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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on December 16, 2008

Date of Meeting: September 16, 2008

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, September 16, 2008, all members having been notified of the time and place thereof.

### 1. ROLL CALL

The meeting was called to order by Mayor Pro Tempore Uhlich and upon roll call, those present and absent were:

Present:

Regina Romero	Council Member Ward 1
Rodney Glassman	Council Member Ward 2
Karin Uhlich	Mayor Pro Tempore, Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Steve Leal	Council Member Ward 5
Nina J. Trasoff	Council Member Ward 6

Absent/Excused:

Robert E. Walkup	Mayor
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Staff Members Present:

Mike Hein	City Manager
Michael Rankin	City Attorney
Roger W. Randolph	City Clerk
Mike Letcher	Deputy City Manager

## **2. INVOCATION AND PLEDGE OF ALLEGIANCE**

The invocation was given by Pastor Bob Auberry, New Life Church, after which the Pledge of Allegiance was led by Girl Scout Troop 1335.

Roger W. Randolph, City Clerk, announced Susie Rogers would be assisting with anyone in the audience needing Spanish language translation for items listed on the agenda.

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

Mayor Pro Tempore Uhlich announced City Manager's communication number 486, dated September 16, 2008, was received into and made a part of the record. She 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 Glassman announced that the Ward 2 office was holding a Town Hall on the "Houghton Area Corridor Plan" on September 22, 2008. He also announced the ribbon cutting ceremony for the Carol W. West Senior Addition at Morris K. Udall Park on September 23, 2008.
- b. Council Member Scott reported on action taken by the Tucson Police Department (TPD) Home Invasion Unit to investigate and confiscate a house involved in trafficking stolen items and drugs. She praised the work done by TPD, the Department of Neighborhood Resources, and citizens who stepped up to report the suspicious activity in their neighborhood.
- c. Council Member Leal announced that "Hearts of Gold Police Family Outreach" was holding a fundraiser on September 22, 2008, at Corleone Restaurant. The fundraiser was to help families of injured officers or public safety employees.
- d. Council Member Trasoff reported on the "Go Green Festival" held at the Ward 6 office on September 10, 2008.

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

Mayor Pro Tempore Uhlich announced City Manager's communication number 487, dated September 16, 2008, was received into and made a part of the record. She also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

No report given.

## 5. LIQUOR LICENSE APPLICATIONS

Mayor Pro Tempore Uhlich announced City Manager's communication number 488, dated September 16, 2008, was received into and made a part of the record. She asked the City Clerk to read the Liquor License Agenda.

### b. New License(s)

1. Famous Sams #6 (VI), Ward 6  
3933 E. Pima St., Ste 101  
Applicant: Gary Curtis Suskind  
(Continuation of a Restaurant License) Series 12, City 54-08  
Action must be taken by: September 22, 2008  
Development Services has indicated the applicant is not in compliance with city requirements.  
Revenue and Tucson Police Department have indicated the applicant is in compliance with city requirements.

This item was considered separately.

2. Amber Restaurant & Gallery, Ward 2  
7000 E. Tanque Verde  
Applicant: Peter Witusik  
Series 12, City 55-08  
Action must be taken by: September 25, 2008  
Staff has indicated the applicant is in compliance with city requirements.
3. Luna Bella, Ward 2  
2990 N. Swan Rd., Suite 145  
Applicant: Steven Stuart Schultz  
Series 12, City 56-08  
Action must be taken by: September 25, 2008  
Staff has indicated the applicant is in compliance with city requirements.

### Person Transfer(s)

4. Buffet Bar, Ward 6  
538 E. 9th St.  
Applicant: Lisha Louise Smith  
Series 6, City 57-08  
Action must be taken by: September 27, 2008  
Development Services and Tucson Police Departments have indicated the applicant is in compliance with city requirements.  
Revenue has indicated the applicant is not in compliance with city requirements.  
Public Opinion: Written Argument Opposed Filed

This item was considered separately.

c. Special Event(s)

1. Tucson Fire Fighters' Chili Cook-Off, Ward 1  
160 W. Alameda  
Applicant: Gerry R. Bowlin  
City T58-08  
Date of Event: November 7, 2008  
(Fundraiser for Adopt-A-Family)  
Staff has indicated the applicant is in compliance with city requirements.
2. Tucson's Young Professionals, Inc., Ward 6  
330 S. Scott Ave.  
Applicant: Megan Leslee Pellman  
City T61-08  
Date of Event: October 3, 2008  
(To promote community event in downtown Tucson)  
Staff has indicated the applicant is in compliance with city requirements.
3. St. Luke's in the Desert, Inc., dba St. Luke's Home, Ward 2  
3800 E. River Rd.  
Applicant: Larry E. Rush  
City T62-08  
Date of Event: November 9, 2008  
(Fundraiser)  
Staff has indicated the applicant is in compliance with city requirements.
4. ArtSake Foundation, Ward 6  
318 E. Congress  
Applicant: Paul Bear (Barrington)  
City T64-08  
Date of Event: October 11, 2008  
(Fundraiser)  
Staff has indicated the applicant is in compliance with city requirements.
5. St. Margaret Mary Parish, Ward 1  
801 N. Grande Ave.  
Applicant: Oscar H. White  
City T65-08  
Date of Event: October 11, 2008 - October 12, 2008  
(Annual Parish Fiesta)  
Staff has indicated the applicant is in compliance with city requirements.

d. Agent Change/Acquisition of Control

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

Council Member Glassman thanked Amber Restaurant, Luna Bella, and St. Luke's in the Desert for meeting with Mother's Against Drunk Driving.

Mayor Pro Tempore Uhlich asked if there was any further discussion. Hearing none she asked for a motion.

It was moved by Council Member Glassman, duly seconded, and carried by a voice vote of 6 to 0 (Mayor Walkup absent/excused), to forward liquor license applications 5b2, 5b3 and 5c1 through 5c5 to the Arizona State Liquor Board with a recommendation for approval.

## 5. LIQUOR LICENSE APPLICATIONS

### b. Liquor License Applications

#### New License(s)

1. Famous Sams #6, Ward 6  
3933 E. Pima St.  
Applicant: Gary Curtis Suskind  
(Continuation of a Restaurant License) Series 12, City 54-08  
Action must be taken by: September 22, 2008  
Development Services indicated the applicant was not in compliance with City requirements.  
Revenue and Tucson Police Department have indicated the applicant is in compliance with city requirements.

Roger W. Randolph, City Clerk, announced the first application to be considered separately was item 5b1, Famous Sams #6 located in Ward 6.

Council Member Trasoff stated that this was a very interesting situation since the restaurant was technically not in compliance. The City *Land Use Code* did not acknowledge the existence of a grill license, which was state law. The Grill Bill License allowed a restaurant to have only thirty percent of total food sales as opposed to forty percent, which was required of a restaurant. Since the so-called "grill bill" was a state law and the restaurant had been operating without any serious problems and because the State will only grant a certain number of these grill licenses, Council Member Trasoff said she did not feel it would be necessary for the Mayor and Council to push for a major *Land Use Code* revision that would create a grill bill. Although it may not meet strictly the City of Tucson's *Land Use Code*, Council Member Trasoff said she felt it would be appropriate to forward a motion to recommend Famous Sams #6 for this license.

It was moved by Council Member Trasoff, duly seconded, to forward liquor license application 5b1, to the Arizona State Liquor Board with a recommendation for approval.

Council Member Trasoff added that one of the provisions of this grill bill did allow the flexibility for restaurants that did go below the forty percent mark. Council Member Trasoff noted the importance of Famous Sams not falling below the thirty percent mark in which case it would become a bar, which was a different kind of license, and a whole different reality.

Thomas R. Aguilera of the Aguilera Law Group asked to speak on behalf of the applicant. Mr. Aguilera stated that he was prepared for a no recommendation and wanted to let the Council know that he appreciated their vote. This was the first time he had received approval for the State Board and wanted to thank the Council.

Council Member Trasoff stated that she would like Mr. Aguilera to make clear to the applicant that it was very important that they stayed well above the thirty percent mark, so that there was no question of this devaluing into a bar, which would bring a whole different reaction from the Council.

Mr. Aguilera stated that by reading Arizona Revised Statute 4-213(F) it could be seen that the state department had onerous authority over this. It would be a summary revocation if a restaurant fell below the thirty percent mark. He also said the liaison of all the franchisees of Famous Sams was present and he was continuously monitoring the restaurants very closely.

Mayor Pro Tempore Uhlich asked if there was any discussion. Hearing none, she asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Romero, Glassman, Scott, Leal, and Trasoff; Mayor Pro Tempore Uhlich

Nay: None

Absent/Excused: Mayor Walkup

The motion to forward liquor license application 5b1, to the Arizona State Liquor Board with a recommendation for approval was declared passed by a roll call vote of 6 to 0.

## 5. LIQUOR LICENSE APPLICATIONS

### b. Liquor License Applications

#### Person Transfer(s)

4. Buffet Bar, Ward 6  
538 E. 9<sup>th</sup> St.  
Applicant: Lisha Louise Smith  
Series 6, City 57-08  
Action must be taken by: September 27, 2008  
Development Services and Tucson Police Department has indicated the applicant is in compliance with city requirements.  
Revenue has indicated the applicant is not in compliance with city requirements.  
Public Opinion: Written Argument Opposed Filed

Roger W. Randolph, City Clerk, announced the second application to be considered separately was item 5b4, Buffet Bar located in Ward 6.

Council Member Trasoff stated that there was one note of opposition and asked if the applicant was present at the meeting.

Marilyn Smith announced that she was present and would be representing the Buffet Bar as one of the owners and was the mother of the applicant, Lisha Smith.

Council Member Trasoff asked if the person who filed the opposition was present at the meeting. Council Member Trasoff stated that there had been a couple of things that had come in subsequently, so they were not technically relevant to this item. Council Member Trasoff recommended with no prejudice whatsoever, that this item be put off for one week for consideration. She also stated that she would like the new owners and the neighborhood association to have the opportunity to meet. This would give the new owners the opportunity to talk to the people directly; the meeting was scheduled for Thursday, September 18, 2008. Council Member Trasoff said that by postponing this item for one week there would still be time for the approval and that it would not be jeopardizing the transfer.

Marilyn Smith stated she had been informed that this item would be postponed to the next Mayor and Council meeting, scheduled for September 23, 2008.

It was moved by Council Member Trasoff, duly seconded, to continue this item to the meeting on September 23, 2008.

Council Member Leal asked, for clarification, if the item was a person to person transfer. He also stated it was important that everyone at the meeting understand that the only basis for the discussion was the fitness and suitability of the person who would end up having the license.

Mayor Pro Tempore Uhlich thanked Ms. Smith for attending and asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Romero, Glassman, Scott, Leal, and Trasoff; Mayor Pro Tempore Uhlich

Nay: None

Absent/Excused: Mayor Walkup

The motion to continue this item to the meeting of September 23, 2008, was declared passed by a roll call vote of 6 to 0.

## **6. CALL TO THE AUDIENCE**

Mayor Pro Tempore Uhlich 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. Miguel Escalante spoke about the proposed convention center arena and the condition of the streets in the Tucson area.
- b. Dale Roose spoke about problems throughout Tucson regarding ADA issues.
- c. Nancy Langan spoke of the lack of taxi stands throughout the Tucson area.
- d. Joe Sweeney continued discussion from the previous week regarding Federal Government in the training of our Police Department under the Immigration Naturalization Act.

## **7. CONSENT AGENDA – ITEMS A THROUGH F**

Mayor Pro Tempore Uhlich announced the reports and recommendations from the City Manager on the Consent Agenda were received into and made a part of the record. She asked the City Clerk to read the Consent Agenda.

- A. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE AVONDALE NEIGHBORHOOD REINVESTMENT GRANT PROJECT
1. Report from City Manager SEPT16-08-491 WARD 6
  2. Resolution No. 21081 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and Pima County for the Avondale Neighborhood Reinvestment Grant Project; and declaring an emergency.
- B. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE WEST UNIVERSITY NEIGHBORHOOD CATALINA PARK REINVESTMENT GRANT PROJECT
1. Report from City Manager SEPT16-08-492 WARD 6
  2. Resolution No. 21082 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and Pima County for the West University Neighborhood Catalina Park Reinvestment Grant Project; and declaring an emergency.
- C. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY, MARICOPA COUNTY, PINAL COUNTY AND THE CITY OF PEORIA FOR THE ARIZONA BENCHMARKING STUDY
1. Report from City Manager SEPT16-08-490 OUTSIDE CITY
  2. Resolution No. 21083 relating to Intergovernmental Agreements; approving and authorizing execution of an Intergovernmental Agreement between the City of Tucson, Pima County, Maricopa County, Pinal County, and the City of Peoria for the Cost Sharing Agreement for the Arizona Benchmarking Study; and declaring an emergency.
- D. APPROVAL OF MINUTES
1. Report from City Manager SEPT16-08-494 CITY-WIDE
  2. Approval of minutes for the regular meeting of the Mayor and Council held on May 20, 2008
- E. INTERGOVERNMENTAL AGREEMENT: WITH THE STATE OF ARIZONA FOR MAINTENANCE OF STATE HIGHWAYS WITHIN THE CITY LIMITS
1. Report from City Manager SEPT16-08-495 CITY-WIDE

2. Resolution No. 21084 relating to Intergovernmental Agreements; approving and authorizing execution of an Intergovernmental Agreement between the City of Tucson and the State of Arizona for the Maintenance of State Highways within the Tucson City Limits; and declaring an emergency.
- F. ASSURANCE AGREEMENT AND FINAL PLAT: (S06-186) INTERSTATE 10 AND KOLB ROAD (RCP), LOTS 1 TO 114 AND COMMON AREAS “A” AND “B”
1. Report from City Manager SEPT16-08-493 WARD 4
  2. Resolution No. 21085 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements in Case No. S06-186 and approving the final plat for the Interstate 10 and Kolb Road, an RCP subdivision, Lots 1 through 114 and Common Area “A” and “B”; and declaring an emergency.
  3. Staff recommends that the Mayor and Council approve the assurance agreement and 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.

Mayor Pro Tempore Uhlich asked for a motion from the council.

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

Mayor Pro Tempore Uhlich asked if there was any discussion. Hearing none, she asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Romero, Glassman, Scott, Leal, and Trasoff; Mayor Pro Tempore Uhlich

Nay: None

Absent/Excused: Mayor Walkup

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

**8. DEVELOPMENT AGREEMENT: WITH THE FLATS AT JULIAN DREW BLOCK, LLC**

Mayor Pro Tempore Uhlich announced City Manager's communication number 496, dated September 16, 2008, was received into and made a part of the record. She asked the City Clerk to read Resolution 21087 by number and title only.

Resolution No. 21087 relating to Development; approving and authorizing the Development Agreement with the City of Tucson and The Flats at Julian Drew Block, LLC, an Arizona Limited Partnership; and declaring an emergency.

Mayor Pro Tempore Uhlich asked if there was any discussion.

Council Member Trasoff stated that this was an exciting project and due to all of the details of the project would be asking at the end of the discussion to delay the item for one week. Due to late delivery the other council members did not have sufficient time to review all of the material and ask any questions they had. Having worked with Mr. Rolney, developer for the Flats at Julian Drew Block, for a while on this project Council Member Trasoff stated that she thought what he was trying to bring to the Council was very exciting, and with the permission of the Council, would ask him to speak. Council Member Trasoff said she thought that having an adaptive reuse of housing downtown that would be targeted specifically at workforce housing, would provide affordable housing to the people who work in City Hall, the police officers and firefighters who work downtown, as well as the teachers and other people who would like to be able to work and live in the downtown area. She stated that this project would be a series of fifty-three condominiums that would bring these people downtown. It was another of these pioneer efforts, and because it was the first it was exceedingly difficult in terms of finding financing and making all of the numbers crunch. Council Member Trasoff stated that she would like to first make the motion and then ask Mr. Rolney to come up and speak briefly on the project.

It was moved by Council Member Trasoff, duly seconded, to continue this item to the meeting of September 23, 2008.

Ross Rolney, developer for The Flats at Julian Drew Block, LLC, stated that they had been very excited about the project and thought that the community was supportive of them. He also stated that any successful revitalization would one day put the City of Tucson comparable to Portland, Austin and certainly Albuquerque. The revitalization would not start with the new construction of multi-million dollar units, it would start with adaptive reuse and that was exactly what had been planned with the redevelopment of the city block at Fifth Street and Broadway. Mr. Rolney stated that there were certain things they would like to ask of the City; most important would be to speed up the process so that they could get into the ground and try to get the project under way. He stated that they were excited that there would be affordable components to the project and that was very important to him, the company, and all of the Council. That was why the product

was being designed, developed and marketed a certain way. He stated he was fine with the one week delay.

Council Member Trasoff thanked Mr. Rolney for his time. She also stated that adaptive reuse had a standard set with the Martin Luther King Apartments. Instead of being torn down, it became a market rate apartment building. She also stated that one of the exciting things about the project was that the City was going to be converting rentals into homeownership in the downtown area in a new way, and the City's role with its infrastructure was to do precisely this, to facilitate private investment to come downtown so that the City was doing its part and the private dollars were being drawn in.

Mayor Pro Tempore Uhlich asked if there was any discussion.

Council Member Scott stated that she expressed regret that a project of this caliber was being delayed, because it took a long time for such a project to come before Mayor and Council. Council Member Scott added that she respected the energy and the money that was involved to do exactly what the Council had been hoping and asking for and with the project ready to rock and roll there was a delay. She said she thought this was a sad note and that hopefully next week it would be approved. Council Member Scott concluded by stating that the folks who came in and gave the Council their hard earned money and time to do such projects should be given at least the courtesy of going forward with the project in a timely fashion so that it would not delay anything for them.

Council Member Romero thanked Mr. Rolney for his presence and stated that she had received the material late on Friday and would have liked more time to have the opportunity to converse with Mr. Rolney and ask questions, and also have the chance to discuss this project with fellow Council Members. She also said she thought this was an excellent opportunity and that Mr. Rolney should be commended for his efforts. She added that it was important for staff to know that with late deliveries, usually there would be questions or concerns that would arise and because of the time frame given would not have the opportunity to get answered. She said she felt it was important for staff to give Council enough time to be able to digest the information provided and ask questions, and be completely comfortable in approving projects within the City. Given the extra time she said she looked forward to approving this item next week.

Mayor Pro Tempore Uhlich asked if there was further discussion. Hearing none, she asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Romero, Glassman, Scott, Leal and Trasoff; Mayor Pro Tempore Uhlich

Nay: None

Absent/Excused: Mayor Walkup

The motion to continue this item to the meeting of September 23, 2008, was declared passed by a roll call vote of 6 to 0.

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

Mayor Pro Tempore Uhlich announced City Manager’s communication number 489, dated September 16, 2008, was received into and made a part of the record.

Mayor Pro Tempore Uhlich asked for a motion to approve the appointments in the report.

It was moved by Council Member Scott, duly seconded, to reappoint Joyce J. Kelly, Dennis Coon, Sharon Bonesteel, Earl Zoeller, Hyman Kaplan; and to appoint Craig R. Barron, Paul S. Smith and Carlet Castro to the Joint City/County Outdoor Lighting Code Committee.

Mayor Pro Tempore Uhlich asked if there was any discussion. Hearing none, she asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Romero, Glassman, Scott, Leal and Trasoff; Mayor Pro Tempore Uhlich

Nay: None

Absent/Excused: Mayor Walkup

The motion to approve the appointments and re-appointments in the report was declared passed and adopted by a roll call vote of 6 to 0.

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

Mayor Pro Tempore Uhlich announced the next regularly scheduled meeting of the Mayor and Council would be held on September 23, 2008, 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 16th day of September 2008, and do hereby certify that it is an accurate transcription.

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DEPUTY CITY CLERK

RWR:mz:ccs