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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on September 7, 2005

Date of Meeting: August 2, 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 5:30 p.m. on Tuesday, August 2, 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:

Mike Hein	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 Reverend Melinda Nay, Center for Joyful Living, after which the pledge of allegiance was presented by the entire assembly.

Presentation:

- a. Mayor Walkup proclaimed August to be “Drowning Impact Awareness Month.” Randy Ogden, Battalion Chief, Tucson Fire Department, accepted the proclamation.
- b. Mayor Walkup proclaimed August 20, 2005 to be the 230<sup>th</sup> Anniversary of the founding of the City of Tucson.

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

Mayor Walkup announced City Manager’s communication number 418, dated August 2, 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 Council to report on current events and asked if there were any reports.

- a. Council Member Scott announced Ward 4’s Fifth Annual Back to School Bash would be held on August 13, 2005 at the Clements Center.
- b. Council Member Ronstadt announced the Federal Transportation Bill passed by Congress would result in one hundred million dollars in funding for various transportation projects in the City of Tucson.

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

Mayor Walkup announced City Manager’s communication number 419, dated August 2, 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.

Mike Hein, City Manager, reported:

- a. The Arizona Planning Association recognized Tucson Water with the 2005 Water Planning Award for the *Water Plan 2000-2050*.
- b. Tucson Water was featured on Discovery Channel Canada, which broadcast a three-hour documentary on global water issues last May. Tucson was in the third segment that showcased innovative solutions.
- c. Tucson Water also received a special achievement award from Geographic Information Systems (GIS) for innovative use of GIS as part of the valve map conversion process. They were one of one hundred fifty winners chosen from more than one hundred thousand sites.

- d. Several members of the Rollings Family would be honored with the “Heart of Downtown” Award by Mayor Walkup on August 4, 2005.
- e. Tucsonans battled heat and rain to show their support at two Sun Tran “Stuff-the-Bus” events held July 22, 2005 and July 29, 2005. Total donations included twenty-one thousand, four hundred and ninety-nine pounds of food and an unsurpassed twelve thousand, nine hundred twenty-one dollars in cash to benefit the Tucson Community Food Bank.
- f. Sun Tran was named 2005 American Public Transit Association’s Outstanding Transit System for systems carrying four to thirty million passengers.

Mike Letcher, Deputy City Manager, reported:

- g. On behalf of the City of Tucson, he thanked Christine O’Conner, acting Director of Information Technology, Chief Information Officer and introduced Ann Strine, the City of Tucson’s new Director of Information Technology, Chief Information Officer.

**5. LIQUOR LICENSE APPLICATIONS**

Mayor Walkup announced City Manager’s communication number 425, dated August 2, 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

New License

- 1. Las Indias Bonitas, Ward 4  
2544 S. Kolb Road  
Applicant: Ruben Dean Berry  
Series 12, City 49-05  
Action must be taken by: August 5, 2005  
Staff has indicated the applicant is in compliance with city requirements.
- 2. Bloo Fish, Ward 3  
1800 E. Ft. Lowell Road #116  
Applicant: Myong Wol Park  
Series 12, City 50-05  
Action must be taken by: August 7, 2005  
Staff has indicated the applicant is in compliance with city requirements.

3. Sauce Pizza & Wine, Ward 3  
2990 N. Campbell Avenue #110  
Applicant: Randy D. Nations  
Series 12, City 51-05  
Action must be taken by: August 12, 2005  
Staff has indicated the applicant is in compliance with city requirements.
4. Chicken Daddy's, Ward 6  
940 E. University Blvd.  
Applicant: William S. Leto  
Series 12, City 52-05  
Action must be taken by: August 18, 2005  
Staff has indicated the applicant is in compliance with city requirements.
5. Bargain Warehouse, Ward 5  
5670 S. Nogales Hwy.  
Applicant: Eun Mock Han  
Series 10, City 55-05  
Action must be taken by: August 26, 2005  
Staff has indicated the applicant is in compliance with city requirements.  
Public Opinion: Protest Filed  
Considered separately
6. Tortilleria Jalisco & Restaurant, Ward 5  
425 W. Irvington Road  
Applicant: Ninfa Solorzano  
Series 12, City 56-05  
Action must be taken by: August 29, 2005  
Staff has indicated the applicant is in compliance with city requirements.  
Public Opinion: Protests Filed  
Considered separately
7. J & B Market, Ward 3  
1720 N. 15<sup>th</sup> Avenue  
Applicant: Marylou C. Nuñez  
Series 10, City 57-05  
Action must be taken by: September 3, 2005  
Staff has indicated the applicant is in compliance with city requirements.

8. In-Out Mini Market, Ward 3  
2756 N. Stone Avenue  
Applicant: Karim Muhammad Duqmaq  
Series 10, City 58-05  
Action must be taken by: September 2, 2005  
Staff has indicated the applicant is in compliance with city requirements.  
Public Opinion: Protests Filed  
Considered separately

9. Republic Beverage Company, Ward 3  
2861 N. Flowing Wells Road, Unit 161  
Applicant: Howard William Romm  
Series 04, City 59-05  
Action must be taken by: August 28, 2005  
Staff has indicated the applicant is in compliance with city requirements.

10. Sportys Cafe & Lounge, Ward 1  
1010 S. Freeway  
Applicant: Panagiotis Lembessis  
Series 12, City 60-05  
Action must be taken by: September 4, 2005  
Staff has indicated the applicant is in compliance with city requirements.

11. Micha's Del Norte, Ward 3  
1220 E. Prince Road  
Applicant: Lisa Irene Sharpe  
Series 12, City 61-05  
Action must be taken by: September 4, 2005  
Staff has indicated the applicant is in compliance with city requirements.

Person/Location Transfer

12. Beverage House, Ward 5  
2038 E. Irvington Road  
Applicant: Eli Mark Drakulich  
Series 09, City 53-05  
Action must be taken by: August 18, 2005  
Police Department has indicated the applicant is not in compliance with City requirements.  
Public Opinion: Protests Filed  
Considered separately

13. Ferranti's Fine Foods, Ward 2  
6616 E. Grant Road  
Applicant: Phillip George Ferranti  
Series 07, City 54-05  
Action must be taken by: August 19, 2005  
Staff has indicated the applicant is in compliance with city requirements.

Person to Person Transfer

14. Hideout Bar & Grill, Ward 2  
1110 S. Sherwood Village Drive  
Applicant: Robert John Malone  
Series 06, City 47-05  
Action must be taken by: July 30, 2005  
Staff has indicated the applicant is in compliance with city requirements.  
Public Opinion: Support Filed
15. Best Western Executive Inn, Ward 3  
333 W. Drachman  
Applicant: Rampal Singh Yadav  
Series 06, City 48-05  
Action must be taken by: July 30, 2005  
Staff has indicated the applicant is in compliance with city requirements.

c. Special Event

1. The Cristiani Foundation, Ward 6  
3400 E. Camino Campestre  
Applicant: Dyna Renee Sabin  
City T50-05  
Date of Event: September 16, 2005  
Proceeds from event to be donated to various charities in the community  
Staff has indicated the applicant is in compliance with city requirements.
2. Sun Sounds of Arizona, Ward 6  
3400 E. Camino Campestre  
Applicant: Mitzi M. Tharin  
City T51-05  
Date of Event: September 24, 2005  
Fundraiser  
Staff has indicated the applicant is in compliance with city requirements.

3. St. Demetrios Greek Orthodox Church, Ward 3  
1145 E. Ft. Lowell Road  
Applicant: Susan Parker-Hotchkiss  
City T52-05  
Date of Event: September 22, 23, 24, 25, 2005  
Fundraising  
Staff has indicated the applicant is in compliance with city requirements.
  
4. St. Melany Byzantine Catholic Church, Ward 6  
1212 N. Sahuara Avenue  
Applicant: Clifford A. Franzen  
City T53-05  
Date of Event: September 30 and October 1, 2005  
Fundraiser  
Staff has indicated the applicant is in compliance with city requirements.  
Public Opinion: Protest/Supports Filed  
Considered separately
  
5. Congress Street Historic Theatres Foundation, Ward 6  
318 E. Congress Street  
Applicant: Douglas Biggers  
City T54-05  
Date of Event: September 2, 3, 4, 2005  
Live Music  
Staff has indicated the applicant is in compliance with city requirements.
  
6. Comité de Festividades des Mexicanas, Ward 1  
3700 S. La Cholla Blvd.  
Applicant: Mercedes M. Guerrero  
City T55-05  
Date of Event: September 17 & 18, 2005  
Civic Event  
Staff has indicated the applicant is in compliance with city requirements.
  
7. Tucson Breakfast Lions Club (TBLC) Ward 5  
4823 S. 6<sup>th</sup> Avenue  
Applicant: Wayne Francis Locke  
City T56-05  
Date of Event: September 3 & 4, 2005  
Fundraiser  
Staff has indicated the applicant is in compliance with city requirements.

8. Santa Rita Exchange Club, Ward 1  
3700 S. La Cholla Blvd.  
Applicant: Richard Domonic Medran  
City T57-05  
Date of Event: September 10, 2005  
Fundraiser for Santa Rita Exchange Club  
Staff has indicated the applicant is in compliance with city requirements.
  
9. SAAVI - Southern Arizona Association for the Visually Impaired, Ward 3  
3767 E. Grant Road  
Applicant: Michael O. Gordon  
City T58-05  
Date of Event: September 9, 2005  
Fundraising  
Staff has indicated the applicant is in compliance with city requirements.
  
10. The Church of St. Michael and All Angels, Ward 2  
602 N. Wilmot Road  
Applicant: The Rev. John R. Smith  
City T59-05  
Date of Event: September 23 & 24, 2005  
Fundraiser for Outreach Programs  
Staff has indicated the applicant is in compliance with city requirements.

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b1 through 5b4, 5b7, 5b9 through 5b11; 5b13 through 5b15; and 5c1 through 5c3 and 5c5 through 5c10 to the Arizona State Liquor Board with a recommendation for approval.

Ms. Detrick confirmed Council Member Leal's statement that Items 5b5, 5b6, and 5b12 would be discussed separately.

## **5. LIQUOR LICENSE APPLICATIONS**

### **b. New License**

5. Bargain Warehouse, Ward 5  
5670 S. Nogales Highway  
Applicant: Eun Mock Han  
City 55-05, Ward 5  
Series 10  
Action must be taken by: August 26, 2005  
Staff has indicated the applicant is in compliance with City requirements.

Kathleen S. Detrick, City Clerk, announced the first Liquor License Application to be considered separately was Item 5b5, a request for a new license. The license had a

protest filed and is located in Ward 5. Staff indicated the applicant is in compliance with City requirements.

Council Member Leal asked if the applicant was present and asked if they would like to make any comments.

Eun Mock Han and Seung Hee Han, the applicants were present.

Council Member Leal asked the applicants if they ever had a similar business before.

Ms. Han replied in the affirmative, they had been in local business since 1988 in Tucson. This was the first time they had applied for the Series 10 application.

In response to Council Member Leal, Ms. Han said they have had locations at Twenty-Second and Alvernon, Ajo and Mission, and Valencia and Twelfth. Their current location is at 5670 S. Nogales Highway.

Ms. Han responded to Council Member Leal that they owned the property.

Council Member Leal advised the applicants that typically in these types of procedures, the applicants meet with the surrounding neighborhood associations and asked if they had been able to meet with the surrounding neighborhoods.

Ms. Han said they visited the Ward 5 Council Office. They did not get to meet with Council Member Leal personally, but they did meet with his Administrative Assistant, Melinda Jacobs. Ms. Jacobs recommended that they meet with Yolanda Herrera from the Sunnyside Neighborhood Association. Ms. Han said she spoke with her a couple of times, but never had the chance to meet her.

Council Member Leal said that would be the extent of his questions for now, and called on Ms. Herrera, from the Sunnyside Neighborhood Association.

Yolanda Herrera, President of the Sunnyside Neighborhood Association, said they were one of Tucson's largest registered associations. She also stated they currently had the highest crime rate in the City of Tucson. For that reason, they wanted to be proactive. Many of the committees she had sat on dealt with liquor issues, not only for their kids, but because of the increases in crime that it brought within a community. She had photographs of that particular area. Ms. Herrera observed that when the applicants said they had businesses, they did not necessarily mean that they had a liquor business at that location. The business located at Valencia and Twelfth Avenue did not have a liquor application.

Ms. Herrera was concerned the applicants were not going to be capable, qualified and reliable, because they currently had a vendor on their property who was already breaking some of the ordinances that they worked hard to put in place. That particular

location had shootings and killings and a backup of trash. She said in March there was a neighborhood cleanup where they picked up over eighty-five tons of trash. She continued that the business is located very close, but not within 300 feet of an elementary school. Ms. Herrera added that the Sunnyside School District was already struggling with keeping kids in school and felt this would send kids the wrong message.

Ms. Herrera reiterated that they did not feel the applicants were capable, qualified and reliable in the sense that the area was currently being managed. They already had a large incident of traffic on the Nogales Highway and Drexel, they were already in a high crime rate and the associated members did not want it if it was not serving the best interest of the community. She said it was a privilege to have that type of business and the burden of proof was on the applicant, not on the neighborhood. She mentioned that they were already not following the ordinances that were already in place. If the applicants were granted a liquor license, what other crime would that add to their community.

Ms. Herrera told the Council that the Sunnyside Neighborhood Association currently had over twenty liquor establishments within its boundaries. If they would step across the street, that could be doubled in any one of their boundary levels. Therefore, she said the needs and convenience would not be met with the issuance of another application. She requested the Council deny the liquor license application.

Council Member Leal gave the applicants an opportunity to respond to the concerns that had been raised.

Ms. Han replied the last time she called Ms. Herrera, she introduced herself and told her the reason she was applying for the Series 10 license. She tried to explain to Ms. Herrera that her customers asked for it. Ms. Han said Ms. Herrera mentioned the situation with renting to the vendors on the property, which was against a City ordinance. Ms. Han disagreed with Ms. Herrera and felt it was a misunderstanding. Ms. Han said they had three vendors who had shelters with removable wheels. They had complaints from the City and they notified their vendors to correct the problem. The vendors corrected the problem and since then they have not received complaints from the City of Tucson. Ms. Han explained this to Ms. Herrera. This was during her first call to Ms. Herrera. She tried calling her again, but did not receive a call back. Ms. Han thanked the Mayor and Council for the opportunity to speak.

Council Member Leal felt that the overview Ms. Herrera offered captured what was taking place in the area in terms of urban stress. He said clearly the addition of another license did not create convenience or add to the area, but would leave the area more at risk than it currently was.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 7 to 0, that liquor license application 5b5, Bargain Warehouse, be forwarded to the State Department of Liquor Licenses and Control with a recommendation for denial.

## 5. LIQUOR LICENSE APPLICATIONS

### b. New License

6. Tortilleria Jalisco & Restaurant, Ward 5  
425 W. Irvington Road  
Applicant: Ninfa Solorzano  
City 56-05, Ward 5  
Series 12  
Action must be taken by: August 29, 2005  
Public Opinion: Protests Filed  
Staff has indicated the applicant is in compliance with City requirements.

Kathleen S. Detrick, City Clerk, announced the next Liquor License application to be considered separately was Item 5b6, Tortilleria Jalisco and Restaurant. The license had protests filed and is located in Ward 5. Staff indicated the applicant is in compliance with City requirements.

Council Member Leal asked if the applicant was present.

Euerardo Solorzano was present and said he would be speaking for his mother, Ninfa Solorzano, the applicant.

Council Member Leal asked him to explain their intentions and asked if they had been in this kind of business before. He also asked for their background and the reason they wanted to pursue this endeavor.

Mr. Solorzano replied this was their first time to pursue a liquor license application. They had been in the restaurant business for about eight years. They applied for the liquor license because their clients requested it.

Council Member Leal said they had received a protest from the National City Neighborhood. They received a letter from Anabelle Nuñez and he asked if she was present. There was no response. Council Member Leal continued that the representative from the neighborhood explained to him that there were currently fifteen licenses within a half-mile radius. He asked the applicant if he was aware of that.

Mr. Solorzano responded that he was. They had business neighbors that had their liquor licenses. He repeated that they were applying for the liquor license application because their customers had requested it. His customers dine in and they had lost some customers because they did not have their liquor license.

Council Member Leal asked if the applicant met or communicated with the National City Neighborhood or Ms. Nuñez.

Mr. Solorzano replied they had not. He said they applied for the liquor license two weeks ago and were just becoming familiar with the process.

Council Member Leal asked the City Clerk if the applicants had time to continue this application until September so that they could meet with the neighborhood.

Ms. Detrick replied the action would have to be taken by August 29, 2005, and since there was not another meeting in August, it could not be continued.

Council Member Leal told the applicants he wished they had been able to meet with them. His concerns had to do with the fairly acute saturation in the area. Part of getting a new license was to show convenience. To show convenience the applicants would have to show that it was currently not convenient. With fifteen licenses within a half a mile, they could not satisfy that burden. For that reason, he said he would have recommend denial of the application. He added that he wished there was time for the applicants to meet with the neighborhood to work things out, but that was just not the case.

It was moved by Council Member Leal, duly seconded, that liquor license application 5b6, Tortilleria Jalisco and Restaurant, be forwarded to the State Department of Liquor Licenses and Control with a recommendation for denial.

Council Member West commented that it was a restaurant and asked if it was a Series 12 license. She understood the dilemma and the fact that the neighborhood was concerned about it and did not blame the neighborhood. She asked what the applicants were planning to serve with the Series 12 license. Would it be beer and wine only, or something else?

Mr. Solorzano responded it would only be beer.

Council Member West confirmed their customers would be dining in and asked if they had someone in their establishment that would be trained to be a bartender. She added that it was not an easy job that anyone could do. That person would have to have training and asked if that was going to be the case with the establishment.

Mr. Solorzano said that if it came to that, they would have someone trained for it.

Council Member West told the applicants there was a lot of responsibility with having a liquor license. She said she did not want to lecture the applicant, but understood Council Member Leal's concern. Too often they have had applicants who said they would be responsible and were not. She added that a lot of people would weigh in if they were not. She was inclined to support the application because it was a restaurant, if they got the adequate training and were responsible.

Council Member Leal stated he felt Council Member West was right in pursuing her line of questioning. He said many neighborhoods have asked the State to create a

different class of license. Currently, when a restaurant got a Series 12, they could sell hard liquor. Many neighborhoods were supportive of restaurants, if there was a license that was only beer and wine. Many restaurants have said that they would not sell hard liquor, but there was nothing to prevent that in the future. So far, the State had been non-responsive to the suggestion that there be two licenses for restaurants; one for beer, wine and hard liquor and one simply for beer and wine. Council Member Leal said that was a dilemma. Because of the concentration in the area, even though the applicants seemed like good people, he was left to air on the side of caution and respect the burden of the saturation in the area. He said he wished it was different, but did not know how else to deal with it.

Mayor Walkup asked if there was any further discussion. Upon hearing none, he called for a roll call vote on the motion that liquor license application 5b6, Tortilleria Jalisco and Restaurant, be forwarded to the State Department of Liquor Licenses and Control with a recommendation for denial.

Upon roll call, the results were:

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

Nay: Council Members West and Ronstadt;  
Vice Mayor Dunbar

The motion to forward Liquor License application 5b6 to the State Department of Liquor Licenses and Control with a recommendation for denial carried by a roll call vote of 4 to 3.

## **5. LIQUOR LICENSE APPLICATIONS**

### **b. New License**

8. In-Out Mini Market, Ward 3  
2756 N. Stone Avenue  
Applicant: Karim Muhammad Duqmaq  
City 58-05, Ward 3  
Series 10  
Action must be taken by: September 2, 2005  
Public Opinion: Protests Filed  
Staff has indicated the applicant is in compliance with City requirements.

Kathleen S. Detrick, City Clerk, announced the next Liquor License Application to be considered separately was Item 5b8, In-Out Mini Market. Staff indicated the applicant was in compliance with City requirements; however, a protest had been filed. The license is located in Ward 3.

Vice Mayor Dunbar asked if the applicant was present.

Karim Duqmaq, the applicant, was present.

Vice Mayor Dunbar stated that was the first time she had met the applicant. Even though the City Clerk's Office advised the applicant to contact the Ward 3 Council Office, nobody contacted her office. She asked him to explain what his plans were and why he was asking for a liquor license.

Mr. Duqmaq said it used to be his father's business. His father asked for a liquor license, but was denied.

Vice Mayor Dunbar believed he applied for that liquor license about eight months ago.

Mr. Duqmaq replied that was his father and when the liquor license was denied, his father gave him the business. Mr. Duqmaq took over the business and opened it up as a convenience store. He was now applying for a Series 10 license.

Vice Mayor Dunbar asked the applicant what, in his opinion, had changed since they his father was denied the application a few months ago at the very same location.

Mr. Duqmaq said his father never really opened the business. He took over and opened it up and tried to get a Series 10 license for his customers. He had a deli at the location and pretty much everything. He was just asking for beer and wine.

In response to Council Member Dunbar, the applicant stated he had no further comments.

Vice Mayor Dunbar said there was someone in the neighborhood from Keeling Neighborhood and introduced Jane Evans and asked her to come forward.

Ms. Evans stated that since 1978 she has owned the property and businesses at the corner of Stone and Blacklidge and she was there representing the Keeling Neighborhood Association. Within Keeling and their bordering boundaries, they had nearly thirty businesses selling alcohol. Most of those were packager liquor sales or bars, all within one square mile. One bar and a Quick Shop were within three hundred feet of the proposed new liquor license. Ms. Evans said Keeling was a neighborhood fighting the odds. They had more than sixty percent rentals and a lower than average income level. In the past years, her business had been broken into nine times. She personally had incurred great expense because of that crime. It was no surprise that theft was more abundant where homeless people reside, and also no surprise that homeless people sought areas where liquor was easily available and at a cheap price.

Ms. Evans said they have worked hard to improve their neighborhood. In 1995, with Christmas in April, they refurbished thirty-seven houses. They have received grants

from the Tucson Public Art Committee (TPAC) for murals. They built the bird and butterfly garden with Pro Neighborhood Grant money. They received Planning Grants through the Drachman Institute, which led to Back to Basics and County Reinvestment Grants. They were now pursuing National Park Service Grants and more County reinvestment dollars. They were working hard to improve their neighborhood and more liquor sales would not aid their cause.

Ms. Evans urged the Mayor and Council to support the Keeling Neighborhood and send the message loud and clear. They did not need more liquor sales in the Keeling and surrounding area.

Vice Mayor Dunbar reiterated that there were twenty-five places to purchase alcohol. There were two drive through liquor stores, three Circle K's, three gas stations, seven bars, one walk-in liquor store, four grocery/drug stores, and five restaurants right within one mile of the business that served alcohol. She asked Mr. Duqmaq to come into the Council Office and nobody responded to the Ward 3 Council Office. She did not feel they had proven that there was a need for the liquor license at the business.

It was moved by Vice Mayor Dunbar, duly seconded, and carried by a voice vote of 7 to 0, that liquor license application 5b8, In-Out Mini Market, be forwarded to the State Department of Liquor Licenses and Control with a recommendation for denial.

## **5. LIQUOR LICENSE APPLICATIONS**

### **b. Person/Location Transfer**

12. Beverage House, Ward 5  
2038 E. Irvington Road  
Applicant: Eli Mark Drakulich  
City 53-05, Ward 3  
Series 10

Action must be taken by: September 2, 2005

Public Opinion: Protest Filed

Police Department has indicated the applicant is not in compliance with City requirements.

Kathleen S. Detrick, City Clerk, announced the next Liquor License Application to be considered separately was Item 5b12, a Person/Location Transfer for the Beverage House. The Tucson Police Department was recommending denial for the application. The license is located in Ward 5.

Council Member Leal asked if the applicant was present.

Eli Drakulich said he was the Agent on all fourteen licenses for the Beverage House. He said he was there to answer any questions the Mayor and Council had.

Council Member Leal asked if he had met with the adjacent neighborhoods on the issue.

Mr. Drakulich replied that no one had attempted to contact them or their headquarters since they hung the license.

In response to Council Member Leal, Mr. Drakulich replied they had not attempted to contact the neighborhood.

Council Member Leal advised the applicant that it was much more his responsibility than the neighborhoods. He asked Mr. Drakulich if he was familiar with the write up the Tucson Police Department provided the Council, about the history of his business management, concerning liquor licenses in Arizona.

Mr. Drakulich said he was just handed the write up when he came in.

Council Member Leal said that his documentation had seven violations for selling liquor to minors in the last five years.

Mr. Drakulich concurred and said that one of those violations was in Pima County.

Council Member Leal responded that management knew no boundaries, nor did bad management.

Mr. Drakulich asked if there was a representative of the Police Department present and said he had a question for them. He asked how many of those liquor violations were a result of "cub operations."

Jeannie Nagore, Tucson Police Department Officer, said she was only aware of one in which the Tucson Police Department was involved with. She was not familiar with the ones outside of Pima County.

Mr. Drakulich asked if everyone knew what a "cub operation" was. He continued that the Police Department or any law enforcement organization could send a "cub" in if there was a prior violation at that particular location. He stated he had been to liquor training last week and after discussing their company policy, asked the instructor what they were doing wrong as a company in regard to selling to minors, because of those liquor violations. He was told they were doing nothing wrong, except fighting the violations, especially when "cubs" were sent into their store without a prior violation.

Mr. Drakulich said their policy as a company, according to liquor regulations, went along with what Council Member West was telling a former applicant about being responsible and training people. According to liquor regulations, managers at the store level were supposed to be retrained in liquor laws and procedures every five years. He said his company did it every single year for every manager. The other employees,

according to liquor regulations, were supposed to be retrained every three years. He said his company retrained every single year. They did not allow a new employee to work the register until they were trained in liquor laws and regulations. One of the results of someone selling to a minor was not only being fined by the agency, but also immediate termination by their company. When they hire people, they tell them how important it was not to sell to a minor. Any violation would result in termination of their job.

Mr. Drakulich continued they have purchased Viage equipment at every location. He explained that a Viage was a piece of equipment where they scanned the identification card and it would state whether that person was of age or not. They also required mandatory drug testing of every new employee before hiring them. They did not hire any employee under twenty-one years of age to work at the Beverage House, even though the law states they can hire a nineteen year old to work in a liquor environment. They also instruct all their employees to card anyone who looks under the age of thirty. Again, he said he asked the instructor at the liquor class last week, based on their policy, what were they doing wrong, he was told "nothing." He was told there was not much more they could do. He said he would like to know if anybody else applying for a license that day had a stringent policy as they did.

Mr. Drakulich said he was also informed at the class that there was a new liquor law that would go into effect on August 12, 2005. In that law, because of their policies of training employees, they would have had zero violations. If they train as they did and they instructed their employees as they did, license holders in the future would be mitigated out of liquor violations. The employees themselves who commit the violations would be fined. With their policy, their slate would have been clean. It was something they took seriously as a company. They felt they had gone the extra mile. He said they had twelve locations and ninety-five percent of their customers purchased alcoholic or controlled beverage. The was different from a grocery store or a gas station where maybe twenty to thirty percent of those customers would purchase an alcoholic beverage or tobacco. That meant they had more of an opportunity to have violations. He said they did not know what else they could do as a company. They had gone the extra mile.

Mr. Drakulich stated he wanted to address another issue, unless the Mayor and Council had questions about his comments. As far as the proliferation of liquor licenses in the area, they carefully chose that location. One of the reasons was that they drove up and down the streets in that part of Tucson. They did not want to open their store in almost a disguised neighborhood location where many of the off-sale liquor licenses operated. It seemed to him they were operating out of a garage or on a corner of a neighborhood. The Beverage House was going into a shopping center. They were actually going into a Walgreen's location, the part of the Walgreen's store that was the Walgreen's liquor department. Walgreen's moved out of that location and into their new location and did not have liquor at their new location. It was a net wash for that particular area as far as proliferation of liquor licenses.

Mr. Drakulich asked if the Mayor or Council had been into any of their locations. He said they had a very clean operation. They could take a look at the other three Tucson

stores. They had liquor and wine wall shelving where the liquor was under lock and key. There was glass there and if a person wanted something, the clerk would have to get it. It was not available to the general public. It would be the same thing at the new location. All the liquor and wine walls would be glassed and under lock and key. The counter would be glass showcases with the countertop, where all the small sizes of liquor would be kept, accessible only to the clerks. The tobacco and cigarettes would be behind the counters, again accessible only to the clerks and not to the customers. The counters would be right at the front window at the front door. Their locations had video surveillance cameras. They had security, glass break motion detector systems. They had bars in the front windows. The stores were bright, open, all big stores and well lit. They were very proud of the layout of their stores.

Mr. Drakulich added that they also liked to get involved in community activities and charities. However, again going back to the problem with children and controlled substances, it was company policy not to participate in any charities that had anything remotely to do with under-aged people. Mr. Drakulich said he would be happy to answer further questions and his partner was there also.

Council Member Leal asked the representative from the Tucson Police Department to come back and read their position into the record before he proceeded.

Jeannie Nagore, Officer, Tucson Police Department, said the Police Department was recommending a denial for Mr. Drakulich's application for a new liquor license. She said he was applying for a Series 9, a liquor store liquor license. The recommendation for denial was based on a history of violations at the locations where Mr. Drakulich held liquor licenses. Officer Nagore stated that while reviewing the liquor license application, listed were the following liquor violations. Mr. Drakulich currently owned fourteen liquor licenses throughout the State of Arizona. The following violations occurred within the past five years at locations owned by Mr. Drakulich: January 25, 2001, they were cited for furnishing an underage person with alcohol; March 14, 2001, they were fined two thousand dollars at a location in Nogales, Arizona; July 18, 2001, furnishing an underage person with alcohol; October 22, 2001, they paid a fine of three thousand dollars, in Nogales; May 17, 2002, sell, give, furnish an underage person with alcohol; June 13, 2002 a fine was paid of five hundred dollars in Sierra Vista, Arizona; February 15, 2003, sell, give, furnish underage person with alcohol; on May 19, 2003, a fine of two thousand dollars was paid in Sierra Vista, Arizona; May 3, 2003, failure to request identification from an underage buyer and sell, give and furnish an underage person with alcohol; September 11, 2003 a six hundred twenty-five dollar fine was paid in Yuma, Arizona; November 19, 2003, failure to request identification from an underage buyer, sell, give, furnish an underage person with alcohol; December 29, 2003 a six hundred twenty-five dollar fine was paid in Globe, Arizona; January 6, 2005, failure to request identification from an underage buyer, sell, give, furnish an underage person with alcohol; February 28, 2005 a fine of seven hundred fifty dollars was paid, in Tucson, Arizona.

Officer Nagore said the recommendation of the Tucson Police Department, pursuant to A.R.S. §4-203A states “the Spirituous Liquor License shall be issued only after satisfactory showing of the capability, qualifications and reliability of the applicant.” Based on the pattern of violations for selling to underage, the Tucson Police Department was recommending denial of the application. As for the “cub-operation” that occurred in Tucson, that was based on a complaint to the Tucson Police Department.

Council Member Leal commented there was a series of things with this application. The first thing that stood out was the history of the business management throughout the State. Council Member Leal said he did not think it was appropriate for them to make a decision based on how good the business plan or policies were on paper. What they had to look at was what resulted from their management. They had to look at the reality produced by their management. He stated the space shuttle might be perfect on paper, but it still had some bad problems. It was disturbing to him that Mr. Drakulich thought there should have been a violation prior to a “cub-operation”. Council Member Leal felt that was clearly beside the point. It did not negate the fact of what happened. For the applicant to think it did, raised some questions about the applicant’s judgement.

Council Member Leal stated the other thing Mr. Drakulich mentioned was that if it were a little bit later, some time in August, none of the violations would count, because the owner would not be held accountable, their employees would. Council Member Leal said the tobacco industry tried to do that in Arizona about six years ago. They wanted the clerks to be licensed, so that if they sold to minors, the clerk would get cited, not the owner. The owners would simply insulate themselves with the law and keep sacrificing clerk after clerk and keep hiring other people to insulate themselves. Council Member Leal said that was disturbing to him. He did not know the State of Arizona did that for alcohol. The City needed to pay attention to it and find out some way to get data themselves, if legislation was passed to cook the books to withhold and not reveal to the City the character of the management of establishments.

Council Member Leal said the other issue had to do with the location. He said the applicant asserted it was a wash and that there was a Walgreen’s in there before. He said that presupposed that there were not too many there in the first place and there were. The property the applicant wanted to go into had a large Safeway and everything was there. So the issue of convenience was also not met there, because it was perfectly convenient at the present time. There were also a large number of liquor licenses throughout that whole intersection. It was a heavily populated intersection for business and liquor license activity. Council Member Leal said it was ironic to him that they were talking about whether or not to give the applicant another license. To him, it seemed that the State of Arizona should be thinking about whether or not they should have any. For those reasons he said he would have to recommend the liquor license application for denial, based on what the Tucson Police Department said, based on the issuance of convenience and saturation, and the location.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 7 to 0, that liquor license application 5b12, Beverage House, be forwarded to the State Department of Liquor Licenses and Control with a recommendation for denial.

## **5. LIQUOR LICENSE APPLICATIONS**

### **c. Special Event**

4. St. Melany Byzantine Catholic Church, Ward 6  
1212 N. Sahuara Avenue  
Applicant: Clifford A. Franzen  
City T53-05  
Date of Event: September 30 and October 1, 2005  
Fundraiser  
Staff has indicated the applicant is in compliance with city requirements.  
Public Opinion: Protest/Supports Filed

Kathleen S. Detrick, City Clerk, announced the final item to be considered separately on the Liquor License Agenda was item 5c4, a request for a special event, St. Melany Byzantine Catholic Church. Staff indicated the applicant was in compliance, however a protest was filed. The license is located in Ward 6.

Council Member Ronstadt asked if the protestor was present. There was no response. Council Member Ronstadt wanted it noted on the record that there was one protest, but it was anonymous. He reviewed it and it was just a note stating "please deny." The letters of support were signed by neighbors in the area who appreciated the annual fundraisers.

It was moved by Council Member Ronstadt, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license application 5c4, St. Melany Byzantine Catholic Church, to the Arizona State Liquor Board with a recommendation for approval.

## **6. CONSENT AGENDA – ITEMS A THROUGH DD**

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. AWARD AGREEMENT: WITH THE ARIZONA ATTORNEY GENERAL FOR A VICTIMS' RIGHTS IMPLEMENTATION ASSISTANCE PROGRAM**

1. Report from City Manager AUG2-05-426 CITY-WIDE

2. Resolution No. 20141 relating to victims' rights; approving and authorizing execution of an Award Agreement with the Arizona Attorney General's Office for the FY 2006 Victims' Rights Implementation Assistance Program; and declaring an emergency.

B. FINANCE: CONTINGENCY FUND TRANSFER FOR SUN SOUNDS RADIO READING SERVICES ANNUAL FUNDRAISING FESTIVAL

1. Report from City Manager AUG2-05-446 WARD 4
2. Resolution No. 20142 relating to finance; approving and authorizing the transfer of three hundred (\$300.00) dollars from the Contingency Fund to the Sun Sounds Radio Reading Services, for an Annual Fundraising Festival to be held at Hi Corbett Field; and declaring an emergency.

This was a request by Council Member Scott. Allocation of funds was as follows: Council Member Scott - \$300.

Item B was considered separately at the request of Council Member West.

C. APPROVAL OF MINUTES

1. Report from City Manager AUG2-05-416 CITY-WIDE
2. Approval of minutes for the special meeting of the Mayor and Council held on June 14, 2005 and regular meetings of the Mayor and Council held June 14, 2005, June 21, 2005, June 28, 2005, and July 6, 2005.

D. FINANCIAL PARTICIPATION AGREEMENT: WITH THE GRAFFITI ABATEMENT PROGRAM IN TUCSON (GAPIT) FOR GRAFFITI ABATEMENT SERVICES

1. Report from City Manager AUG2-05-429 CITY-WIDE
2. Resolution No. 20143 relating to Financial Participation Agreements; authorizing and approving the Financial Participation Agreement with the Graffiti Abatement Program in Tucson (GAPIT) for graffiti abatement services with the City of Tucson; and declaring an emergency.

E. MEMORANDUM OF UNDERSTANDING: WITH THE ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY, THE CITY OF PHOENIX, AND THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA FOR THE ENVIRONMENTAL PROTECTION AGENCY'S BROWNFIELDS REVOLVING LOAN FUND PROGRAM

1. Report from City Manager AUG2-05-428 CITY-WIDE

2. Resolution No. 20144 relating to the Arizona Brownfields Cleanup Revolving Loan Fund Program; authorizing and approving the execution of a Renewed and Restated Memorandum of Understanding between the Arizona Department of Environmental Quality, the City of Phoenix, and the Water Infrastructure Finance Authority of Arizona, and declaring an emergency.
- F. TRANSPORTATION: AUTHORIZATION FOR THE TRANSPORTATION DEPARTMENT TO SUBMIT FEDERAL TEA-21 TRANSPORTATION ENHANCEMENT PROPOSALS
1. Report from City Manager AUG2-05-421 CITY-WIDE
  2. Resolution No. 20145 relating to transportation; authorizing the Director of the City of Tucson Department of Transportation to submit and sponsor ten (10) Transportation Enhancement Act-21 (TEA-21) Transportation Enhancement Funding Proposals to the Arizona Department of Transportation Review Committee and to expend local matching funds in the event of approval; and declaring an emergency.
- G. AGREEMENT: BETWEEN BLUE CROSS AND BLUE SHIELD OF ARIZONA, AND TUCSON FIRE FOR PAYMENT OF AMBULANCE TRANSPORTS
1. Report from City Manager AUG2-05-417 CITY-WIDE
  2. Resolution No. 20146 relating to the Fire Department and Emergency Medical Services; authorizing and approving an Agreement between the City of Tucson, acting through the Tucson Fire Department, and Blue Cross and Blue Shield of Arizona, to make City of Tucson a participating provider that can receive funds directly from the insurance company; ratifying the Fire Chief's previous signing of the Agreement on behalf of the City of Tucson, and authorizing and directing the City Clerk to attest the Fire Chief's signature on the Agreement; and declaring an emergency.
- H. INDUSTRIAL DEVELOPMENT: AUTHORIZATION FOR THE ISSUANCE OF TUCSON INDUSTRIAL DEVELOPMENT AUTHORITY JUNIOR LIEN EXCISE TAX REVENUE BONDS (RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT – FOX TUCSON THEATRE PROJECT) TAXABLE SERIES 2005
1. Report from City Manager AUG2-05-432 WARD 1

2. Resolution No. 20147 relating to Industrial Development; approving and authorizing the issuance by the Industrial Development Authority of the City of Tucson, Arizona of its Junior Lien Excise Tax Revenue Bonds (Rio Nuevo Multipurpose Facilities District – Fox Tucson Theatre Project), Taxable Series 2005, in an aggregate principal amount not to exceed \$6,100,000 relating to the financing or refinancing of the construction, rehabilitation, improvement, furnishings, fixtures, and equipment of the Historic Fox Tucson Theatre and the payment of certain costs incidental thereto; and declaring an emergency.
- I. TUCSON CODE: AMENDING (CHAPTER 20) CONVERTING FROM ONE-WAY TO TWO-WAY TRAFFIC ON PENNINGTON STREET BETWEEN SCOTT AVENUE AND SIXTH AVENUE
1. Report from City Manager AUG2-05-433 WARD 6
  2. Ordinance No. 10181 relating to Motor Vehicles and Traffic; converting traffic from one-way to two-way traffic on Pennington Street between Scott Avenue and Sixth Avenue; amending the Tucson Code by amending Tucson Code Section 20-179(28); and declaring an emergency.
- J. AGREEMENT: WITH PIMA ASSOCIATION OF GOVERNMENTS FOR TRANSPORTATION PLANNING AND PROFESSIONAL SERVICES FOR FISCAL YEAR 2006
1. Report from City Manager AUG2-05-427 CITY-WIDE
  2. Resolution No. 20148 relating to transportation; approving and authorizing the agreement between the City of Tucson Department of Transportation and Pima Association of Governments for Transportation Planning and Professional Services During FY 2006; and declaring an emergency.
- K. FINANCIAL PARTICIPATION AGREEMENTS: WITH VARIOUS OUTSIDE AGENCIES FOR FISCAL YEAR 2006
1. Report from City Manager AUG2-05-434 CITY-WIDE
  2. Resolution No. 20149 relating to outside agency activities; authorizing and approving the Financial Participation Agreements between the City of Tucson and various outside organizations and the Intergovernmental Agreement between the City of Tucson and Pima County for Fiscal Year 2006; and declaring an emergency.

- L. GRANT AGREEMENT: WITH THE ARIZONA CRIMINAL JUSTICE COMMISSION FOR DRUG CONTROL AND SYSTEM IMPROVEMENT
1. Report from City Manager AUG2-05-435 CITY-WIDE
  2. Resolution No. 20150 relating to Grants; approving and authorizing execution of a Drug Control & System Improvement (DC&SI) Grant Agreement with the Arizona Criminal Justice Commission for Drug Control and System Improvement for FY 2006; and declaring an emergency.
- M. FINANCE: REQUESTING EXEMPTION FROM POSTING SECURITY FOR SELF-INSURED WORKERS' COMPENSATION CLAIMS
1. Report from City Manager AUG2-05-438 CITY-WIDE
  2. Request to the Industrial Commission of Arizona for Exemption from Requirement to Post Security for City of Tucson Self-Insured Workers' Compensation Claims
- N. GRANT APPLICATION AND AGREEMENT: WITH THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS FOR LIVE ONLINE HOMEWORK HELP
1. Report from City Manager AUG2-05-439 CITY-WIDE
  2. Resolution No. 20151 relating to library agreements; authorizing and ratifying the execution of the grant application and agreement between the City of Tucson and the Arizona State Library, Archives and Public Records for a Library Services and Technology Act Grant to provide live online homework help assistance; and declaring an emergency.
- O. TUCSON CONVENTION CENTER: APPROVAL OF A USE AGREEMENT WITH THE SOUTHERN ARIZONA HOME BUILDERS ASSOCIATION (SAHBA) FOR HOME SHOWS
1. Report from City Manager AUG2-05-441 CITY-WIDE
  2. Resolution No. 20152 relating to the Tucson Convention Center; authorizing the Mayor to execute on behalf of the City of Tucson an Agreement with the Southern Arizona Home Builders Association for the use of the Tucson Convention Center for Home Shows for five years; and declaring an emergency.

P. ELECTIONS: DESIGNATING POLLING PLACES AND APPOINTING ELECTION BOARDS FOR THE SEPTEMBER 13 PRIMARY ELECTION

1. Report from City Manager AUG2-05-431 CITY-WIDE
2. Resolution No. 20153 relating to elections; designating the polling places where votes may be cast in the City of Tucson's September 13, 2005 Primary Election; listing precincts combined for the Primary Election, with one designated polling place; listing precincts not combined with any other precincts but having polling places within adjacent precincts because no suitable polling place is available within their own boundaries; and declaring an emergency.
3. Resolution No. 20154 relating to elections; appointing officials who will serve as members of the precinct election boards, early ballot processing boards, and other election boards required for the City of Tucson's September 13, 2005 Primary Election; and declaring an emergency.

Q. ASSURANCE AGREEMENT: (S04-032) TANQUE VERDE PLACE SUBDIVISION, LOTS 1 TO 58 AND COMMON AREAS "A-1" TO "A-3", "B-1" AND "B-2", AND "C-1" AND "C-2"

1. Report from City Manager AUG2-05-440 WARD 2
2. Resolution No. 20155 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. S04-032 of a Final Plat for the Tanque Verde Place Subdivision, Lots 1 to 58 and Common Areas "A-1" – "A-3", "B-1" & "B-2"; and "C-1" & "C-2"; and declaring an emergency.

R. FINAL PLAT: (S04-032) TANQUE VERDE PLACE SUBDIVISION, LOTS 1 TO 58 AND COMMON AREAS "A-1" TO "A-3", "B-1" AND "B-2", AND "C-1" AND "C-2"

1. Report from City Manager AUG2-05-424 WARD 2
2. The City Manager recommends that, after 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.

- S. REAL PROPERTY: VACATION AND SALE OF SURPLUS PROPERTIES LOCATED AT 309 WEST SIXTH STREET, 375 NORTH MAIN AVENUE, AND 433 NORTH MAIN AVENUE
1. Report from City Manager AUG2-05-415 WARD 1
  2. Ordinance No. 10185 relating to real property; vacating and declaring certain City-owned property located at 309 West Sixth Street to be surplus and authorizing the sale thereof to Katherine Bennen; and declaring an emergency.
  3. Ordinance No. 10186 relating to real property; vacating and declaring certain City-owned property located at 375 North Main Avenue to be surplus and authorizing the sale thereof to Rose Holstad; and declaring an emergency.
  4. Ordinance No. 10187 relating to real property; vacating and declaring certain City-owned property located at 433 North Main Avenue to be surplus and authorizing the sale thereof to Christopher Carroll and Susan Aiken; and declaring an emergency.
- T. REAL PROPERTY: DEVELOPMENT AND EXCHANGE AGREEMENT WITH LOFTS AT FIFTH AVENUE LLC FOR PROPERTY LOCATED AT FIFTH AVENUE AND SIXTH STREET
1. Report from City Manager AUG2-05-449 WARD 6
  2. Ordinance No. 10191 relating to real property; vacating and declaring certain City owned real property in the vicinity of Fifth Avenue between Fifth Street and Sixth Street to be surplus, and authorizing the exchange thereof to Lofts at Fifth Avenue LLC; and declaring an emergency.
- U. AGREEMENTS: WITH THE TUCSON AUDUBON SOCIETY AND OTHER ORGANIZATIONS TO CONDUCT HABITAT RECOVERY AND RESTORATION PROJECTS IN AVRA VALLEY
1. Report from City Manager AUG2-05-448 OUTSIDE CITY
  2. Resolution No. 20161 relating to real property; authorizing the City Manager to secure agreements with the Tucson Audubon Society and federal, state, and other non-profit organizations to conduct habitat recovery and restoration projects on the City of Tucson's former Martin Farm in Avra Valley, and declaring an emergency.

V. ASSURANCE AGREEMENT: (S04-102) ALLEN ROAD TOWNHOMES SUBDIVISION (RCP), LOTS 1 TO 18 AND COMMON AREAS “A”, “B”, “C” AND “D”

1. Report from City Manager AUG2-05-451 WARD 3
2. Resolution No. 20162 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. S04-102 of a Final Plat for the Allen Road Townhomes Subdivision, Lots 1 to 18 and Common Areas “A” – “D”; and declaring an emergency.

W. FINAL PLAT: (S04-102) ALLEN ROAD TOWNHOMES SUBDIVISION (RCP), LOTS 1 TO 18 AND COMMON AREAS “A”, “B”, “C” AND “D”

1. Report from City Manager AUG2-05-452 WARD 3
2. The City Manager recommends that, after 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.

X. ASSURANCE AGREEMENT: (S02-035) TANQUE VERDE LA RIENDA SUBDIVISION, LOTS 1 TO 6 AND COMMON AREAS “A” TO “E”

1. Report from City Manager AUG2-05-453 WARD 2
2. Resolution No. 20163 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. S02-035 of a Final Plat for the Tanque Verde La Rienda Subdivision, Lots 1 to 6 and Common Areas “A” – “E”; and declaring an emergency.

Item X was considered separately at the request of Council Member West.

Y. FINAL PLAT: (S02-035) TANQUE VERDE LA RIENDA SUBDIVISION, LOTS 1 TO 6 AND COMMON AREAS “A” TO “E”

1. Report from City Manager AUG2-05-454 WARD 2
2. The City Manager recommends the Mayor and Council continue this request and not approve the plat at this time, as it fails to meet the City of Tucson requirements for platting.

Item Y was considered separately at the request of Council Member West.

Z. REAL PROPERTY: RIGHT-OF-WAY ACQUISITION – GRANT ROAD/ALVERNON WAY FOR SIDEWALK ACCESS RAMPS AND BUS SHELTERS

1. Report from City Manager AUG2-05-455 WARD 3
2. Resolution No. 20156 relating to real property; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary certain rights-of-way located along Alvernon Way, north and south of Grant Road for installation of Americans with Disabilities Act (ADA) compliant sidewalk access ramps and to upgrade bus facilities; and declaring an emergency.

AA. FINANCE: CONTINGENCY FUND TRANSFER TO THE VIETNAM VETERAN'S OF AMERICA, ARIZONA CHAPTER 106, FOR THE ANNUAL NAM JAM

1. Report from City Manager AUG2-05-456 WARD 2
2. Resolution No. 20157 relating to finance; approving and authorizing the transfer of two hundred fifty dollars (\$250) from the Contingency Fund to the Vietnam Veteran's of America, Arizona Chapter 106, to offset expenses associated with the XVII Annual Nam Jam; and declaring an emergency.

This is a request by Council Member West. Allocation of funds is as follows: Council Member West - \$250.00

Item AA was considered separately at the request of Council Member West.

BB. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH ARIZONA GAME AND FISH FOR THE HABITAT CONSERVATION PLAN GRANT

1. Report from City Manager AUG2-05-447 WARDS 1, 3, 4, 5, AND OUTSIDE CITY
2. Resolution No. 20158 relating to intergovernmental agreements; approving and authorizing execution of Amendment Two to an Intergovernmental Agreement between the City of Tucson and the Arizona Game and Fish Department for Management of the Segment 1 Habitat Conservation Plan Grant; and declaring an emergency.

CC. TRANSPORTATION: RATIFICATION OF EASEMENT AND TEMPORARY ACCESS AND CONSTRUCTION LICENSE AGREEMENT FOR A BUS SHELTER LOCATED ON CAMPBELL AVENUE

1. Report from City Manager AUG2-05-457 WARD 3
2. Resolution No. 20159 relating to transportation; authorizing and approving the execution of the Temporary Access and Construction License and the Bus Shelter Easement between Camelback Corporate Center Joint Venture, LLC and the City of Tucson for a bus shelter located on the east side of Campbell Avenue, north of Glenn Street; and declaring an emergency.

DD. AGREEMENT: WITH THE PIMA COUNTY FLOOD CONTROL DISTRICT AND THE U.S. ARMY CORPS OF ENGINEERS FOR THE EL RIO MEDIO FEASIBILITY STUDY OF THE SANTA CRUZ RIVER

1. Report from City Manager AUG2-05-450 WARDS 1 AND 3
2. Resolution No. 20160 relating to Water; approving and authorizing execution of the El Rio Medio “Feasibility Study Agreement Regarding the Santa Cruz River Between Grant Road and Fort Lowell Road” between the City of Tucson, Pima County Flood Control District, and the United States Army Corps of Engineers and an Intergovernmental Agreement between the City of Tucson and the Pima County Flood Control District for Reimbursement of Local Match Costs Arising from the El Rio Medio Feasibility Study; and declaring an emergency.

It was moved by Council Member West, duly seconded, that Consent Agenda Items A through DD, with the exception of Items B, X, Y, and AA, which would be considered separately, be passed and adopted and the proper action taken.

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

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 DD, with the exception of Items B, X, Y, and AA, were declared passed and adopted by a roll call vote of 7 to 0.

B. FINANCE: CONTINGENCY FUND TRANSFER FOR SUN SOUNDS RADIO READING SERVICES ANNUAL FUNDRAISING FESTIVAL

1. Report from City Manager AUG2-05-446 WARD 4
2. Resolution No. 20142 relating to finance; approving and authorizing the transfer of three hundred (\$300.00) dollars from the Contingency Fund to the Sun Sounds Radio Reading Services, for an Annual Fundraising Festival to be held at Hi Corbett Field; and declaring an emergency.

This was a request by Council Member Scott. Allocation of funds was as follows: Council Member Scott - \$300.

Kathleen S. Detrick, City Clerk, announced the first item on the Consent Agenda to be considered separately was Item B. It was removed from the Consent Agenda at the request of Council Member West.

Council Member West said she was glad Council Member Scott put this item on the agenda and said she would also like to contribute one hundred dollars toward the annual fundraising festival expenses for Sun Sounds.

Vice Mayor Dunbar said she would contribute three hundred dollars.

Council Member Scott thanked her colleagues on behalf of the organization

It was moved by Council Member Scott, duly seconded, that Consent Agenda Item B, as amended, be passed and adopted and the proper action taken.

Kathleen S. Detrick, City Clerk, clarified for the record that the total amount was seven hundred dollars from the Contingency Fund.

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 Item B, as amended, was declared passed and adopted by a roll call vote 7 to 0.

X. ASSURANCE AGREEMENT: (S02-035) TANQUE VERDE LA RIENDA SUBDIVISION, LOTS 1 TO 6 AND COMMON AREAS "A" TO "E"

1. Report from City Manager AUG2-05-453 WARD 2

2. Resolution No. 20163 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. S02-035 of a Final Plat for the Tanque Verde La Rienda Subdivision, Lots 1 to 6 and Common Areas “A” – “E”; and declaring an emergency.
- Y. FINAL PLAT: (S02-035) TANQUE VERDE LA RIENDA SUBDIVISION, LOTS 1 TO 6 AND COMMON AREAS “A” TO “E”
1. Report from City Manager AUG2-05-454 WARD 2
  2. The City Manager recommends the Mayor and Council continue this request and not approve the plat at this time as it fails to meet the City of Tucson requirements for platting.

Kathleen S. Detrick, City Clerk, announced the next items to be considered separately were Consent Agenda Items X and Y, which were an Assurance Agreement and a Plat regarding the Tanque Verde La Rienda Subdivision, Lots 1 to 6 and common areas “A” to “E”. These items were removed from the Consent Agenda at the request of Council Member West.

Mayor Walkup recognized Council Member West.

Council Member West moved to defer these items to the City Attorney.

Michael Rankin, City Attorney, advised the Mayor and Council that City approval of the subdivision was the subject of pending litigation. He stated as part of that case, Judge Bernini of Pima Superior Court issued an order on June 28, 2005 that directed the City in part to take action to determine whether to approve the La Rienda Subdivision Final Plat, which the Council had in front of them.

Mr. Rankin said pursuant to that order, the City conducted an expedited review of the materials for the final plat. City Staff met with the applicant and its representatives approximately one week ago to try to settle all the outstanding items that would be necessary for the plat approval. City staff placed both the Assurance Agreement and the Final Plat on that evening’s Consent Agenda, even though they did not yet have the full materials from the applicant. They did that in order to keep open the opportunity to approve the Final Plat and the Assurance Agreement, if those materials were submitted prior to the August 2, 2005 Mayor and Council meeting. The City Attorney’s Office also prepared a resolution for the approval of the Assurances in the event that the materials were provided to them.

Mr. Rankin continued that, as they pointed out in the communication, the applicant had not yet provided City staff with Assurance Agreements, which remained the same at that hour, as required by State Law and the City Codes. The applicant had also failed to provide the final Covenants, Conditions and Restrictions (CC&R’s) for the property, which was also required for a consideration of those items, even though the City had repeatedly requested the submittal of the documents. Mr. Rankin stated that had

the applicant provided the materials as requested, the City Attorney's Office and City staff were prepared to recommend approval of the Final Plat at the meeting, as long as the Final Plat included a note acknowledging the Federal regulations with respect to occupancy of buildings in the development and the requirements of the issuance of a letter of map revision by the Federal Emergency Management Agency (FEMA).

Mr. Rankin stated that unfortunately, because the applicant failed to provide an Assurance Agreement and CC&R's in conformance with the City's regulations, they could not recommend approval of the Final Plat and certainly not the Assurance Agreement since they did not even have the agreement. Instead, it would be appropriate for the Mayor and Council to continue Consent Agenda Items X and Y to the next regularly scheduled meeting, to provide further time to the applicant to provide the documents necessary for approval. He said that would also give Staff time to meet with representatives of Federal Emergency Management Agency (FEMA) to discuss implications of the flood land and flood plain issues. That meeting was scheduled to occur on Wednesday, August 3, 2005.

Mayor Walkup recognized Council Member West.

It was moved by Council Member West, duly seconded, that Items X and Y on the Consent Agenda be continued to the meeting of September 7, 2005, in order to provide the applicant an opportunity to submit the Assurances, the CC&Rs and any of the other requested documents, and to provide Staff an opportunity to meet with FEMA.

Mayor Walkup asked if there were any further discussions. Upon hearing none, he asked for a roll call vote on the motion.

Upon roll call, the results were:

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

Nay: None

The motion to continue Consent Agenda Items X and Y to the meeting of September 7, 2005, passed by a roll call vote of 7 to 0.

AA. FINANCE: CONTINGENCY FUND TRANSFER TO THE VIETNAM VETERAN'S OF AMERICA, ARIZONA CHAPTER 106, FOR THE ANNUAL NAM JAM

1. Report from City Manager AUG2-05-456 WARD 2

2. Resolution No. 20157 relating to finance; approving and authorizing the transfer of two hundred fifty dollars (\$250) from the Contingency Fund to the Vietnam Veteran's of America, Arizona Chapter 106, to offset expenses associated with the XVII Annual Nam Jam; and declaring an emergency.

This is a request by Council Member West. Allocation of funds is as follows: Council Member West - \$250.00

Kathleen S. Detrick, City Clerk, announced the final item to be considered separately was Consent Agenda Item AA, and it was removed from the Consent Agenda at the request of Council Member West.

Council Member West stated this item had to do with the Seventeenth Annual Nam Jam, which would be held on October 30, 2005 at Reid Park. She was doing this for personal reasons. She said her husband was a Vietnam Vet and there was also a Vietnam Vet on the Council, Council Member Leal. In honor of them, she was requesting two hundred fifty dollars from her Contingency Funds for the purpose of their event expenses.

Council Member Leal stated he would join Council Member West and contributed two hundred fifty dollars.

Council Member Scott contributed one hundred dollars.

Vice Mayor Dunbar contributed two hundred fifty dollars.

Mayor Walkup contributed two hundred fifty dollars

Ms. Detrick clarified the total amount was eleven hundred dollars.

It was moved by Council Member West, duly seconded, that Consent Agenda Item AA, as amended, 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 Item AA, as amended, was 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 items scheduled for a public hearing. Speakers would be limited to three-minute presentations and the Call to the Audience was scheduled to last for thirty minutes. He asked if there was anyone in the audience who wished to address the Council.

- a. Lieselotte Wedde and Ben Teolis responded to a letter Ms. Wedde received from an Environmental Services inspector regarding alley trash pickup.

Mayor Walkup asked the City Manager to assign someone to get Mr. Teolis' information for them and told him someone would be speaking with him before the meeting was over.

Council Member Scott stated the residents were in Ward 4. They had not called the Ward 4 Council Office before, as they did not know that was another option for them. The Ward 4 Council Office would work in coordination with the City to help resolve this issue.

- b. Michael Toney stated concerns regarding the University of Arizona and the Downtown Science Center.
- c. Ben Young spoke in opposition to Consent Agenda Item T, relating to Development and Exchange Agreement with Lofts at Fifth Avenue LLC for property located at Fifth Avenue and Sixth Street.
- d. Dick Basye, Transportation Representative for the Pima Association of Taxpayers, spoke about various plans for the completion of the final mile of Barraza-Aviation Parkway and requested that staff look into inaccurate traffic counts.
- e. Evelyn Yanagihashi spoke in opposition to Consent Agenda Item T, relating to Development and Exchange Agreement with Lofts at Fifth Avenue LLC for property located at Fifth Avenue and Sixth Street.
- f. Chris Gans spoke in opposition to Consent Agenda Item T, relating to Development and Exchange Agreement with Lofts at Fifth Avenue LLC for property located at Fifth Avenue and Sixth Street.

## 8. PUBLIC HEARING: PROPOSED ALTERNATIVE EXPENDITURE LIMITATION – HOME RULE OPTION

Mayor Walkup announced City Manager's communication number 458, dated August 2, 2005, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on the

proposed alternative expenditure limitation, regarding the Home Rule Option. The public hearing was scheduled to last for no more than one hour. Speakers would be limited to five-minute presentations. Mayor Walkup asked if anyone wished to address the Council on this item.

Robert Royce thanked the Mayor and Council for the opportunity to speak. He said for the last four years he had heard quite a bit of whining about how the City did not have enough money. Suddenly, he was hearing whining about how the City was going to have too much money and they were going to have to raise the expenditure limit so they could spend it. He commented it was typical of City Manager, government double talk.

Mr. Royce commented that at the wave of a pen, the City was going to call an election. The citizens had been out in the community collecting signatures, Mr. Kromko and company, for months so they could call an election on an initiative to repeal one of the Council's acts of last year, the garbage fee. He said he had personally been through that before, where a petition was thrown out. He had a thirty-percent cushion and it was still thrown out because of five votes, not in Tucson, but it happened fourteen years ago.

Mr. Royce said when citizens of the City take the initiative to put something on the ballot, it should not be thrown out because one hundred and some unused lines on the petition did not have lines struck through them. He thought that was ridiculous. He said the City was calling an election with the wave of the wand and they had a perfect legal right to do that. The voters could decide whether they agreed with the Council or not, by gathering twelve thousand signatures, as he would be doing next year. He said they might wonder why he had been hesitating on his petition. He wanted it to pass the first time. He reiterated he had been through this process before. He would be handing in an extra three thousand signatures and they would be following every rule.

Mr. Royce continued he had a great deal of respect for the City Clerk. He had been watching her very closely. She was an appointed official responsible to the Mayor and Council. He said the Council did not want this election because it would be repealing the four who passed it. He said once again, it was coming down to another argument for an elected City Clerk responsible to the voters who would be doing their best to see that things were put on the ballot, not struck from them. He told the City Clerk he had a great respect for her, but she was responsible to the members on the Council, not to the voters of the City. She had the authority to direct the City Clerk's Office to give consideration to the people's petition and recommended that she do that.

Michael Toney felt Ms. Detrick did fine with her records. He stated that if the Council was going to contemplate putting money into something like the pedestrian bridge that turned into a four hundred twenty-five-foot steel suspension bridge, it was out of character. He did not think the money should be tapped into if recourse was going to be made to that kind of thing. The hidden phenomena of the downtown tower with the twenty-foot high penthouse was an infinitely more superlative choice than the bridge. High rises preserve the open space around them, especially if a garden was put in. He would not mind that the sunlight would be blocked and it would be beautiful during the

thunderstorms. He commented that there was a lot of local money behind it. He thought funding the Fox Theater was a good idea. He did not think the City had the money for frivolous projects when the City was behind in many ways. He supported landscaping and Pima County was spending seven hundred thousand dollars on landscaping by the Rillito river. He stated it was difficult to breathe in the City.

Mayor Walkup asked if there was anyone else wishing to address the Council. There was no one.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

Kathleen S. Detrick, City Clerk, announced it would be necessary for the Mayor and Council to go into a Special Mayor and Council meeting in order to take action regarding the proposed Alternative Expenditure Limitation – Home Rule Option.

Mayor Walkup announced that the Council would recess the regular meeting and convene a special meeting.

(Note: See minutes of the Special Mayor and Council Meeting of August 2, 2005 Item 2: Budget and Research: Approving The Proposed Alternative Expenditure Limitation – Home Rule Option, Calling A Special Election For The Proposal For November 8 And Specifying The Form Of Ballot.)

RECESS: 7:10 p.m.

RECONVENE: 7:24 p.m.

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

**9. PUBLIC HEARING: BINGO LICENSE – ESTES GARDENS RESIDENT ACTIVITIES, 6251 S. COMMERCE COURT, CITY NUMBER 196**

Mayor Walkup announced City Manager's communication number 436 dated August 2, 2005, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on a request for a bingo license at Estes Gardens Resident Activities located at 6251 S. Commerce Court. The applicant was Delia Orozco. He asked if the applicant was present. No one came forward.

Mayor Walkup announced the public hearing was scheduled to last for no more than one hour and speakers would be limited to five-minute presentations. He asked if there was anyone in the audience wishing to be heard on this item. There was no one.

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

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 7 to 0, to forward the bingo license application, Estes Gardens Resident Activities, to the State Tax Commission for approval.

**10. PUBLIC HEARING: TUCSON CODE (CHAPTER 6) ADOPTION OF THE 2003 INTERNATIONAL MECHANICAL CODE WITH LOCAL AMENDMENTS, THE 2003 INTERNATIONAL FUEL GAS CODE, AND THE 2003 STATE PLUMBING CODE**

Mayor Walkup announced City Manager's communication number 442 dated August 2, 2005, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on the adoption of the *Mechanical Code*, the *Fuel Gas Code*, and the *State Plumbing Code*. The public hearing was scheduled to last for no more than one hour and speakers would be limited to five-minute presentations. Mayor Walkup asked if anyone wished to address the Council on this item. There was no one.

Mike Hein, City Manager, stated he appreciated having this item on the agenda; however, staff respectfully requested that they continue the item for an additional month. He commented they had done some outreach and received preliminary feedback from some of the stakeholders and interest groups. Staff would like the opportunity to address those issues before adopting the Codes. Again, he asked that the item be continued until the next regularly scheduled Mayor and Council meeting.

Kathleen S. Detrick, City Clerk, announced the public hearing could be continued until the regular meeting on September 7, 2005, which would be held at or after 5:30 p.m., at City Hall, 255 W. Alameda, Tucson, Arizona.

It was moved by Council Member Ronstadt, duly seconded, and carried by a voice vote of 7 to 0, to continue the public hearing on Item 10 to the meeting of September 7, 2005.

**11. PUBLIC HEARING: ZONING (C9-02-32) A-C INVESTMENT – AJO WAY, R-1, R-2 AND I-1 TO I-1, CHANGE OF PRELIMINARY DEVELOPMENT PLAN (CONTINUED FROM THE MEETING OF JULY 6, 2005)**

Mayor Walkup announced that City Manager's communication number 423, dated August 2, 2005, would be received into and made a part of the record. This was the time and place legally advertised for a public hearing on a request for a change of preliminary development plan for a rezoning site located on the northeast corner of the Kino Parkway and Ajo Way. He asked if the applicant or representative was present and if they had any brief comments before beginning the public hearing.

Chuck Martin, the applicant, stated that at a meeting held August 1, 2005, Development Services and the City Manager's Office requested a sixty day continuance in order to meet with the neighbors to come up with some architectural renderings of the site, and also to work on the conditions for the revisions to the preliminary development plans.

Mayor Walkup asked if there was anyone else wishing to speak on the item. There was no one.

Council Member Leal stated he felt Mr. Martin's recommendations were good ones. He thought sixty days should give them the time to address and potentially resolve the issues at hand.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 7 to 0, to continue this item for sixty days.

**12. ZONING: (C9-97-21) DEGRAZIA – SWAN ROAD, O-2 ZONING, CHANGE OF CONDITIONS AND PRELIMINARY DEVELOPMENT PLAN, ORDINANCE ADOPTION**

Mayor Walkup announced City Manager's communication number 443, dated August 2, 2005, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10190 by number and title only.

Ordinance No. 10190 relating to zoning: amending rezoning conditions in the area located at the southeast corner of Camp Lowell Drive and Swan Road in Case C9-97-21, DeGrazia – Swan Road, O-2 zoning; and declaring an emergency.

Council Member West stated that before making a motion for the change of conditions, she wanted to thank the neighborhood and the developers for working so well

together. She felt it had been a very good process and they would come out with a good product.

It was moved by Council Member West, duly seconded, to approve the request for a change of conditions and preliminary development plan and pass and adopt Ordinance 10190.

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

Upon roll call, the results were:

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

Nay: None

Ordinance 10190 was declared passed and adopted by a roll call vote of 7 to 0.

**13. ZONING: (C9-05-05) VILLAGE OFFICES – SWAN ROAD, O-2 TO O-3, CITY MANAGER’S REPORT, ORDINANCE ADOPTION**

Mayor Walkup announced City Manager’s communication number 444, dated August 2, 2005, would be received into and made a part of the record. This was a request to rezone property located at the southeast corner of Swan Road and Camp Lowell Drive. He also announced the Zoning Examiner and the City Manager recommended approval subject to certain conditions. He asked if the applicant was present and if they were aware of and agreeable to the proposed requirements.

Mary Beth Savel, Lewis and Roca, representing the applicant and developer, Venture West, stated the applicant was in favor of the conditions, but would like to amend Condition 3, by adding the date “June 21, 2005”, immediately following “activity number T05CM01744,” to tie with greater specificity the date of the issuance of the building permit. She stated if the Mayor and Council wished, she could spend some time discussing the genesis of the rezoning and the work they had done with the Old Fort Lowell Neighborhood Association, to get to the point where everyone was in agreement. She was available to answer any questions.

Council Member West asked her colleagues if they had any questions and asked for one representative from the neighborhood to come forward and give the Council their concurrence on this. She mentioned that Dennis Olson, President, and Elaine Hill, Co-Chair of the Old Fort Lowell Neighborhood Association, were present.

Elaine Hill, representing the Old Fort Lowell Neighborhood Association, stated they had worked consistently since 1996 on this property, and over the last rezoning from O-2 to O-3. She felt they had made a lot of progress on the final aspect of the rezoning, from 1997. Their only concern in going from O-2 to O-3 was that there would be a

greater intensity of uses other than research and development. They concluded that the way to solve this issue was through covenants with Venture West.

Council Member West also acknowledged former Council Member Janet Marcus who was there that evening, and was part of the Old Fort Lowell Neighborhood.

Council Member West added the neighborhood had asked them to read into the record that “the rezoning be approved, but that the City flag the property so that any change be considered a significant change; that is concerning setbacks, height, lot size, footprint and density, so that the neighborhood would be notified if any of those changes occur at that time.”

It was moved by Council Member West, duly seconded, to approve the request for rezoning as recommended by the Zoning Examiner and pass and adopt Ordinance 10189.

In response to Council Member Ronstadt, Council Member West stated the motion include the change made by Ms. Savel.

Mayor Walkup asked the City Clerk to read Ordinance 10189 by number and title only.

Ordinance No. 10189 relating to zoning: amending zoning district boundaries in the area located on the southeast corner of Swan Road and Camp Lowell Drive in Case C9-05-05, Village Offices – Swan Road, O-2 to O-3; and setting an effective date.

Kathleen S. Detrick, City Clerk, stated it was her understanding that the amendment was to Condition 3 and Exhibit A of Ordinance 10189. She asked for the complete date that was to be included.

Council Member West replied it was June 21, 2005.

Ms. Detrick continued that the Condition 3 would be amended to read “the building on Lot sixty may be two-story, the maximum building height, shall be as shown on the building plans for which a building permit, Activity No. T05CM01744, dated June 21, 2005, has been issued.” She asked if that was staff’s understanding.

Mike Hein, City Manager, replied that staff was not forewarned about the date and one of the pieces of correspondence had a different date. If they were going to put it in the Ordinance, they wanted to make sure it was the correct date. They were unable to do that from the dais at that moment.

Council Member West asked if they could continue the meeting with other items while this issue was worked out.

Craig Gross, Planning Administrator, advised the Council that the date of June 21, 2005 was correct.

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

Upon roll call, the results were:

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

Nay: None

Ordinance 10189, as amended, was declared passed and adopted by a roll call vote of 7 to 0.

**14. ZONING: (C9-05-04) P&L GROUP – AJO WAY, R-1 TO R-3, CITY MANAGER’S REPORT**

Mayor Walkup announced City Manager’s communication number 430, dated August 2, 2005, would be received into and made a part of the record. This was a request to rezone property located on the southwest corner of Ajo Way and Pandora Avenue. The Zoning Examiner and the City Manager recommended approval subject to certain conditions. He asked if the applicant or a representative was present, and if they were aware of and agreeable to the proposed requirements.

Andrew Ogas, Gene Goldstein Architect, representing P & L Group, said they agreed to all the conditions. He thanked Council Member Ibarra’s assistant, Maritza Broce, for all her hard work in working with Cheryl Smith, one of the neighbors who diligently represented her neighborhood and had contributed to the proposed requirements. He stated he had colored elevations and site plan if the Council wished to see them. If not, he would be happy to answer any questions.

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 7 to 0, to approve the request for rezoning as recommended by the Zoning Examiner.

**15. ZONING: (C9-01-01) TMCARE – WYATT DRIVE, R-1 TO O-3, ORDINANCE ADOPTION**

Mayor Walkup announced City Manager’s communication number 445, dated August 2, 2005, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10188 by number and title only.

Ordinance No. 10188 relating to zoning: amending zoning district boundaries in the area located on the west side of Wyatt Drive approximately 300 feet south of Glenn Street in Case C9-01-01, TMCare – Wyatt Drive, R-1 to O-3; and setting an effective date.

It was moved by Council Member West, duly seconded, to pass and adopt Ordinance 10188.

Mayor Walkup asked if there were any discussions. Upon hearing none, he asked for a roll call vote.

Kathleen S. Detrick, City Clerk, announced this would require a three-quarter majority vote in order to be adopted.

Upon roll call, the results were:

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

Nay: None

Ordinance 10188 was declared passed and adopted by a roll call vote of 7 to 0.

**16. ZONING: (C9-05-09) M&B MECHANICAL – MOUNTAIN AVENUE, R-2 TO C-3, CITY MANAGER’S REPORT**

Mayor Walkup announced City Manager’s communication number 437, dated August 2, 2005, would be received into and made a part of the record. This was a request to rezone property located on the south side of Twenty-First Street, between Santa Rita Avenue and Mountain Avenue. Mayor Walkup announced the Zoning Examiner and the City Manager recommended approval subject to certain conditions. He asked if the applicant or representative was present and if they were aware of and agreeable to the proposed requirements.

Ann Warner, representing the applicant, stated they were agreeable to the conditions as presented.

Council Member Leal stated a great deal of work went into this to generate the eighteen conditions. He thought the location of the property in question was more than suitable for the activity and concern being proposed.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 7 to 0, that rezoning C9-05-09 be approved as recommended by the Zoning Examiner.

**17. ZONING: RECONSIDERATION OF ORDINANCE 10162 RELATING TO (C9-03-24) ABRAMS/ACEDO – 4TH STREET**

Mayor Walkup announced City Manager’s communication number 459, dated August 2, 2005, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10162 by number and title only.

Ordinance No. 10162 relating to zoning: amending zoning district boundaries in the area located on the south side of 4th Street between Richey Boulevard and Dodge Boulevard in Case C9-03-24, Abrams/Acedo – 4th Street, R-1/R-2 to R-2; and setting an effective date.

Kathleen S. Detrick, City Clerk, announced that City staff recommended this item be continued to September 7, 2005.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 7 to 0, that this item be continued until the meeting of September 7, 2005.

**18. IMPROVEMENT DISTRICTS: PARK AVENUE, IRVINGTON ROAD TO VALENCIA ROAD DISTRICT STREET LIGHTING AND SIDEWALK IMPROVEMENT**

Mayor Walkup announced City Manager's communication number 422, dated August 2, 2005, would be received into and made a part of the record. He asked the City Clerk to read the bids received and announce the recommendation by the Transportation Engineering Administrator.

Kathleen S. Detrick, City Clerk, announced that four bids were received on this item:

West Point Contractors, Incorporated	\$1,139,945.00
Han Mar Energy	\$1,273,765.25
Contractors West Incorporated	\$1,349,855.50
Mountain Power	\$1,417,458.85

Ms. Detrick announced the Transportation Engineering Administrator, Andrew Dinauer, was recommending that the bid be awarded to West Point Contractors, Incorporated, in the amount of \$1,139,945.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 7 to 0, to approve the award of the construction contract to West Point Contractors, Incorporation.

**19. ZONING: (C9-00-21) BROADWAY HARRISON LLC – HARRISON ROAD, SR TO R-2, ORDINANCE ADOPTION**

Mayor Walkup announced City Manager's communication number 460, dated August 2, 2005, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10192 by number and title only.

Ordinance No. 10192 relating to zoning: amending zoning district boundaries in the area located at the northwest corner of Broadway Boulevard and Harrison Road in

Case C9-00-21, Broadway Harrison LLC – Harrison Road, SR to R-2; and setting an effective date.

Council Member West stated that before moving on the item, she noticed it said on the communication “seventeen one and two story single family detached units.” It was her understanding that it was all single-story. She asked if that was not correct.

David Mann, Building Code Administrator, replied the information they had indicated they were both one and two story. The stipulation had not been made on single story only.

Council Member West said it was her understanding, from working with the neighborhoods, that a one-story stipulation was made. She did not feel comfortable making a motion that evening. As the Council recalled, in 2000 when they started with the project, there were forty-four units proposed. That changed considerably since that time. She asked if the applicant was there to clarify it. She commented that it was not agreeable to her to pass the ordinance which stated one and two story, when she believed one of the conditions with the neighborhood was that homes be one-story. She asked if Mr. Baker was there to respond to her concerns and apologized for not picking up on that before the meeting.

Bill Baker, Baker and Associates Engineering, believed the one-story restriction was for units within fifty feet of the northern boundary of the property, not the full property.

Council Member West said she was not willing to pass the item that evening. It was her understanding that it was going to all be one-story.

It was moved by Council Member West, duly seconded, and carried by a voice vote of 7 to 0, to continue this item to the Mayor and Council meeting of September 7, 2005 to allow time to work out the issue of one-story versus two-story buildings.

## **20. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS**

Mayor Walkup announced City Manager’s communication number 420, dated August 2, 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 Vice Mayor Dunbar, duly seconded, and carried by a voice vote of 7 to 0, to appoint Joel M. Greenberg to the Veterans’ Affairs Committee; Marion K. Hook to the Small Business Commission; and to reappoint Jack Kelly to the Landscape Advisory Committee.

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

**21. ADJOURNMENT:** 7:49 p.m.

Mayor Walkup announced the Council would stand adjourned until its next regularly scheduled meeting to be held on Wednesday, September 7, 2005, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

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MAYOR

ATTEST:

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CITY CLERK

**CERTIFICATE OF AUTHENTICITY**

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 2<sup>nd</sup> day of August 2005, and do hereby certify that it is an accurate transcription.

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DEPUTY CITY CLERK

KSD:sac/jk