeting the zoning requirements. Several letters also cited medical studies referring to the debilitating effects of alcohol on society. If that was to be the basis of the consideration of her license, then all establishments selling alcohol should be closed down.

Ms. Lane said the simple facts were that she, a woman, a resident of Tucson all her life, a member of several women's political committees and a mother of two, had built a beautiful, clean modern establishment, with the intent of helping to grow the local economy. The Airport Inn was an older business and would like to contribute to a safe responsible Americans Disability Act (ADA) compliant business and the license transfer would accomplish that. In conclusion, she said the license transfer from the Airport Inn to Club Turbulance would move the liquor establishment and the resulting traffic further away from the growing Sunnyside community and its neighborhoods, to the benefit of all parties concerned. The question before the Council was not if she would open with adult entertainment, but would she operate as an eighteen and over facility or twenty-one and over with alcohol and the Fleck's years of experience.

Ms. Lane said that with this license transfer, she could finalize the purchase of the Airport Inn, imposing the restrictive covenant on their property so no further alcohol would be at that site. She thanked the Mayor and Council for listening and asked if they had any questions.

Council Member Leal said he was glad they gave her the opportunity to give her overview. It raised a question for him. It was not clear to him why she was not the applicant and why Rosina Fleck was the applicant. He asked her why.

Ms. Lane responded that Ms. Fleck was the agent on the license. She had the liquor license now and would go over and become her partner.

Council Member Leal concurred that Ms. Fleck had the license now. He then recognized Ms. Lane.

Ms. Lane said it was simply a transfer. It was not adding to any more liquor licenses in the area.

Council Member Leal said he was not asking that question. He said that her background, as he understood it, was eighteen years in veterinary work.

Ms. Lane replied that she worked in a pet clinic and her family owned a manufacturing business for one hundred years.

Council Member Leal said that then the person with the background on managing a liquor license was Rosina Fleck.

Ms. Lane replied "yes."

Council Member Leal said he was going to stop with his questions for now, but he might have other questions for her. He called on the three other individuals who requested to speak. The first speaker was Yolanda Herrera LaFond, who would be followed by Scott Posvistak and then Scott Zachary.

Yolanda Herrera LaFond said she was before the Council on behalf of not only the Sunnyside Neighborhood Association, but also the Southside Neighborhood Association's Presidential Partnership (SNAPP). As her letter stated, there was not a real active neighborhood association around that area. Therefore, she felt they had legal standing under the fact that the Southside Neighborhood Association's Presidential Partnership (SNAPP) represented the southside neighborhood areas and neighborhoods.

She apologized to the Council noting she did not write anything down and said she would like to go off the cuff. She continued that this was a serious issue for them. The Council heard the applicants say they would not be adding another license. Since the application came before the Council under a fairly similar name a year ago, they have since just changed the address by only two numbers. It originally came before the Council at 6610, and now it was before the Council as 6608. Their concern that would lend itself to capability, qualifications and reliability, was that she did not hear the applicants actually answer any of Council Member Leal's questions. She said that was a concern for them, again leaning towards capability, qualification issues. Ms. LaFond said the applicants did not meet with the Sunnyside Neighborhood Association. She did in fact just meet with her at Council Member Leal's office one time. She knew they had been working on this for quite a number of months, maybe even almost a year. The applicants had plenty of opportunities to not only come before the Sunnyside Neighborhood Association, but the Southside Neighborhood Association's Presidential Partnership (SNAAP). That never transpired. Again, she said that was a great concern for her.

Ms. LaFond said she had in front of her a petition or letters that the Council received in support. She told the Council that if they looked at the majority of the addresses, they did not come from their area. Maybe one-fourth of them did. That meant

that those individuals would be travelling through all the southside streets and into all the Wards in the City, and the beautiful Downtown Rio Nuevo. That was the other image they were concerned with.

Granted, it might not be adding another liquor license to the area, but they did have a commission that was looking at the underage-drinking situation, which was another area they were addressing. With the underage-drinking issue, they were sending the message to the children that it was okay to continue drinking. What they had done, maybe they were not adding another one, but they grouped them even closer, as far as the liquor establishments. There had been another one added since the last time they came before the Council.

Ms. LaFond said that just for the record, the Sunnyside Neighborhood Association and Southside Neighborhood Association's Presidential Partnership (SNAAP) did not always oppose. They did pick and chose their battles. That was very important to put out on the table. Just for the record, she said she was not a 'teetotaler'. She enjoyed her beverages on occasion, but from her house or with a designated driver.

Ms. LaFond continued that the Airport area had a lot of traffic. They have had a lot of crime in that area. They have found dead bodies close to that area, all because some of it was still not developed. A lot had to do with the fact that the Airport restrictions did not allow for development. She concluded by saying the needs and convenience would not be better served by the issuance of yet another liquor establishment. This was a location and it was adding another one. They would like to see some liquor establishments eliminated to help recover some of the property values in that area, maybe reduce some of the crime and garbage.

Ms. LaFond asked those in attendance to stand if they were also supporting the denial of the liquor license. She noted that there were members of the business community and they were talking about redevelopment. She did not know how the City could redevelop areas if they are just increasing crime. Therefore, she said they respectfully requested that the Council deny this liquor application on behalf of the good of Tucson.

Council Member Leal called on Scott Posvistak.

Scott Posvistak said he was the General Manager of the Courtyard by Marriott at the Airport and also the Business Council chair for all the Marriott properties in Tucson. He also served on the board of the Metropolitan Tucson Convention and Visitors Bureau (MTCVB). Their hotel was located directly across the street from Club Turbulance. He has been in Tucson since 1988. He has been the General Manager of the Courtyard by Marriott for twelve years and has been the General Manager in Tucson for sixteen years. On behalf of Marriott International, his staff and his guests, he spoke in opposition to the liquor license application.

Mr. Posvistak said they were concerned with increased traffic down the street. There was no crosswalk and they envisioned issues there where their guests would try to attempt to pass Tucson Boulevard across the street to Club Turbulance and returning from the Club. That would present safety problems for their guests and also for drivers going down Tucson Boulevard. They also envisioned security problems at the hotel for the increased traffic and traffic coming back from the club, which would be a financial burden on their hotel as well. As far as the Club addressing that they would be stimulating the economy, he did not think that was the type of business needed in the community. It would directly impact their hotel. Mr. Posvistak urged that the Mayor and Council deny their application for the liquor license transfer.

Council Member Leal called on Scott Zachary.

Scott Zachary was representing JBR Companies and owned a number of properties in town, which included two hotels at the Airport. One hotel was the Clarion, which he was proud to admit to along with some undeveloped property. He said he was going to talk about history and economics. In 1999, he believed the City passed Ordinance 441. He did not know if the Council remembered that ordinance, but one of the items on Ordinance 441 was to help prevent criminal activities and allow the police access to hotels and the information about the guests in those hotels to prevent various types of criminal activities. The Council could imagine which ones those were directed at. He believed it was expressly stated.

Mr. Zachary said his hotel would become a self-fulfilling fantasy for that ordinance, if the license was allowed to go forward. On the economics, he said he was trained on economics in Notre-Dame and it was economic development. For a brief moment he wanted to say that if Tucson was a book and each of them were pages, and each of those areas were chapters, the Airport area would be the cover illustration. If that was what the Council wanted in their cover illustration, he made a mistake about where he lived. But he did not think that was what the Council wanted. He had been very proud to be part of Tucson. He had been very proud of what the Council had accomplished and what the Council had helped them do. They acquired some properties in that area to try to fulfill what that area could be as a gateway. If the Council wanted to see an example of how a gateway should not be developed, then they should drive up to Van Buren. The City of Phoenix offered them as developers one million dollars to take over one of those bombed out Beirut buildings there. After careful study, they decided they could not keep it going for three years and they refused. They were a Tucson force. They had many development plans. But it would be very difficult for him to go to their investors and the interest that they represent and tell them that their return on investment would be well vested in Tucson. The cycle of investment could be seen at Van Buren and Washington ninety miles to the north. He concluded by saying he was very proud to live in Tucson.

Council Member Leal called on Ms. Lane. He told her he gave her a break in her testimony to hear the other speakers, so she would have the benefit of hearing that. He

asked if there was anything she wanted to respond to, she could now before he pursued some other questions with her.

Constance Lane, the property owner, said she thought it would be a great idea. The City zoned that part of Tucson for that type of establishment. If they were concerned about her establishment being there, then their concern was with the zoning laws, not with her. The fact was that if she did not have a liquor license, her business was going to be there anyway. Denial of the liquor license would not stop it.

Council Member Leal referred to Mr. Lewkowitz's comments and said he was a soft speaker. He was not sure he heard everything he said with regard to why she withheld information on the application with regard to her criminal history. He asked if that was advice she was given by an attorney.

Ms. Lane said she did not do that.

Council Member Leal said he must have misunderstood and called on Mr. Lewkowitz.

Mr. Lewkowitz clarified that he mentioned that for the applicant/agent, Rosina Fleck. Ms. Fleck was the one who had a charge of disorderly conduct many years ago, which was dismissed. Prior to even disclosure, she realized that and filed an amendment along with the dismissal papers.

Council Member Leal called on Ms. Lane again. He said that about a year ago the first attempt to secure a license for that business activity failed. When a second application came in from different people, it was not for a new license, but for a location/transfer. He asked her if that was correct.

Ms. Lane asked if that was for the previous applicants that tried to do that.

Council Member Leal clarified that the first applicants wanted a new license, which failed. Ms. Lane then came a year later for a location/transfer, transferring the license from the Airport Inn to their location at Club Turbulance. He said that during perhaps the second or third meeting they had in his office with Ms. Lane and Ms. Fleck; and he was trying to get a better understanding of the partnership that had been created and would be in place to run the business and manage the license. At that time, he asked Ms. Lane what the split on the license ownership would be, and asked her again what her response was.

Ms. Lane replied that the split would be ninety five percent and five percent.

Council Member Leal said that gave him some concern, that the ninety five percent would be hers and the five-percent would remain with Ms. Fleck. That seemed strange for two reasons. Ms. Fleck was the applicant only having five-percent and Ms. Lane was having ninety five percent, but she was not the applicant. The second thing that

gave him concern was that it no longer seemed adequate to him that she pursued this with a location/transfer. The reason was because it also seemed to him that what they had uncovered in their conversation was that it was also a person to person transfer in effect. After that, she concurred and changed the paperwork to reflect that.

Council Member Leal continued that when Ms. Lane was at City Hall on one occasion, he believed she was in the City Clerk's Office, she was talking to staff person, Ms. Moody. He said she might not even have known the woman's name. But in discussing her plans, Ms. Lane mentioned to this person that as soon as the deal was over she would be buying the other five percent. Council Member Leal asked if Ms. Lane had a recollection of this conversation.

Ms. Lane replied 'no', and said there was a contract in place and Ms. Fleck had five percent.

Council Member Leal stated that Ms. Moody had recollection of that conversation.

Ms. Lane again responded 'no', and repeated that Ms. Fleck had five percent and it would stay that way. She also mentioned that the operating agreement showed that. It would never be dissolved.

(Several speaking at once wanting to know if there was a motion on the table.)

Council Member Leal said there was no motion yet.

Council Member Leal asked Mr. Lewkowitz if he had anything he wished to add.

Mr. Lewkowitz wanted to add that they brought an aerial photo to show the Council. He showed the location of the Club. He also pointed to the Airport Inn and showed that it was closer to the High School, which was a concern before. He said that the Sunnyside District was not even on the map. In talking with her, she did attempt to talk to Ms. Herrera LaFond and was told that she would call back, that she represented the president. He said this was a person to person transfer as well as a location/transfer, because it was going from an entity, the Airport Inn, to an entity with Ms. Lane and Ms. Fleck as the owners. But it was the location/transfer he felt that was important. He did not think they were there to argue the morality of it, because they were talking about a liquor license and whether they were going to impact as they tried to last time by adding a license. This way, they would be protected on the Airport Inn property and they would not be impacting or saturating the area with an additional license. He thanked the Council for their time and apologized for interrupting them.

Council Member Leal said it was important that they took the time to deal with the issue. He knew it was tedious. He knew there was a lot of background. But he thought it was important that they provided everyone an opportunity to bring their testimony to bear and the facts and issues to bear. Council Member Leal said that when

this was brought forward to them initially a year ago, it came forward as a new location and the saturation issue was paramount at that time, given what was being requested. Now, it came forward as a location/transfer and he had to take that at face value until he understood otherwise.

Council Member Leal stated that in a person to person transfer, issues of qualifications and suitability become the primary issues, as opposed to saturation. There were things that had occurred in the carry-forward of this issue that were very disturbing to him. The things that had come about had to do with misrepresenting the facts, he thought. When those facts are misrepresented to him, they are misrepresented to the people of Tucson and that was who they were being asked to trust in this situation.

Council Member Leal said that when the applicants came forward saying it was simply a location transfer, they knew there was a partnership. Not only knew that there was a partnership but knew that partnership was ninety five percent and five percent, and the person keeping the five percent person was the person who started out at the Airport Inn. The next iteration of it would be to have that potentially gone altogether. He said he had to wonder if the reason Ms. Fleck was the applicant and not Ms. Lane was that Ms. Fleck was the only one with a background in this, even though she was not the one who would be the ninety-five percent owner. Council Member Leal said that this to him was very serious. He thought that those who would withhold information for their own personal ends, be it financial and otherwise, should not be trusted with significant issues like a license that could have an impact on a community. This was not like the average license. This was probably the hardest type of facility to manage right. For those reasons, he did not think that qualifications and suitability to manage were present.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 7 to 0, that liquor license application 5b4, Club Turbulence, be forwarded to the Arizona State Liquor Board with a recommendation for denial.

6. CONSENT AGENDA ITEMS A THROUGH J

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. CITY CLERK: AUTHORIZATION FOR REGISTRATION OF SERVICE MARKS USED BY THE TUCSON FIRE DEPARTMENT

1. Report from City Manager FEB15-05-75 CITY-WIDE

- B. ASSURANCE AGREEMENT: (S03-025) RILLITO CROSSING CORPORATE CENTRE CONDOMINIUM UNITS 101 TO 132, 201 TO 212, AND COMMON AREA “A”
1. Report from City Manager FEB15-05-76 WARD 2
 2. Resolution No. 20009 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in case No. S03-025 of a final plat for the Rillito Crossing Corporate Centre Condominium, Units 101 to 132, and 201 to 212, and Common Area “A”; and declaring an emergency.
- C. FINAL PLAT: (S03-025) RILLITO CROSSING CORPORATE CENTRE CONDOMINIUM UNITS 101 TO 132, 201 TO 212, AND COMMON AREA “A”
1. Report from City Manager FEB15-05-73 WARD 2
 2. The City Manager recommends that, after the approval of the assurance agreement, 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.
- D. REAL PROPERTY: ACQUISITION OF PROPERTY FOR A BOOSTER SITE TO PROVIDE RECLAIMED WATER TO THE ORO VALLEY AREA
1. Report from City Manager FEB15-05-79 OUTSIDE CITY
 2. Resolution No. 20010 relating to real property; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary certain real property located northeast of Thornydale Road and Overton Road to provide a booster site to facilitate the provision of reclaimed water to the Oro Valley area; and declaring an emergency.
- E. SETTLEMENT AGREEMENT: WITH PIMA COUNTY FOR TERMINATION OF A LEASE OF PROPERTY LOCATED AT 406 NORTH CHURCH AVENUE
1. Report from City Manager FEB15-05-78 WARD 1
 2. Ordinance No. 10117 relating to real property; authorizing and approving a lease termination with Pima County for the real property located at 406 North Church Avenue; and declaring an emergency.

- F. REAL PROPERTY: RIGHT-OF-WAY ACQUISITION – STONE AVENUE SOUTH OF SPEEDWAY BOULEVARD FOR A BUS PULLOUT
1. Report from City Manager FEB15-05-74 WARD 1
 2. Resolution No. 20011 relating to real property; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, certain real property for right-of-way purposes along Stone Avenue south of Speedway Boulevard for a bus pullout; and declaring an emergency.
- G. REAL PROPERTY: SALE OF WATER WELL SITE C-099 TO THE TOWN OF ORO VALLEY
1. Report from City Manager FEB15-05-77 OUTSIDE CITY
 2. Ordinance No. 10118 relating to real property; vacating and declaring certain City-owned property located at Lot 73, Shadow Mountain Estates, Tucson, Arizona, to be surplus, and authorizing and approving the sale thereof to the Town of Oro Valley; and declaring an emergency.
- H. REAL PROPERTY: FIRST AMENDMENT TO LEASE WITH MYGRANT GLASS COMPANY, INC. FOR PROPERTY LOCATED AT 1310 WEST MIRACLE MILE, SUITE 130
1. Report from City Manager FEB15-05-83 WARD 3
 2. Ordinance No. 10121 relating to real property; authorizing and approving the First Amendment to the lease with Mygrant Glass Company, Inc., a California corporation, for real property located at 1310 West Miracle Mile, Suite 130, Tucson, Arizona; and declaring an emergency.
- I. APPROVAL OF MINUTES
1. Report from City Manager FEB15-05-85 CITY-WIDE
 2. Approval of minutes for the regular meetings of the Mayor and Council held on October 18, 2004 and January 11, 2005.
- J. GRANT AGREEMENT: WITH THE STATE OF ARIZONA FOR THE OVERSIGHT COUNCIL ON DRIVING OR OPERATING UNDER THE INFLUENCE ABATEMENT GRANT PROGRAM
1. Report from City Manager FEB15-05-82 CITY-WIDE

2. Resolution No. 20012 relating to law enforcement; approving and authorizing execution of a Grant Agreement between the City of Tucson and the State of Arizona for the Oversight Council on Driving or Operating Under the Influence Abatement Grant Program; and declaring an emergency.

It was moved by Vice Mayor Dunbar, duly seconded, that Consent Agenda Items A through J, be passed and adopted and the proper action taken.

Upon roll call, the results were:

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

Nay: None

Consent Agenda Items A through J 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 items scheduled for a public hearing. Speakers would be limited to three-minute presentations. He asked if there was anyone in the audience wishing to address the Council.

- a. Genny Gaus and Andrea Richardson, along with a group from Planned Parenthood, thanked the Mayor and Council for supporting the “Condom Vending Machine Program” and noted that it was “National Condom Week”.
- b. Servant Bishop Chicago announced that Saturday, February 26, 2005, the Peace Fair and Music Festival would be held at the Reid Park Band Shell.
- c. Bob Ohlfest, representing “Citizens Against Forced Annexation,” noted his concern with the idea that water and annexation policies were related.
- d. Joseph Trudel shared his concerns relating to the appointments to and the meeting schedule for the Citizens Commission on Public Service and Compensation for the Mayor and Council.
- e. Yolanda Herrera LaFond invited the Mayor and Council and all members of the Executive Leadership Team to a cleanup of the Sunnyside Neighborhood to be held Saturday, March 5, 2005 at 7:30 a.m.
- f. Michael Toney spoke regarding the University of Arizona Science Center.

g. Robert Reus noted his concerns with the process used to hire a City Manager. He also voiced his opposition to Tucson Water doing reclamation of sewage into the main water supply.

8. BOARDS, COMMITTEES AND COMMISSIONS: EXPANSION OF THE ENVIRONMENTAL SERVICES ADVISORY COMMITTEE (ESAC)

Mayor Walkup announced City Manager's communication number 84, dated February 15, 2005, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10120 by number and title only.

Ordinance 10120 relating to Environmental Services; ratifying and reaffirming the establishment of the Environmental Services Advisory Committee (ESAC), previously established by Resolution 18893 and given its current name by Resolution 19682; expanding ESAC's membership from seven to thirteen voting members; specifying the appointment process for voting members; creating additional required and suggested qualifications for members appointed to ESAC after the enactment of this ordinance; defining ESAC's functions, purposes, powers, and duties; and declaring an emergency.

Mayor Walkup recognized Council Member Leal.

Council Member Leal said under the circumstances and with the changes that would be coming about, he thought it would be prudent for them to wait until Mr. Hein came on board to participate and see if he would change it in any way.

Mayor Walkup recognized Council Member West.

It was moved by Council Member West, duly seconded, that Ordinance 10120 be passed and adopted.

Mayor Walkup asked if there was any further discussion.

Council Member Scott asked for the record, if the current committee had been asked if this was on line with what they had.

David Modeer, Utility Services Director, responded that they had been asked and they were in favor.

Council Member Scott asked if the Environmental Services Advisory Committee ever put into writing their thoughts about the merging of the City's Water Department with Environmental Services.

Michael Rankin, City Attorney, advised the Mayor and Council that he did not think that was within the scope of the item, with respect to how it had been placed on the agenda.

Mayor Walkup recognized Council Member West.

Council Member West commented this was one of the things she felt would be good, because they would be looking at rates and all those kinds of things. One of the things that had not happened in the past was that any appropriate programs introduced to Mayor and Council also be given to ESAC. She hoped that David Modeer, Eliseo Garza and Karen Thoreson would be sure that it be done. She knew there was a difference between administrative personnel changes and programs. Getting their input was needed because a lot of those members had expertise in that area, which was very important. That was the only suggestion she had. Otherwise, she thought increasing the membership was a good idea. Whether Mr. Hein was there or not, she said that was something the Council had already voted on and was something the Council needed to bring forward.

Mayor Walkup recognized Council Member Leal.

Council Member Leal said one problem with that really got to the heart of what citizen advisory committees were about. They were there to create an alternative perspective from what was happening within the institution. He thought they would lose the opportunity to fully benefit from that when the institution itself was selecting the majority of the members on the advisory committee. It then would start to become what people call the manufacturing of consent. Secondly, Council Member Leal thought when the City Manager had the authority to appoint citizens to committees to help the government, that it would be kind of a political act itself and thought that it was a trespassing of sorts. He felt there had been a tendency towards that in recent years in the City and it was a bad trend. He commented that the appointments should come from the Mayor and Council and not from staff. That was why he felt it was inappropriate.

Mayor Walkup recognized Vice Mayor Dunbar.

Vice Mayor Dunbar said her comments would be very short. She was concerned that this was not discussed at a Study Session, to go through everything they were doing. She commented that she had asked many times in the past not to have items just put on the agenda and passed. She felt what was happening on the dais should have been discussed at Study Session and should have been at a Mayor and Council Subcommittee, so they could bring it forward. She agreed with most of the things in this item. She thought it was important to point out that the Council was looking for some real professional people. It was not just a matter of appointing someone who was interested. They would have to bring a certain expertise to the committee. They would have to have some kind of a background in solid waste management and planning, or business management, or financial analysis. She reiterated that there were several things mentioned that she agreed with. The one thing she felt was extremely important was that in the past, members of the committee had to live in the City. With the change now, they could live in the City or they could have a business. In other words, the Council says a commercial customer, but in other words, they owned a business in the City, so they would be vested. There were a lot of good things in this, but again, as she mentioned

earlier, they should have discussed it at the Study Session table. They should have had the chance to discuss this issue and not just at the Regular Meeting. She commented that she would support this motion.

Mayor Walkup recognized Michael Rankin.

Michael Rankin, City Attorney, commented that Section 3 of the ordinance provided that any person appointed as a member of ESAC after the enactment of the ordinance, shall be a resident of the City and a residential or commercial customer of Environmental Services. So he said it was an “and” under the materials.

Vice Mayor Dunbar read from the materials and noted that it stated “it was recommended that members of ESAC be either residential or commercial customers of Environmental Services.” She said it could not be “and”, it had to be “either/or”.

Mr. Rankin pointed out that was how the ordinance in front of the Council was written. So, if it was the desire of the Council that it be an “either” rather than an “and”, then they would reflect that in the ordinance.

Council Member West stated that was not her desire. She said this was a City service and the people who were serving on the committee should be City residents.

Vice Mayor Dunbar responded that except when they have a business in the City, they would be a customer because they would be paying commercial fees in the City.

Council Member West disagreed, they would have the option of going with Waste Management or several different companies. They would not be qualified to serve because they would not partake of the City’s services.

Vice Mayor Dunbar replied that the committee discussed that and the committee wanted an “either/or.”

Mayor Walkup asked if there was any further discussion.

Vice Mayor Dunbar said her vote would change if the vote was not an “either/or”, because the materials in front of the Council stated it was “recommended that members of ESAC be residential or commercial customers of Environmental Services.”

Council Member West said she could accept that, because if they were commercial customers of Environmental Services, but decided not to be with Environmental Services any more and joined with Waste Management, they could not be a member.

Mayor Walkup said he thought Council Member West agreed to put that under those conditions.

Council Member West said that if they dropped their service with the City, then it would seem to her that they would not have any standing anymore.

Mayor Walkup called on Michael Rankin, City Attorney, and asked if he could help them with this.

Mr. Rankin said he just wanted to make sure what their desire was on the final ordinance. So, if it was part of the motion that the membership criteria read along the lines that “the members of ESAC shall be either residential or commercial customers of Environmental Services”, then they could substitute that language into the existing Section 3 of the ordinance in front of the Council and take out the language that had the specific requirement that they be a resident of the City.

Mayor Walkup asked Council Member West if that was agreeable to her.

Council Member West said “yes.”

Mayor Walkup asked for a roll call on the motion to pass and adopt Ordinance 10120.

Upon roll call, the results were:

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

Nay: Council Member Leal

Absent/Excused: None

Ordinance 10120, with the amendment articulated by the City Attorney, was declared passed and adopted by a roll call vote of 6 to 1.

9. CITY CLERK: APPOINTMENT OF CITY CLERK

Mayor Walkup announced City Manager’s communication number 70, dated February 15, 2005, would be received into and made a part of the record. He requested the City Clerk to read Ordinance 10119, by number and title only.

Ordinance No. 10119 relating to City Clerk; appointing a City Clerk; and declaring an emergency.

Mayor Walkup asked the Council’s pleasure.

It was moved by Council Member Ibarra that Ordinance 10119, appointing Kathleen S. Detrick as City Clerk for a new term, be passed and adopted.

Mayor Walkup asked for discussion prior to voting on the item. He called on Kathleen S. Detrick, City Clerk.

Kathleen S. Detrick, City Clerk, thanked the Mayor and Council for the opportunity to make brief remarks. She wanted to tell them a couple of things they had been doing in the City Clerk's Office, because she felt they have had a very exciting couple of years since her last appointment.

Ms. Detrick said they have reorganized the office to try to address some of the issues that the Council had regarding the City Clerk's Office. They were trying to provide for more opportunities for their employees. They have established a much greater cross-training program. The approach taken by the City Clerk's Office was that succession planning begins the day an employee walks into the office. All employees whether they wanted to stay in the City Clerk's Office or if they wanted to move onto other jobs, the City Clerk's Office wanted to prepare them for that. To her, that was probably the major path that had changed in the City Clerk's Office. They have just begun and have a long way to go, but they have made some advancement.

She added that her employees got together last summer and actually decided to create a Performance Management System for the City Clerk's Office. This was a complete system. It had all sorts of things about each individual's job and it gave them goals and it gave them ways to accomplish those goals. She was very proud of the Performance Management System that her employees produced on their own.

The reorganization has allowed the City Clerk's Office to do a number of things. Some of the things were things that they have just seen recently, which was converting their antiquated Boards and Commissions Program so that it was more user friendly. They were now online with that program. It was in real time, so when the Council makes appointments, the City Clerk's Office gets to update it right away and everyone was able to see those changes.

Ms. Detrick continued that Mayor and Council minutes were now online. The City Clerk's Office was hoping to get Boards and Committee minutes and agendas online as well in the near future.

Finally, in their Records Management System citywide, they were really re-energizing that system. They have started to do roundtables. Ms. Detrick said she had a very progressive Records Manager, who has reviewed the records retention schedules throughout the departments. They were trying to move forward with that. They have also become involved statewide so that they are a player in some of the issues regarding storage mediums and those types of things that have plagued cities and other jurisdictions across the nation for some fifty years.

Mayor Walkup asked if there was any further discussion.

Council Member West noted that the City Clerk was terrific.

Mayor Walkup called on a roll call on the motion:

Mayor Walkup added that before casting his vote, he wanted the City Clerk to know they all appreciated everything she has done. She was a superb member of the team called the City of Tucson. Without her, they could not have done everything they have done over the past several years, improving how they operate. The efficiency and effectiveness of the Council was in large part a measure of the capability of the City Clerk's Office. Again, he said they appreciated everything Ms. Detrick had done to get them home early.

Upon roll call, the results were:

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

Nay: None

Ordinance 10119, appointing Kathleen S. Detrick as City Clerk was declared passed and adopted by a roll call vote of 7 to 0.

10. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

Mayor Walkup announced City Manager's communication number 71, dated February 15, 2005, would be received into and made a part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member Scott, duly seconded, and carried by a voice vote of 7 to 0, to appoint Ilyena Sloan to the El Presidio Historic Zone Advisory Board.

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

There were none.

11. ADJOURNMENT 8:28 p.m.

Mayor Walkup announced the Council would stand adjourned until its next regularly scheduled meeting to be held on Tuesday, March 1, 2005, 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 15th day of February 2005, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:sac/lp