



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on April 15, 2008

Date of Meeting: November 13, 2007

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 5:34 p.m. on Tuesday, November 13, 2007, 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
Karin Uhlich	Council Member Ward 3
Steve Leal	Council Member Ward 5
Nina J. Trasoff	Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused:

Shirley C. Scott	Vice Mayor, Council Member Ward 4
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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 Dr. Lester Potts, Veterans' Affairs Committee, after which the Pledge of Allegiance was led by Cub Scout Den 5, Pack 231.

Presentations:

- a. Mayor Walkup proclaimed November 14, 2007, to be "World Diabetes Day." Council Member Trasoff assisted Mayor Walkup in the presentation of the proclamation to Fred Gomez and Mike Burkholder.
- b. Mayor Walkup proclaimed 2008 to be "The Year of International Education." Council Member Trasoff assisted Mayor Walkup in the presentation of the proclamation to Bob Dohse. Mr. Dohse introduced high school exchange students from around the world.

Kathleen S. Detrick, City Clerk, announced Susie Rogers would assist anyone in the audience needing Spanish language translation for items listed on the agenda.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 609, dated November 13, 2007, was received into and made a part of the record. He also announced this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

- a. Council Member Uhlich congratulated Council Member Trasoff for the art exhibit at the Ward 6 office and urged the public to view the works of Victor Navarro and David Tineo.

Council Member Uhlich announced Ward 3 had partnered with the Every Voice in Action Foundation to establish a Youth Funders program who was accepting grant applications for groups offering mentoring support to young people in grades K through 12.

Council Member Uhlich also announced she was co-sponsoring a town hall with Amphitheater School District Superintendent, Vicki Balentine, and Voices for Education on the topic of preparing young people for college, work, and life, at Amphitheater High School on November 17, 2007.

Council Member Uhlich said Ward 3 was a new site for the Earned Income Tax Credit (EITC) Program coordinated by the United Way of Southern Arizona. There were resources on hand to assist people in obtaining tax assistance and volunteer tax preparers were urged to contact the United Way of Southern Arizona.

- b. Council Member West invited the public to an open house on November 16, 2007, at the Ward 2 office to thank constituents, City staff, and friends. She said there was also an art exhibit display, in the office, by Sahuaro High School students.

Council Member West also announced the Ward 2 office was accepting donations for Toys for Tots, the Food Bank, and the Diaper Bank.

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

Mayor Walkup announced City Manager's communication number 610, dated November 13, 2007, was 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.

No report was given.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 611, dated November 13, 2007, was received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

- b. Liquor License Application(s)

New License(s)

NOTE: There are no applications for licenses scheduled for this meeting.

- c. Special Event(s)

- 1. Southern Arizona AIDS Foundation (SAAF), Ward 6
1303 E. University Blvd.
Applicant: Mae Krueger
City T95-07
Date of Event: November 18, 2007
(Fundraiser - 19th Annual Jérôme Beillard Festival for Life)
Staff has indicated the applicant is in compliance with city requirements.

- d. Agent Change

NOTE: There are no agent changes scheduled for this meeting.

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 6 to 0 (Vice Mayor Scott absent/excused), to forward liquor license application 5c1 to the Arizona State Liquor Board with a recommendation for approval.

6. CALL TO THE AUDIENCE

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

- a. Don Foster addressed several issues including diabetes, educational practices at the University of Arizona, and his candidacy for the presidency. He also said he would like to see Tucson become a desert again.
- b. Laura Leighton said Tucson Police Department's (TPD) handling of an illegal immigrant student's drug possession at Catalina High School violated federal law. She added she was concerned Mexico was establishing a lobbying organization in the United States regarding illegal immigration.
- c. Jeff Berkhalter spoke against TPD policy being dictated by illegal immigrant school children. He also read a poem by E.F. Mohammed Martinez, an immigrant activist affiliated with the Nation of Aztlan.
- d. Lee Ewing spoke against TPD policy being dictated by illegal immigrant school children. He also commented traffic cameras did not catch drivers with Sonoran license plates running red lights or speeding.
- e. Roy Warden spoke against illegal immigration. He said he would return with paperwork on this issue to compel the Mayor and Council to place this issue on the agenda and take action on it.
- f. Russ Dove spoke against illegal immigration.
- g. Lorrie McGee questioned why police were not able to report illegal immigrants to Immigration Services. She expressed her concern about safety of citizens and law enforcement officers.
- h. Reverend Servant Bishop Chicago reminded the audience America's history included contributions from many ethnicities and cultures. He also expressed concern over the many products made in China and the culpability of corporate America.
- i. Joe Sweeney said governments and politicians should either uphold the Declaration of Independence or resign.
- j. Michael Toney commented thoughtful international diplomacy was necessary to resolve the immigration issue.

- k. Lance Altherr expressed concern that his children were exposed to illegal immigrants at school who were breaking the law. He urged the Mayor and Council to revise policy to enable police officers to enforce all laws.

7. CONSENT AGENDA – ITEMS A THROUGH D

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

A. REAL PROPERTY: ACCEPTING THE CONVEYANCE OF SURPLUS LAND FROM PIMA COUNTY FOR FUTURE RIGHT-OF-WAY

- 1. Report from City Manager NOV13-07-603 WARD 4
- 2. Ordinance No. 10472 relating to real property; accepting a conveyance of surplus land from Pima County to the City of Tucson; and declaring an emergency.

B. REAL PROPERTY: APPROVING A LEASE AGREEMENT WITH LLOYD CONSTRUCTION COMPANY FOR PROPERTY LOCATED AT THE MACARTHUR BUILDING

- 1. Report from City Manager NOV13-07-604 WARD 6
- 2. Ordinance No. 10473 relating to real estate; authorizing and approving the lease of certain City-owned real property located at 345 East Toole Avenue, Suite 104, to Lloyd Construction Company; and declaring an emergency.

C. INTERGOVERNMENTAL AGREEMENTS: WITH THE REGIONAL TRANSPORTATION AUTHORITY FOR BUS SERVICE EXPANSION PROJECTS

- 1. Report from City Manager NOV13-07-605 CITY-WIDE AND OUTSIDE CITY
- 2. Resolution No. 20817 relating to Intergovernmental Agreements; approving and authorizing execution of three Intergovernmental Agreements between the City of Tucson and the Regional Transportation Authority for Bus Service Expansion Projects; and declaring an emergency.

D. FINANCE: COMMUNITY SUPPORT FUND TRANSFER FOR PROJECT RESTORE

1. Report from City Manager NOV13-07-608 WARD 5
2. Resolution No. 20818 relating to Finance; approving and authorizing the allocation of One Hundred Dollars (\$100) from Ward 5 Office Community Support Fund, Account No. 001-183-1898-268, to Project Restore to assist in funding the “Community Peace and Restorative Justice Gathering” community awareness promotion event to be held on December 1, 2007; and declaring an emergency.

This is a request by Council Member Leal. Allocation of funds is as follows:
Council Member Leal - \$100.00

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

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

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Uhlich, Leal, and Trasoff;
and Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Scott

Consent Agenda Items A through D were declared passed and adopted by a roll call vote of 6 to 0.

8. PUBLIC HEARING: AMENDING TUCSON CODE (CHAPTER 4), PROHIBITING THE SALE OF ANIMALS AT SWAP MEETS AND ON PUBLIC PROPERTY AND INCREASING FINES FOR “LEASH LAW” VIOLATIONS

Mayor Walkup announced City Manager’s communication number 607, dated November 13, 2007, was received into and made a part of the record. He announced this was the time and place legally advertised for a public hearing on a proposed amendment to the Tucson Code regarding the sale of animals and the leash law. The public hearing was scheduled to last for no more that one hour and speakers were limited to five-minute presentations.

Marla K. Dick congratulated Mayor Walkup on his third term. She said she had much experience working with animals and had served on the board of directors for the Humane Society in the Midwest where she was originally from. She was a concerned citizen with a golden retriever named Tucson the Fourth and he was always on a leash. She stated anybody who said a dog needed freedom did not make sense. She said she believed the fine should be increased because every dog should be on a leash. It was the responsibility of the owner, even if a dog was in a park or dog park. One did not always know what other animals would do or what its owner was like. Maybe it was someone who wanted to start a dog fight. She stated she had a bad experience like this in the Midwest. The other lady was in the wrong and Ms. Dick won the case. She said her animals came first; they were like children to her.

Ms. Dick said she agreed with no swapping of animals, and people should be responsible for their pets. If one could not afford the fines, they should not have a pet. She said if a pet bit someone, the owner would be liable or could be sued. She said the Mayor and Council should increase fines. She said she believed people would think twice if they were "hit in the pocketbook." She said this was a good proposition and she supported it. She had already started a campaign in the Ward 2 community to inform everyone that dogs needed to be leashed, regardless of whether they thought their dogs were gentle or not. Dogs could be distracted by birds or children. She said she hoped this item passed and also hoped animals could not be sold at the swap meet. Ms. Dick said she loved animals and wanted to protect them as well as herself and others.

Charles Lakis stated he was the Director of the Grey Panthers Partners, a very active organization involved in environmental, educational, and health issues. He said the leash law was a simple but profound issue, and he appreciated Council Member West's efforts in bringing this item forward. There was a great need for this law in Tucson, but the fine was not high enough and it should be increased. Speaking from personal experience, steps should be taken to enforce the law. He was a runner who loved to run and had represented the United States in the World Senior Olympics. He frequented parks regularly and a great number of times, encountered dogs off a leash.

Mr. Lakis said he enjoyed going to Triangle Park, located in Ward 3, which was about seventy-five yards wide and six hundred yards long. He liked the feel and smell of the grass; he also enjoyed the trees, watching the sunset, and running and walking in the park. Ten times in a series of a couple of months, he went to the park and was attacked by loose dogs. An attack was anytime a dog came or ran at someone, growling or not. He said he ran at this park for an hour or two, and this had happened one to two times each episode. He had seen this happen on other occasions to other people. Once, he witnessed a dog, in an attack stance, with its tail straight up, pointing at three children who were walking with a woman across the street. He managed to distract the dog and get him out of attack mode. He said there could be ten to fifteen dogs at the park, at the same time, primarily between 4:00 p.m. to 6:00 p.m.

In one situation, Mr. Lakis informed people in the park of the leash law and showed that it was posted and asked them to put leashes on their dogs for other people's safety.

Two complied but two others did not. When these two people did not, he said if they did not put their dogs on a leash he would call the police. One person then put a leash on his dog and the other person left the park after appearing to speak with the police department on the phone. It was a dangerous situation the way dogs ran loose in City parks. The fine was not high enough. The City needed to find ways to “give it some teeth” and make it work. There were six ways to enter Triangle Park where there were ten to fifteen loose dogs between the hours of 4:00 p.m. to 6:00 p.m. He suggested stationing people at the park during those times to enforce the law.

Anna Berube stated she was a home health nurse mostly in southern and western Tucson. She stated she had much experience with dogs. A loose dog was a serious issue, not just in parks. Particularly in south Tucson, being approached or attacked by dogs was a real issue. As an emergency room nurse, she saw a child whose head was ripped from a dog attack and the child needed about three hundred stitches. The child was attacked by a friendly family collie. No one could insure a friendly family dog would not attack someone.

Ms. Berube said the dog leash law was very important. She said she loved pets and had them all her life. People were liable for their own pets. People in the area she lived in were good about keeping their dogs on a leash and cleaning after them, but there were parks where that did not happen. She stated she supported this item and the fines needed to be higher.

Michael Toney said Pima County Supervisor Ray Carroll had a series of artwork in his home, which Mr. Toney had not seen, that showed five dogs playing poker. He stated this seemed to suggest dogs would have five puppies and poker was the type of game to play with dogs. He suggested putting intrauterine devices (IUD) in female dogs to reduce the dog population. It would be cheaper and more compassionate. However, to his understanding, the County had to abide by State statutes and have the female dogs spayed. This was a heavy surgical approach. The City could get to more people and the price could be low or possibly free, if it set up a program for IUD insertion in female dogs. He said it might be possible to revise State statutes so the County’s policy could also be amended. He said the incidences Council Member West mentioned were rough. Mr. Toney stated he had experienced dogs chasing him on his bicycle. Sometimes dogs were allowed or encouraged to be vicious. He said much of this could be related to the morals of certain districts and the people who lived in them who had dogs to protect them and the dogs were nasty creatures to deal with. He stated this City Code amendment prohibited the sale of dogs at swap meets and public property. People still needed to take care of their animals. It was a little severe to raise fines to one hundred dollars. Fines should be based on specific events that occurred. He had seen dogs hanging around for years and they never seemed to be a problem. He said he did not agree with having a categorical punishment when there were a variety of possible situations. He asked if the amendment included the prohibition of giving dogs and cats away at the swap meet and on public property. He stated he hoped to hear more discussion on this item. Since owners and their dogs were not tracked, it was hard to say which dogs were vicious.

Victoria Ligon stated she did not support the proposed increase to the dog fine, not because she felt dogs should run loose anywhere or anytime, but she felt the Mayor and Council were submitting an uncreative and punitive approach to a real issue. Because so many violations were occurring each year suggested a large portion of current dog laws were not meeting the Tucson population needs. She said she considered herself to be one of those. She had two very well behaved dogs that had been through advanced obedience training. She said she did not feel they could be sufficiently exercised by walking in her neighborhood. She suggested the Mayor and Council take a more creative solution to the problem, like the program currently in use in New York City which allowed for certain time periods during the day when controlled animals could be off their leashes in city parks, not including neighborhoods. It did not mean dogs were loose all day and out of control dogs were not allowed to run loose. In New York City, dogs were allowed off leash before 9:00 a.m. and after 9:00 p.m. in many city parks. Tucson could implement more limited time periods like before 7:00 a.m. or 8:00 a.m., or times when the vast majority of Tucsonans were not in the empty parks.

Ms. Ligon said there were a huge number of dog owners that would like to use the parks responsibly during those times without jeopardizing the safety of small children or people who would not want to be in contact with loose dogs. She said fines were certainly appropriate for animals that were not behaved and not under control. She said the current dog-park system was not adequate. There were only six of them. She said she did not own a car and none of the dog-parks were close to her home. She said she did not think the City wanted to encourage more cars, since that was a whole other issue in itself. She added the dog-parks were too small; she could not fully throw a tennis ball for her dogs to chase. The parks were also overcrowded at peak times. Not during the day, but before work. The overcrowding promoted a pack mentality and aggressive behavior among the dogs. A smaller number of dogs was a safer and more enjoyable situation for dogs and people. In conclusion, she stressed she was a law-abiding citizen, who paid taxes, voted, volunteered, and she did not enjoy breaking the law. She asked the Mayor and Council to create a system that allowed her to comply with the law and responsibly care for her animals.

Jenny Rose, Community Relations Manager, Humane Society of Southern Arizona, said the Humane Society fully supported amending the Tucson Code to reflect the issues outlined in the agenda. It was a serious issue in the community. The Humane Society helped almost thirteen thousand animals in 2006, and at that rate, it was estimated by the year 2010, they would be helping fifty thousand unwanted animals in the community. Something needed to be done to fix and keep this problem from growing. Prohibiting the sale of animals at swap meets and in public rights-of-way would eliminate a very important avenue for backyard breeders who were pumping more unwanted animals into the community. There were many unwanted and stray animals. The Humane Society took in an average of forty-five animals per day at their facility. Many of the animals were stray animals or had been wounded in dog fights before arriving at their facility and needed intensive medical care. By stepping up and getting the message across that keeping an animal on a leash was keeping the animal safe, the City was sending an important message to the community to help reduce this problem and keep it from progressing to the point

where the Humane Society was taking care of fifty thousand unwanted animals. The only request the Humane Society had was for the increased revenue from the higher fine be put back into animal welfare issues by going through the Humane Society of Southern Arizona, Pima Animal Care, or to improve the current dog-park situation.

Salette Latas stated she lived with her three dogs and husband. She also owned property in Ward 3 where her daughter lived with her granddog. She said she supported both provisions on the agenda and would support even more stringent ones. She said she had spent numerous years working on animal welfare issues including being Director of the Foundation for Animals in Risk (FAIR) which might be the largest animal rescue organization in Pima County and probably in Southern Arizona. She spent at least one day a week at the Pima Animal Control Center (PACC) and had taken home at least one animal a month. She said she would speak about the financial impact of the animal problem in Tucson and Pima County.

Ms. Latas stated Pima County budgeted 4.4 million tax dollars in 2006 to provide shelter to twenty thousand eight hundred and eighty-eight animals in the PACC shelter. In May 2007, Pima County stated the City owed about 1.5 to 1.8 million dollars for enforcement costs within the City limits since June 2006, when the fiscal year began. PACC claimed an eight hundred thousand dollar budget shortfall, which meant Tucson taxpayers paid three hundred thirty-five dollars and twelve cents for every animal PACC handled. Over sixty-five percent of those animals had to be euthanized at taxpayer expense. Twelve thousand five hundred ninety-eight animals were handled by the Humane Society, who had a thirty-seven percent euthanasia rate. Both problems were directly related to the leash law and the sale of animals.

Ms. Latas said she did not believe in selling any animal within City limits when so many animals were dying. Her motto was, "Don't Breed or Buy, while Shelter Animals Die." She said breeders should be required to obtain a business license and a breeder's permit, thus requiring them to pay taxes. Breeders would oppose this law as they would lose their free ride. She stated the American Kennel Club and breeder registries made their profit, approximately twenty-five dollars per animal, registering "so-called" purebred animals. They also encouraged their members to fight any regulations against breeding. Therefore, Tucson breeders could breed as many times as they wanted without mitigating consequences, and taxpayers picked up the bill of caring for and disposing of excess animals. Animal breeding was the only organized hobby that could make a profit without paying income or sales taxes. She said a large percentage of the animals ended up in shelters while breeders benefited financially from this behavior. Taxpayers and animals suffered the consequences.

Ms. Latas also stated in the November 13, 2007, *Arizona Daily Star* there were seven advertisements for cats and eighty-five for dogs. These advertisements were not for individual animals, mostly for litters. There was a huge problem regarding animals in the community, not just the sale on public property or on the side of the road. When the Mayor and Council study session was held during the summer on this item, there were one hundred thirty-seven advertisements for dogs. Spring and summer were the peak times for

advertisements for puppies. Most of these animals would end up in shelters within the next year or two, placing the burden of caring for or disposing of them on the taxpayers. If the Council decided to increase the penalties for violations of the leash law, perhaps a lower fine could be established for owners who could prove their pet was spayed, neutered, or micro-chipped because those animals would not be a burden to taxpayers. PACC and the Humane Society had been good about scanning animals for microchips and returning them to their homes. She also suggested restrictions be put on the sale or adoption of animals so only spayed or neutered animals could be bought since intact animals compounded the problem.

Katherine Cooper stated she was concerned about the enforcement of the leash law. She asked that it not only be a law in the books, but it also addressed the possibility of people being educated about the law. She stated she had taken time to educate herself and had read the Pima County Sheriff's Department Neighborhood Resource Guide, which stated, "Leash Law - dogs must be on a leash at all times or in a confined area. Dogs cannot be left unattended while tied up in a backyard. Leash Law citations require a photo of the loose dog with the date and time of the photo, plus an address where the dog lives. If no photo, testimony or two witnesses who saw the dog loose, date, time and dog's home address will suffice." It then gave the County's phone number for contact. She continued, stating the Guide also addressed what was considered a vicious dog, "Vicious animal means any animal that bites, attempts to bite, endangers or otherwise injures or causes to be injured human beings or other animals. It is unlawful for any person to keep, control, harbor or otherwise have under control any animal which is vicious or destructive." Again, this was to be reported to the Pima County animal number.

Ms. Cooper also read from the Pima County Code regarding dogs and stated there were inconsistencies in public policies between the various entities. She stated in Chapter 6, 6.04-010 "Applicability – This chapter shall not apply to any incorporated city, town, or Indian reservation. It shall apply only within the unincorporated areas of the county." She stated it also said, in Item 6.04.030 "Dog at Large – The owner of a dog that is found at large upon streets, sidewalks, alleys, or public property is guilty of a Class 2 Misdemeanor. The owner of a dog that is found at large upon the premises of the owner or upon the private premises of any other person is guilty of a Class 2 Misdemeanor." It continued to describe what the penalties could be. Further within Chapter 6, she said it covered the authority to remove and impound. Chapter 6, 6.04.130, Item A, stated, "A Peace Officer or a Pima Care Animal Officer is hereby authorized and empowered to remove and impound any animal in plain view or pursuant to a valid search warrant if the Officer has probable cause to believe any of the following: that an animal is in distress caused by mistreatment, tie out, exposure to the elements, extremes of temperature, lack of adequate ventilation or drainage, lack of sanitation, deprivation of proper food or potable water, restraint, restriction of movement, confinement, lack of sufficient exercise space, constrictive gear, injury, illness, physical impairment, or parasites, that an animal's well being is threatened by a dangerous condition or circumstance and if the officer has reason to believe either." She said she wanted to know what the public and community, not just City or County governments, could do. She said this was only some of what she had to keep track of. She had an animal show up in her yard, which had a six foot block wall with a secured locked gate. When she asked if the animal's owner would be cited, there was inconsistency between animal control and Tucson

Police Department as to how the law would be applied. She stated she realized there was sometimes a difference in priority for response time, but the situation with the animal was to the point where she took it upon herself to do her homework. She said the owner of the animal had lived in the area for more than five years. There had been an increasing amount of gang activity, delinquents, and Crips living on the eastside in the past year, and there was a question of whether they were using animals to intimidate people within the area. When the officer responded to her house and took the dog to the vehicle, the dog went willingly. She said in another time, the dog did not want to go with the owner when they brought the owner to Ms. Cooper's house.

Ms. Cooper stated she had been a nurse for thirty years, worked with hospices, and was Delta Society Certified. The Delta Society utilized therapy animals. Her dog was one of the first dogs in Arizona to work with the Veteran's Society to help with animal-assisted therapy. She asked how the law was going to be applied, who would have jurisdiction, and when and how was it would be enforced. She said she agreed with a higher fine if it was consistently applied. She stated she also agreed with a previous speaker who said animals needed to roam. Detention areas could be set up and people in violation could do community service with Animal Control. She asked if citations were not being issued because there had to be a court appearance. She said she was told by Animal Control they were selective, and wondered how there could be consistency so everyone was safe, including the animals.

Robert Bittens stated he was very concerned about the dog fine and had mixed feelings about it. He said he owned three dogs and had been told no one knew dogs better. There was no place for dogs to go. He said when the dog-parks were built he thought it was a joke. They were like storage rooms. He said he contacted a previous City Manager several years ago and only received a letter in return telling him to keep his dog on a leash. There were areas that could have been used, but not anymore due to home developers. It was okay for home developers to build where they wanted, but one could not find a decent place for animals to run. Animals needed exercise. He said he agreed with the leash law. One topic that had not been addressed was regarding people who had their dogs on a leash but did not pick up the dogs' waste. He said this was a big issue and he was in support of fining people for that. The main thing was that dogs needed to go places where they could hike and walk.

Mr. Bittens stated there were two types of people that trained their dogs. One type was like him. He kept his dogs with him, no more than thirty feet ahead of him. The other type let their dogs go but trained the dogs to come back on their own. He stated he did not agree with this. He said he knew someone in his neighborhood who let his dog run in the middle of the street and Mr. Bittens said something to that person once and was going to say something again. He had an idea to use the area across from Fort Lowell Park, where KB Homes built their subdivision by the dog cemetery. He said that could have been a great area to allow dogs to run, or even at the end of Columbus Boulevard, north of Fort Lowell. He stated he went to this area a few times two years ago in March. There was a great group of people who were conservative about having trained dogs. He said there was one man

whose dog approached and snapped at Mr. Bitten's dog. Mr. Bitten said he asked the man not to return.

Mr. Bitten asked why people, who could not control their dogs or who had vicious dogs, did not use a muzzle. Putting muzzles on dogs would help train them. There were people who should not allow their animals off leash, but there were also dogs that were friendly and would not snap at people. He asked the Mayor and Council to rethink raising the dog fines. Some dogs that were walking with their owners should be left alone. If a dog was vicious or was an attack dog and hurt someone, then the owner should be fined.

Once Mr. Bitten was hiking with his off-leash cocker spaniel at Finger Rock Canyon, and his dog stopped and nudged him. Mr. Bitten then released his dog and noticed a pregnant Gila monster nearby and allowed it to pass. Mr. Bitten said the same dog prevented a robbery at a neighbor's house. His dog did not bark, but began to growl. Mr. Bitten turned on his floodlights and illuminated his neighbor's house. After he turned off the light, he noticed a car driving away from the house. His neighbor had been working the third shift as a nurse during the attempted robbery and thanked Mr. Bitten's dog. Mr. Bitten said he understood there were many aggressive dogs, but the important issues that should be addressed were spaying and neutering dogs to control their population and also encouraging people to have six-foot or taller fences with locked gates. He asked the Mayor and Council to reconsider this issue and he volunteered to meet with them regarding the subject.

John Watt stated he had a large acre lot where his four dogs, two large Weimaraners and two small dogs, were trained not to leave the yard even if the gate was open. Before coming to the meeting, he took his Weimaraners to the dog-park south of Grant Avenue and Sixth Street. He went into the park with his dogs on a leash and then to the vestibule to remove the dogs leash. Barring the entrance to the park was a hundred fifty to sixty pound Rottweiler. He stated he was hesitant to open the gate in front of the dog. Mr. Watt called out and asked who the owner of the dog was since he did not see anyone around it. A man on his cell phone responded. Mr. Watt asked him to move the dog from the gate. The man looked really annoyed at the request. He did however, move the dog from the area. Mr. Watt stated he then let his dogs in. He was at the park about five minutes with his six year old daughter standing next to him. They sat on a bench and the Rottweiler and a Great Dane came over started barking intensely at him. The Rottweiler bit Mr. Watt on the arm. The bite did not break the skin but scared him. Mr. Watt walked over to the owner and informed him his dog had just bit him, asked the man to put his dog on a leash, and remove it from the park. The rule of the park, posted on placards throughout the park, stated if a dog bit someone, the owner should be asked to put the dog on a leash and remove it. If the owner refused to do so, 9-1-1 would be called. Mr. Watt said the man started swearing at him and calling him various names, and Mr. Watt called 9-1-1. Mr. Watt said, while he waited for 9-1-1 to respond, the owner went to every other person in the park and told them, in no repeatable terms, Mr. Watt was making an issue about being bitten by his Rottweiler.

Mr. Watt said the Tucson Fire Department (TFD) responded and asked him if he needed medical attention. He showed them the wounds and said he did not think he needed medical attention; he was bruised but had distinct teeth marks on his arms. He said he told TFD he needed an officer to ask the dog's owner to remove his dog from the park. Mr. Watt said he felt the dog was a danger to his daughter, to him, and to other dogs in the park. Mr. Watt said the officer stated there was nothing they could do. Mr. Watt pointed to the sign that stated what one needed to do when bitten by a dog or forced with aggressive behavior. He said it also defined aggressive behavior as a dog that just barked loudly or made an aggressive move. He stated the Rottweiler went way beyond what the notice said. Again, he asked the officer what he meant by not being able to do anything. Mr. Watt said there were park rules written on City placards. The officer stated there was nothing he could do because it was an issue for Animal Control, and TFD would call them. Animal Control never responded, but a second female TPD officer did. While the two officers were conversing privately, Mr. Watt walked over to them and they asked him to back away, which he did. The male officer told Mr. Watt he needed to expect those things to happen around Rottweilers since they were big dogs and not to make such a big deal out of it.

Mr. Watt stated he was in favor of increasing the fine and also improving the education of police officers on what the dangers were around dogs and what dog laws were. He stated he simply asked the officer to enforce the law and the officer made him out to be the bad guy. When the person who owned the dogs left the park, he asked Mr. Watt to move away as he was going to move his dogs. Mr. Watt responded that it was a public sidewalk to which the man just shrugged his shoulders. He stated the man had three dogs at the park, none on a leash, and the officer did nothing about it. Mr. Watt asked the officer about the leash law, but the police officer said to not make an issue of it. Mr. Watt said this was a real concern that needed more discussion. He said he also planned to pursue it with the police department, find out who the officer was and get some sort of disciplinary action taken against him.

Ron McLoughlin stated his original intention was not to speak about the leash law, but listening to this issue, he said he would not want to own a dog in Tucson. It was too much hassle. Not being able to sell a dog was anti-capitalism. He asked why an entrepreneur was being admonished by local government. He asked why this was occurring with a Republican mayor. Republicans believed in taking the government out of day-to-day life. This issue was too much government in the lives of the small people. He noticed, of the people who had spoken, only one was a working class person. The rest were rich or middle class people who owned dogs and were trying to control the issue they were out of control in. He continued saying there were too many discrepancies, nothing seemed to be agreed upon, and then suggested this issue be sent back to a committee to analyze and give the poor people a chance. Mr. McLoughlin stated that on the issue of the sale of animals at the swap meet, another solution might be to have the seller give a receipt for the sale of an animal. That way control could be kept. He stated the same went for the property issue. There was no reason a dog could not be sold to another person if the dog's owner did not particularly like the dog, and the dog responded well to the person visiting the owner.

Mr. McLoughlin said there was nothing credible about penalizing the little guy. America was supposed to be a capitalist society and a little capitalism was selling a dog, whether it was at the swap meet or at a property. He said if the City really wanted to control that, it needed an obligatory bill of sale. He stated the people that the City needed to go after were the unlicensed breeders who were not contributing to City taxes. He stated the City needed the revenue generated from taxes. This was an arbitrary and capricious law. He said in legal terms, arbitrary and capricious was not democratic. He mentioned this was the most anti-democratic item he had ever seen on the City Council and people should be ashamed of themselves. It was not right in any sense of the word.

Mr. McLoughlin said when he lived in New York, his daughter visited him from Bridgeport, Connecticut. She remarked on how many people had dogs. When this was brought to his attention, he noticed everyone seemed to have dogs.

Mr. McLoughlin said he felt there was no distinction being made in this issue between a large Rottweiler and a small Chihuahua. There was a world of difference between these animals. A Chihuahua might bark a lot, but would not bite at least based on his experiences. He commented that a previous speaker's remark about detention areas sounded like the speaker had an Indian reservation mentality. He also stated the Humane Society was very well represented at the meeting. He said he did not know what the Mayor and Council expected the average citizen to do when he or she wanted to get rid of their dog or could no longer feed the dog because of economic constraints. He stated there were a lot of issues to consider and felt it should go back to committee or study session and re-analyze what was going on. The public had been alerted. He suggested getting the little guy involved who wanted to sell his dog at the swap meet or on his property and see what he had to say. He stated the little guy was not being represented.

Matthew Pulver stated he was not sure how he felt about the selling of dogs at the swap meet, but he was concerned about raising the fine on the leash law. He said it would not work. Dogs needed to run, and no one could keep up with a dog, but a solution was needed. He could understand people having a fear of being bitten by a dog, but to make a law based on fear was not the answer. He stated if his dog bit someone because of his poor handling of it while off a leash, he would be sued; that was why there were civil courts. He stated it would take a five hundred dollar fine before he stopped running his dog, but raising the fine would not affect anything. He stated the City needed to find a proactive solution.

It was moved by Council Member Trasoff, duly seconded and passed by a voice vote of 6 to 0 (Vice Mayor Scott absent/excused), to close the public hearing.

Council Member West stated the item came to Mayor and Council because of serious injuries to both people and dogs in a park in Ward 2. Since then, she had heard from many people who had similar situations. She said many times people were the problem, not the animals. However, with the advice from the City Prosecutor, these laws made a lot of sense, and the City was going in the right direction. The Code would be amended to

prohibit the sale of animals at swap meets and from public property, not private property, and to increase the minimum fines for dogs at large.

It was moved by Council Member West, duly seconded, to pass and adopt Ordinance 10475.

Council Member West stated what she had heard from other people was inconsistency in enforcement of the law. She asked a representative from the Pima Animal Care Center (PACC) and TPD to address the issue.

Kim Janes, Pima Animal Care Center, stated there was a consistent policy. The challenge lay in the perception of consistent application of the policy. He added his organization did all it could to respond to every call it received. There were many variables which affected a leash law call. Coming to a point through due process to determine whether a person had violated the law from an enforcement perspective was very challenging. He stated there was a consistent policy and PACC did all it could to enforce it.

Lieutenant James Webb, Tucson Police Department, stated TPD had a consistent policy with the call load and priority system in which the calls were responded to. Leash law violations were considered a lower priority. Often times, PACC arrived before TPD and they would deal with the violations. A vicious dog call, or if someone had been bitten, was a priority for TPD and they would respond and issue citations.

Council Member West stated that information was helpful because she had heard, in a couple of instances, where a police officer had been present but perhaps it was after the incident, and if they did not actually see what happened, they would not enforce the law.

Lt. Webb responded this was not necessarily the case. He said TPD responded to an incident and might not observe a violation but could still issue a citation. He said he was not sure what happened in the cases Council Member West referred to.

Council Member West asked the lieutenant to educate others because TPD was getting a bad reputation regarding this issue. Several people had told her an officer was nearby and did not respond. She said perhaps new officers did not know what to do and this was something that could be included in their training. She felt it needed some work. She said the City had been progressive with its diversion program whereby the City educated violators in lieu of the fine. If someone could not afford to pay the fine, they could attend the diversion program and have the fine waived.

Michael Rankin, City Attorney, stated Council Member West was correct, and in fact, the charge would be dismissed. He said the diversion program was an educational program regarding the laws and obligations pet owners had under the City Code and State law.

Council Member West said one more item she wanted to address was the story in the October 27, 2007, edition of the *Tucson Citizen*. Mike Tully, from the Humane Society, went to the University of Arizona and spoke to students about what happened to their animals when they left for the summer. She said he challenged them to contact pet stores for sponsorships and suggested creating a student-run website. She said she felt Mr. Tully should be recognized by the Mayor and Council for his efforts. She added she appreciated so many people attended the meeting and provided testimony and offered alternative solutions as well.

Council Member Leal thanked Council Member West for her efforts in bringing the community together on this item. Because of the possible conflict of priorities in TPD response, he asked the City Attorney if there was a way to find alternative ways to find an alternative solution. For example, the City had cross-trained twenty-three people to cite residents for infractions of the Sign Code, although they were not Development Services Department employees. Council Member Leal asked if there were legal restrictions preventing the City from certifying park employees to issue citations for violations rather than calling on TPD. He said it was more convenient for a Parks and Recreation Department employee to respond to these types of complaints when they were occurring.

Michael Rankin, City Attorney, stated there were two legal obstacles. Violations of leash law and other codes were criminal violations that could only be cited by peace officers, including PACC officers, but not including the City's code inspection officers. Even if other City employees were trained, they would not have that type of authority unless the Code was amended to make some of the violations civil infractions instead. If the Council wanted the City to look into designating of some of the criminal violations as civil infractions and come back with recommendations, it could be done.

Council Member Leal stated he would like to see the City evaluate the process and, if there was merit to it, come back with recommendations at a later time.

Mr. Rankin stated the codes put in place with respect to animal violations needed to be at least as restrictive as under State law. He would have to examine if something was classified as a civil infraction, if the City was in conflict or pre-empted under State law. He advised he would come back with this information.

Council Member Trasoff stated she would like to discuss whether the City should restrict or govern breeders. Beyond moral issues of overbreeding, they cost the City money. She said she understood what a speaker mentioned about some dogs needing more running space. She stated it was difficult to enforce that and the City already had so many problems. She said she did not want the speaker to think no one was listening to her argument, but her point was only a handful of dogs were that well trained and the vast majority was not. She said she did not know how the City would make that distinction and the Council had to err on the side of safety for people and animals. She asked if animals could be given away at the swap meet under the proposed amendment.

Mr. Rankin stated the way the ordinance was written, it prohibited the sale of, gift of, or other transfer of animals at swap meets or public properties.

Mayor Walkup asked if there was further discussion. Hearing none, he asked the City Clerk to read Ordinance 10475.

Ordinance No. 10475 relating to animals and fowl; amending the Tucson Code, Chapter 4, Animals and Fowl, Article I, In General, Section 4-8, to prohibit the sale of animals at swap meets and on public property and to establish penalties; Article V, Dogs, Section 4-97(5), by amending penalties for Dog at Large violations by increasing minimum fines; and declaring an emergency.

Mayor Walkup asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Uhlich, Leal, and Trasoff; and Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Scott

Ordinance 10475 was declared passed and adopted by a roll call vote of 6 to 0.

9. PUBLIC HEARING: GRANT-ALVERNON AREA PLAN AMENDMENT (PA-07-05); FORT LOWELL ROAD/SYCAMORE AVENUE ALIGNMENT – OFFICE AND HIGH-DENSITY RESIDENTIAL USES

Mayor Walkup announced City Manager's communication number 614, dated November 13, 2007, was received into and made a part of the record. He announced this was the time and place legally advertised for a public hearing on an amendment to the *Grant-Alvernon Area Plan*. He asked if the applicant or a representative was present.

Mike Grassinger, The Planning Center, stated they were in complete agreement with the recommendations from the Planning Department and the Planning Commission. He clarified this was a request for office uses only, not high density residential/office use, which was the only option they had to choose from.

Mayor Walkup stated the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations. He asked if anyone wanted to speak on this item.

Michael Toney said he attended a Planning Commission meeting on this item and he asked if this request was strictly for office use.

Albert Elias, Director, Urban Planning and Design, addressing the Mayor and Council, stated the proposal the applicant put forth was for an office building. The manner in which the plan was being proposed to be amended would allow for office as well as medium and high density residential. That was not what the applicant was proposing.

Mr. Toney asked if the applicant would have an option to put residential in but had no intention to do so.

Mr. Elias, addressing the Mayor and Council, stated the applicant was proposing an office building. When the proposal went through the rezoning process, the request would be more specific with respect to exactly what the applicant wanted to build and which, according to his understanding, was office space.

It was moved by Council Member Trasoff, duly seconded, and passed by a voice vote of 6 to 0 (Vice Mayor Scott absent/excused) to close the public hearing.

Mayor Walkup asked the City Clerk to read Resolution 20819 by number and title only.

Resolution No. 20819 relating to planning and zoning; amending the *Grant-Alvernon Area Plan*; and declaring an emergency.

It was moved by Council Member West, duly seconded, to pass and adopt Resolution 20819.

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

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Uhlich, Leal, and Trasoff; and Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Scott

Resolution 20819 was declared passed and adopted by a roll call vote of 6 to 0.

10. PUBLIC HEARING: TUCSON CODE – AMENDING (CHAPTER 23) THE LAND USE CODE; ADDING AN ARTISAN RESIDENCE PROVISION

Mayor Walkup announced City Manager’s communication number 615, dated November 13, 2007, was received into and made a part of the record. He announced this was the time and place legally advertised for a public hearing regarding two proposed

amendments to the *Land Use Code*. The public hearing was scheduled to last for no more than one hour and speakers were limited to five minute presentations.

Mayor Walkup asked if there was anyone wishing to speak on this item. Hearing none, he asked for a motion to close the public hearing.

It was moved by Council Member Trasoff, duly seconded, and passed by a voice vote of 6 to 0 (Vice Mayor Scott absent/excused), to close the public hearing.

Mayor Walkup asked the City Clerk to read Ordinance 10477 by number and title only.

Ordinance No. 10477 relating to planning and zoning; amending the Tucson Code Chapter 23, *Land Use Code*, Article II, Zones, Division 5, Commercial Zones, Sections 2.5.2.2, 2.5.3.2, 2.5.4.2 and 2.5.5.2 by adding Artisan Residence as a permitted land use in those commercial zones; amending Article III, Development Regulations, Division 5, Performance Criteria, Section 3.5.4 by adding a new Section 3.5.4.28; amending Article VI, Definitions, Division 3, Land Use Groups by adding a new Section 6.3.5.28, Artisan Residence; and declaring an emergency.

It was moved by Council Member Leal, duly seconded, to pass and adopt Ordinance 10477.

Council Member Trasoff, thanked Council Member Ibarra for his leadership on this item. It provided flexibility to people in their work and in their lives and still protected the health, welfare, and safety of the community. She said it was a very creative approach.

Mayor Walkup asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Uhlich, Leal, and Trasoff;
and Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Scott

Ordinance 10477 was declared passed and adopted by a roll call vote of 6 to 0.

(Note: Council Member Uhlich departed the chambers at 7:34 p.m.)

11. ZONING: (C9-06-07) WYCOZONA – MARY ANN CLEVELAND WAY, RH TO R-1, ORDINANCE ADOPTION

Mayor Walkup announced City Manager’s communication number 606, dated November 13, 2007, was received into and made a part of the record. He asked the City Clerk to read Ordinance 10474 by number and title only.

Ordinance No. 10474 relating to zoning: amending zoning district boundaries in the area located on the west side of Pantano Wash North of Rancho Del Lago, approximately 600 feet east of Mary Ann Cleveland Way in Case C9-06-07, Wycozona – Mary Ann Cleveland Way, RH to R-1; and setting an effective date.

It was moved by Council Member West, duly seconded, to pass and adopt Ordinance 10474.

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

Upon the roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Uhlich and Vice Mayor Scott

Ordinance 10474 was declared passed and adopted by a roll call vote of 5 to 0.

12. ELECTIONS: CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE CITY GENERAL AND SPECIAL ELECTIONS HELD NOVEMBER 6, 2007

Mayor Walkup announced City Manager’s communication number 613, dated November 13, 2007, was received into and made a part of the record. He asked the City Clerk to read Resolutions 20820, 20822, and 20821 by number and title only.

Resolution No. 20820 relating to elections; canvassing the returns and declaring the results of the General Election held in the City of Tucson, Arizona on November 6, 2007.

Resolution No. 20822 relating to elections; canvassing the returns and declaring the results of the Special Election on Proposition 100 held in the City of Tucson, Arizona on November 6, 2007.

Resolution No. 20821 relating to elections; canvassing the returns and declaring the results of the Special Election on Proposition 200 held in the City of Tucson, Arizona on November 6, 2007.

Council Member Trasoff asked if action had to be taken separately for each resolution.

Kathleen S. Detrick, City Clerk, replied affirmatively and announced the three resolutions had been updated to reflect the results as canvassed by the City Clerk's office on November 11, 2007. Also, the resolutions in this item were not subject to the emergency clause and the ordinance in Item 11 had a delayed effective date, so the resolutions and ordinance would not need to be reconsidered.

It was moved by Council Member Trasoff, duly seconded, to pass and adopt Resolution 20820.

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

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Uhlich and Vice Mayor Scott

Resolution 20820 was declared passed and adopted by a roll call vote of 5 to 0.

It was moved by Council Member Trasoff, duly seconded, to pass and adopt Resolution 20822.

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

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Uhlich and Vice Mayor Scott

Resolution 20822 was declared passed and adopted by a roll call vote of 5 to 0.

It was moved by Council Member Trasoff, duly seconded, to pass and adopt Resolution 20821.

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

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Uhlich and Vice Mayor Scott

Resolution 20821 was declared passed and adopted by a roll call vote of 5 to 0.

13. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 612, dated November 13, 2007, was received into and made a part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 5 to 0 (Council Member Uhlich and Vice Mayor Scott absent/excused), to appoint Anthony K. King and Ken W. Rogers to the Commission on Disability Issues; to appoint Brian Sagar and re-appoint Bruce L. Dawson to the Design Review Board; and to appoint Sharon J. Emley to the Sign Code Advisory and Appeals Board.

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

There were no personal appointments.

14. ADJOURNMENT: 7:40 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council was held on Tuesday, November 20, 2007, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 13th day of November 2007, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:ypl:tl:kad