



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on March 3, 2009

Date of Meeting: November 25, 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 5:36 p.m., on Tuesday, November 25, 2008, 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:

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

Absent/Excused: None

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 Rabbi Samuel Cohon, Temple Emanu-El, after which the Pledge of Allegiance was led by the entire assembly.

Presentations:

- a. Mayor Walkup and Vice Mayor Uhlich presented certificates to the International School of Tucson and their students for being named the “Worldwide Partner School”.

Roger W. Randolph, City Clerk, announced Delfina Kerdels 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 Walkup announced City Manager’s communication number 630, dated November 25, 2008, 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 Romero announced there had been a Ward 1 neighborhood informational budget meeting on November 19, 2008. She thanked staff who were there to assist. She also thanked the restaurants La Fresita, Las Quatas, St. Mary’s Mexican Restaurant, Las Cazuelitas West, and El Rio Bakery who generously gave their time and food to the event.
- b. Council Member Glassman announced that on December 4, 2008, his office would be hosting the First Annual Ward 2 Holiday Party and Neighbor Appreciation Awards. Ward 2 residents who had been nominated by their neighbors for their voluntary service would be recognized and awarded a plaque. Finally, he announced the Casa Maria Soup Kitchen would be sponsoring a benefit concert at Club Congress that evening featuring great local bands. The cost of admission would only be five dollars or a can of food.
- c. Vice Mayor Uhlich said she appreciated the ongoing support for the Buy Local Day event that would occur on November 28, 2008. She thanked those who would be joining her for various portions of the shopping spree. She said Felipe Garcia, Vice President of Community Affairs and Mexico Marketing with the Metropolitan Tucson Convention and Visitors Bureau (MTCVB), reported the Mexican Consulate had agreed to promote buying locally and supporting local Tucson businesses to tourists and visitors from Mexico.

- d. Council Member Scott announced on December 5, 2008, the Ward 4 Office would sponsor a Holiday Night at the Movies, featuring a showing of “The Polar Express” at the Clements Center. She said there would also be a sneak preview of the new outdoor children’s performance area that was being built. Free backpacks would be given away to children under ten accompanied by an adult, courtesy of Cox Communications. Toys for tots and non-perishable food items would be accepted for the Community Food Bank.
- e. Council Member Trasoff announced she had sent a letter to all downtown business owners and all who worked and dwelled downtown asking them to please shop downtown, including the Fourth Avenue area. She also said Madden Publishing had taken out their demolition permits to begin renovation of the inside of the MacArthur Building. Finally, she said she and Mayor Walkup had the opportunity to “throw bricks” into a front-end loader, marking the beginning of the Scott Avenue streetscape work. She noted that the project had only been conceived of one year ago and in that time it had been approved, designed with community input, funded, ground broken, and should be completed by May 2009.
- f. Mayor Walkup announced his participation in the El Tour de Tucson bicycle race, where over two thousand volunteers participated and untold numbers of police and sheriff’s deputies ensured it was a safe ride. The Mayor said he, some of his family members, and Vice Mayor Uhlich participated in the four and a half mile Kids and Family Fun Ride. He then participated in the thirty-five mile ride. He encouraged everyone to try this world class event by training and then participating in it. He noted that fire department personnel did an extraordinary job tending to the few who sustained injuries.

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

Mayor Walkup announced City Manager’s communication number 631, dated November 25, 2008, 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 given.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 632, dated November 25, 2008, was 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(s)

1. The Cheesecake Factory, Ward 3
60 W. Wetmore Road
Applicant: Debbie Lynn Reiners
Series 12, City 70-08
Action must be taken by: December 6, 2008

Staff has indicated the applicant is in compliance with city requirements.

NOTE: State law provides that for a new license application, "In all proceedings before the governing body of a city...the applicant bears the burden of showing that the public convenience requires and that the best interest of the community will be substantially served by the issuance of a license". (A.R.S. Section 4-201)

c. Special Event(s)

1. Our Lady of Lavang Parish, Ward 5
800 S. Tucson Blvd.
Applicant: Anton Trung Tran
City T94-08
Date of Event: January 24, 2009 - January 25, 2009
(Vietnamese New Year festival)

Staff has indicated the applicant is in compliance with city requirements.

Public Opinion: Written Argument Opposed Filed
Written Argument In Favor Filed

This item was considered separately.

2. Tucson's Young Professionals, Inc., Ward 1
140 N. Main Ave.
Applicant: Megan Leslee Pellman
City T99-08
Date of Event: December 5, 2008
(To promote community event in downtown Tucson)

Staff has indicated the applicant is in compliance with city requirements.

3. Order of AHEPA, Chapter #275, Ward 3
1145 E. Ft. Lowell Rd.
Applicant: George A. Makris
City T100-08
Date of Event: December 14, 2008
(Fundraising/Parishioner Christmas Party)

Staff has indicated the applicant is in compliance with city requirements.

4. Kokopelli Winery, Ward 6
536 N. 4th Ave.
Applicant: Dennis M. Minchella
City T101-08
Date of Event: December 12, 2008 - December 14, 2008
(4th Avenue Street Fair)

Staff has indicated the applicant is in compliance with city requirements.

5. Microbusiness Advancement Center, Ward 1
East corner of West Congress and South Avenida del Convento
Applicant: Kira Oliver Dixon-Weinstein
City T102-08
Date of Event: December 12, 2008 - December 21, 2008
(Community fundraiser for local charities and provide a holiday shopping/entertainment destination)

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.

It was moved by Council Member Romero, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b1 and 5c2 through 5c5 to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

c. Special Event(s)

1. Our Lady of Lavang Parish, Ward 5
800 S. Tucson Blvd.
Applicant: Anton Trung Tran
City T94-08
Date of Event: January 24, 2009 - January 25, 2009
(Vietnamese New Year festival)

Staff has indicated the applicant is in compliance with city requirements.

Public Opinion: Written Argument Opposed Filed
Written Argument In Favor Filed

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 7 to 0, 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. Richard DeBernardis spoke about the El Tour de Tucson events and introduced Erica Allar, the Women’s First Place winner.
- b. Mark Spear expressed concerns he had with the red light and photo traffic enforcement program.
- c. Joe Sweeney spoke about illegal immigration issues.

7. CONSENT AGENDA – ITEMS A THROUGH Q

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

A. FINAL PLAT: (S08-002) 3225 EAST KLEINDALE, LOTS 1 TO 3

1. Report from City Manager NOV25-08-634 WARD 3

2. Staff recommends that 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.
- B. FINAL PLAT: (S08-095) VILLA BERMUDA CONDOMINIUMS, A CONDOMINIUM CONVERSION PROJECT, UNITS 1 TO 10 AND LIMITED COMMON ELEMENTS AND COMMON ELEMENTS “A” AND “B”
1. Report from City Manager NOV25-08-635 WARD 3
 2. Staff recommends that 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.
- C. EMERGENCY MANAGEMENT: DESIGNATING THE DIRECTOR OF FINANCE AS THE APPLICANT AGENT TO THE ARIZONA DIVISION OF EMERGENCY MANAGEMENT
1. Report from City Manager NOV25-08-636 CITY-WIDE
 2. Resolution No. 21155 relating to finance; approving the designation of Frank Abeyta as the City of Tucson’s applicant agent to the Arizona Department of Emergency Management (ADEM) for reimbursement of expenses relating to the Federal Emergency Management Agency (FEMA) and Arizona’s emergency events effort; and declaring an emergency.
- D. TUCSON CODE: AMENDING (CHAPTER 6) UPDATING THE INTERNATIONAL RESIDENTIAL CODE 2006 BY ADDING LOCAL AMENDMENTS
1. Report from City Manager NOV25-08-646 CITY-WIDE
 2. Ordinance No. 10605 relating to Buildings and Construction: amending the International Residential Code 2006 with local amendments, adopted by Mayor and Council through Tucson Code Section 6-38 (Ordinance 10417; June 12, 2007), by adding local amendments to Chapter 23, Section M2301, Solar Energy Systems; and declaring an emergency.
- E. BOARDS, COMMITTEES, AND COMMISSION: AMENDING THE MEMBERSHIP OF THE CITIZENS’ WATER ADVISORY COMMITTEE
1. Report from City Manager NOV25-08-642 CITY-WIDE

2. Ordinance No. 10606 relating to Boards and Commissions; amending the Tucson Code, Chapter 27, Water, Section 27-62, Membership composition, terms and qualifications, by adding the director of the water department and the director of the Pima County Regional Wastewater Reclamation Department as non-voting, ex-officio, advisory members of the Citizens' Water Advisory Committee (CWAC); and declaring an emergency.

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

F. REAL PROPERTY: ACQUISITION OF WATER PIPELINE EASEMENT NEAR WILMOT AND KLAFTER ROADS FOR POTABLE WATER SERVICE

1. Report from City Manager NOV25-08-643 OUTSIDE CITY
2. Resolution No. 21157 relating to real property; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, an easement for a water pipeline and related facilities to connect new potable well E-031A to the Tucson Water distribution system; and declaring an emergency.

G. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE 2008 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM

1. Report from City Manager NOV25-08-638 CITY-WIDE
2. Resolution No. 21158 relating to Intergovernmental Agreements; approving and authorizing execution of an Intergovernmental Agreement between the City of Tucson and Pima County for the Department of Justice Edward Byrne Memorial Justice Assistance Grant (JAG) Program Award; and declaring an emergency.

H. REAL PROPERTY: APPROVING A LEASE AGREEMENT WITH THE NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK) FOR PROPERTY IN THE HISTORIC DEPOT PLAZA

1. Report from City Manager NOV25-08-640 WARD 6
2. Ordinance No. 10607 relating to Real Property; authorizing and approving the lease agreement between the City of Tucson and the National Railroad Passenger Corporation (AMTRAK) for space located in the Historic Depot at 400 North Toole Avenue; and declaring an emergency.

I. MEMORIAL: URGING THE FEDERAL BUREAU OF PRISONS TO IMPLEMENT POLICY CHANGES TO PROTECT CORRECTIONAL WORKERS

1. Report from City Manager NOV25-08-647 CITY-WIDE

2. A Memorial relating to worker safety; urging the Federal Bureau of Prisons to implement policy changes to protect correctional workers working in its facilities.

Item I was considered separately at the request of Council Member Glassman.

J. MEMORANDUM OF UNDERSTANDING: WITH VARIOUS AGENCIES TO FACILITATE EFFECTIVE RESPONSE ACTIONS TO CONTROL OR PREVENT THE SPREAD OF BUFFELGRASS

1. Report from City Manager NOV25-08-641 CITY-WIDE AND OUTSIDE CITY
2. Resolution No. 21159 relating to Buffelgrass mitigation; authorizing and approving the execution of a Multi-Jurisdictional Memorandum of Understanding to facilitate effective response actions to control or prevent the spread of Buffelgrass; and declaring an emergency.

K. REAL PROPERTY: VACATION AND RE-CONVEYANCE OF 12TH AVENUE RIGHT OF WAY TO THE ORIGINAL DEDICATOR

1. Report from City Manager NOV25-08-639 WARD 1
2. Ordinance No. 10609 relating to real property; vacating and declaring certain City owned real property located on South 12th Avenue to be surplus, and authorizing the conveyance thereof to the original dedicator; and declaring an emergency.

L. AGREEMENT: SECOND AMENDMENT TO PARTIAL SETTLEMENT AND WORK SHARING AGREEMENT WITH THE ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY FOR THE BROADWAY AND PANTANO WATER QUALITY ASSURANCE FUND SITE

1. Report from City Manager NOV25-08-637 CITY-WIDE
2. Resolution No. 21160 relating to the Environmental Management Office and Water; approving an amendment to work sharing agreement with the Arizona Department of Environmental Quality (ADEQ) and City of Tucson for the Broadway and Pantano Water Quality Assurance Fund Site; and declaring an emergency.

M. APPROVAL OF MINUTES

1. Report from City Manager NOV25-08-648 CITY-WIDE
2. Approval of minutes for the regular meeting of the Mayor and Council held on June 10, 2008, and the Special Meeting held on June 10, 2008.

N. INTERGOVERNMENTAL AGREEMENT: WITH ARIZONA GAME AND FISH FOR THE SEGMENT 3 HABITAT CONSERVATION PLAN GRANT

1. Report from City Manager NOV25-08-649 CITY-WIDE
2. Resolution No. 21162 relating to Intergovernmental Agreements; approving and authorizing an Intergovernmental Agreement between the City of Tucson and the Arizona Game and Fish Department for Management of the Segment 3 Habitat Conservation Plan Grant; and declaring an emergency.

O. FINANCE: COMMUNITY SUPPORT FUND TRANSFER TO THE LUZ SOUTHSIDE COALITION FOR "THANKSGIVING IN THE BARRIO"

1. Report from City Manager NOV25-08-650 WARD 5
2. Resolution No. 21161 relating to Finance; approving and authorizing the allocation of Two Hundred Fifty Dollars (\$250) from the Ward 5 Council Office, Community Support Fund, Account No. 001-183-1898-268, to Luz Southside Coalition to help support funding the 11th annual "Thanksgiving in the Barrio" to be held on November 25, 2008 at the El Pueblo Neighborhood Center; and declaring an emergency.

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

Roger W. Randolph, City Clerk, announced that, in addition to the original \$250.00 contributed by Council Member Leal, Council Member Romero would add an additional \$250.00, for a new total of \$500.00.

P. REAL PROPERTY: FIRST AMENDMENT TO THE PARKING LEASE AGREEMENT WITH MADDEN PREPRINT MEDIA, LLC FOR PROPERTY LOCATED AT 6TH AVENUE AND PENNINGTON AND THE PENNINGTON STREET GARAGE

1. Report from City Manager NOV25-08-651 WARD 6
2. Ordinance No. 10610 relating to real property; authorizing and approving the First Amendment to the Parking Lease Agreement between the City of Tucson and Madden Preprint Media, LLC, for the properties located at the Northeast corner of 6th Avenue and Pennington Street and the Pennington Street Garage; and declaring an emergency.

Q. MEMORANDUM OF AGREEMENT: WITH THE PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT FOR THE PROVISION OF BUILDING SAFETY SERVICES

1. Report from City Manager NOV25-08-652 CITY-WIDE
2. Resolution No. 21163 relating to building safety; approving and authorizing the Memorandum of Agreement between the City of Tucson and Pima County Development Services Departments Regarding the Provision of Building Safety Services; and declaring an emergency.

Roger W. Randolph, City Clerk, announced that, as discussed during Study Session, Item Q would be forwarded to the Mayor and Council Economic and Workforce Development Subcommittee.

It was moved by Council Member Glassman, duly seconded, that Consent Agenda Items A through P, with the exception of Items E and I, which would be considered separately, and Item O as amended, be passed and adopted and the proper action taken.

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

Upon roll call, the results were:

Aye: Council Members Romero, Glassman, Scott, Leal, and Trasoff;
Vice Mayor Uhlich and Mayor Walkup

Nay: None

Consent Agenda Items A through P, with the exception of Items E and I, which would be considered separately, and Item O as amended, were declared passed and adopted by a roll call vote of 7 to 0.

7. CONSENT AGENDA – ITEM E

E. BOARDS, COMMITTEES, AND COMMISSION: AMENDING THE MEMBERSHIP OF THE CITIZENS’ WATER ADVISORY COMMITTEE

1. Report from City Manager NOV25-08-642 CITY-WIDE

2. Ordinance No. 10606 relating to Boards and Commissions; amending the Tucson Code, Chapter 27, Water, Section 27-62, Membership composition, terms and qualifications, by adding the director of the water department and the director of the Pima County Regional Wastewater Reclamation Department as non-voting, ex-officio, advisory members of the Citizens' Water Advisory Committee (CWAC); and declaring an emergency.

Roger W. Randolph, City Clerk, announced this item was being considered separately at the request of Council Member Glassman.

Council Member Glassman said he and Council Member Romero had completed their first year in office and they had both campaigned on the issue of water conservation. He noted that since they were elected the new Tucson Water Department Director, Jeff Biggs had been hired. He said this consent agenda item was very important because it elevated the roll of the Citizens' Water Advisory Committee by adding as ex-officio members the Director of the Tucson Water Department and the Director of the Pima County Regional Wastewater Reclamation Department. He said this was a very positive demonstration by the Mayor and Council of their commitment to the issues of regionalism and working with Pima County, as well as the issues of water conservation and sustainability. He thanked Mr. Biggs for his attendance and acknowledged what was being done by adding that level of credibility to keep the dialogue in the region at all levels of government.

It was moved by Council Member Glassman, duly seconded, that Consent Agenda Item E be passed and adopted and the proper action taken.

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

Upon roll call, the results were:

Aye: Council Members Romero, Glassman, Scott, Leal, and Trasoff;
Vice Mayor Uhlich and Mayor Walkup

Nay: None

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

7. CONSENT AGENDA – ITEM I

I. MEMORIAL: URGING THE FEDERAL BUREAU OF PRISONS TO IMPLEMENT POLICY CHANGES TO PROTECT CORRECTIONAL WORKERS

1. Report from City Manager NOV25-08-647 CITY-WIDE

2. A Memorial relating to worker safety; urging the Federal Bureau of Prisons to implement policy changes to protect correctional workers working in its facilities.

Roger W. Randolph, City Clerk, announced this item was being considered separately at the request of Council Member Glassman.

Council Member Glassman said he wanted to acknowledge the attendance of Esther White who was there on behalf of federal employees who worked at the Bureau of Federal Prisons' Wilmot Facility. He said, as Chair of the Mayor and Council Neighborhoods, Public Safety, and Emergency Preparedness Subcommittee, he had visited the facility and experienced the working conditions and high level of danger these workers were under. He said while resources were scarce, he felt it was important to bring this forward and thanked Ms. White for her attendance while also thanking the Council for their support of this item.

It was moved by Council Member Glassman, duly seconded, that Consent Agenda Item I be passed and adopted and the proper action taken.

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

Upon roll call, the results were:

Aye: Council Members Romero, Glassman, Scott, Leal, and Trasoff;
Vice Mayor Uhlich and Mayor Walkup

Nay: None

Consent Agenda Item I was declared passed and adopted by a roll call vote of 7 to 0.

8. PUBLIC HEARING: (SE-08-12) HOLY RESURRECTION – 5TH STREET, R-1 ZONING, SPECIAL EXCEPTION – APPEAL OF ZONING EXAMINER'S DECISION

Mayor Walkup announced City Manager's communication number 644, dated November 25, 2008, was received into and made a part of the record.

Mayor Walkup said this was a public hearing on an appeal of the decision of the Zoning Examiner regarding a Special Exception Land Use case. He said the applicants were Alana Wills Blickley, Cheryl Henderson, and Eunice Grabow.

Mayor Walkup asked the City Clerk to read the order of the appeal.

Roger W. Randolph, City Clerk, said the first item would be a summarization by the City Attorney of the procedural questions presented in the case.

Michael Rankin, City Attorney, said there were three possible actions the Mayor and Council could take. The first was to affirm the Zoning Examiner's decision, which would have the effect of denying the appeal and granting the Special Exception requested. The second was to reverse the Zoning Examiner's decision, which would have the effect of granting the appeal and denying the Special Exception. The third was to modify the Zoning Examiner's decision by attaching conditions to the Special Exception.

Mr. Randolph said, next, the Zoning Examiner would present a report and summary of the request before the Mayor and Council.

Peter Gavin, Zoning Examiner, said before the Mayor and Council was an appeal to his decision to approve a Special Exception for an additional eight feet on a dome for the proposed Holy Resurrection Church that would be located at the southeast corner of Fifth Street and Sahuara Avenue. The subject site was zoned R-1 and allowed for a church to be built there. The height allowed in the R-1 zone was twenty-five feet and the *Land Use Code (LUC)* allowed an additional ten feet for non-human occupancy ornamental elements, such as bell towers, steeples, spires, and as in this case, a dome. He said any additional height to that total thirty-five feet would come before the Zoning Examiner and now the Mayor and Council as a Special Exception Land Use request.

Mr. Gavin said he held a public hearing on August 14, 2008, at which, in addition to planning staff testimony, he had taken testimony from three other persons. Two were the applicant for the church, Albert Moussa and Father Philip Nixon, pastor of the church, who spoke in support of the request. Also, Alana Wills Blickley, who lived to the north of the property, spoke in opposition to the request.

Mr. Gavin said on June 20, 2008, the Design Review Board recommended approval of the request. Also, the Urban Planning and Design Department recommended approval of the request on July 30, 2008.

Mr. Gavin said on August 21, 2008, he approved this request based on three major issues. First was that the Special Exception request was only for an additional eight feet which was a relatively small portion of the total site, constituting less than two percent of the total volume of the proposed church. The second reason was the request complied with the *LUC* criteria, the *Sewell-Hudlow Neighborhood Plan (SHNP)*, and the *General Plan* which supported harmonious and compatible development adjacent to existing development. Lastly, he said the applicant had demonstrated through his visual impact analysis that the small addition of eight feet to the dome would have minimal impacts to adjacent uses.

Mr. Randolph said the order of the appeal would be the following. First, the appellants would present their appeal; second, there would be a response from City staff if they had any; third, would be input from any member of the public; fourth, other rebuttal as permitted by the Mayor and Council; fifth, the Mayor and Council may direct

any questions to the parties appearing before them or any other persons who may have relevant information in order to establish the reasons for the decision; and finally, after the close of the public hearing, they may discuss the case and shall reach a decision.

Cheryl Henderson said she originally started the opposition with three other homeowners on Fifth Street and they were asking the Mayor and Council to overturn the Zoning Examiner's decision. She said they had signatures from fifty-six neighbors who opposed the Special Exception ruling.

Ms. Henderson said the Zoning Examiner had approved the Special Exception due to the support of two homeowners with property adjacent to the proposed church. She presented documents, which had exhibits attached, related to her speech. She said the two homeowners, Mr. Swain and Mr. Reckart, shared in the ownership of four vacant lots next to the proposed church development. She said Exhibit A showed the church's proposed property, Mr. Swain's house, Mr. Reckart's house, and the four vacant lots. She said those six properties were counted against the three homeowners when they originally filed.

Ms. Henderson said the vacant lots were currently for sale for three hundred seventy-five thousand dollars, four hundred thousand dollars, three hundred eighty-five thousand dollars, and three hundred sixty-five thousand dollars. She said Exhibits 2 through 5 showed the current listing for the land and the Pima County Assessor's valuation for each parcel.

Ms. Henderson said the only letter she had received regarding approval for the Special Exception was from Mr. John Swain, who happened to be one of the property owners adjacent to the church.

Ms. Henderson said the *SHNP* allowed for new, non-residential uses provided the proposed development was designed in harmony with adjacent residential and non-residential uses. She said her Exhibit 6a was page 12 of the *SHNP*. Exhibits 6b, 7, and 8 were pictures of the proposed Holy Resurrection sanctuary right off of Fifth Street. She said the Holy Resurrection sanctuary was not designed in harmony with the rest of the existing neighborhood. She said they were not opposed to having another church in the neighborhood, but were opposed to the height requirement of the proposed sanctuary. There were currently two religious facilities in the neighborhood, St. Michael's of All Angels, which was at the intersection of Fifth Street and Wilmot Road, and Congregation Anshei Israel, which was at the corner of Fifth Street and Craycroft Road. Both were built recessed from Fifth Street and both were built in harmony with the neighborhood. Exhibits 9 and 10 showed pictures of St. Michael's as well as Anshei Israel.

Ms. Henderson said the Special Exception Land Use - Urban Planning and Design Report dated July 30, 2008, used as a related case SE05-24 Church of Jesus Christ of Latter Day Saints - Rees Loop, C-2 Zone. She said it was a property zoned C-2, commercial property, yet it was used as an example of a related case. The Holy Resurrection site was on property zoned R-1. She said she did not understand why a C-2

zoning was used as an example for what could happen on an R-1 property. Exhibit 11 was page 3 of the Special Exception Report. She said, additionally the Church of Jesus Christ of Latter Day Saints was recessed three hundred feet south of Rita Road. She said the Holy Resurrection sanctuary was being built thirty-four and one half feet from the curb on Fifth Street. She said a building with the height required for the sanctuary would tower over existing Fifth Street properties and all adjacent properties, whether they were commercial or residential and this was not in harmony. Exhibit 12 was a copy of the site plan, which showed a thirty-four and one half foot setback from the curb on Fifth Street.

Ms. Henderson said on page 6 of the Special Exception Land Use Report, the Transportation Planning Division estimated that the proposed development would generate up to one thousand, three hundred sixty-eight vehicle trips per day. This depended on the type of facilities, programs, and services available through the church, i.e. assembly hall, sanctuary, meeting rooms, classrooms, and dining, catering, or party facilities, daycare, or extended care. She questioned one thousand, three hundred sixty-eight more vehicle trips per day in an R-1 zoned neighborhood. She said the proposed development had a sanctuary of five thousand, six hundred sixty-four square feet; a social hall of ten thousand, one hundred one square feet; classrooms of two thousand, five hundred thirteen square feet; and additional classrooms of six hundred twenty-seven square feet. She said it was a huge facility that would encompass more than eighteen thousand square feet. She said it was not a simple church. It was a mega-church that was, in fact, scheduled to be built in phases. Exhibit 13 was page 6 of the Urban Planning and Design Report which quoted the transportation vehicular increase and Exhibit 14 was from the site plan filed by the Holy Resurrection Church. Exhibit 15a was a plan she had picked up during her first meeting with the church showing a mockup of the proposed development, and Exhibit 15b showed phases 1 and 2.

Ms. Henderson said the proposed development had less than two hundred parking spaces. Traffic may be increased by one thousand, three hundred sixty-eight vehicles per day and parking would handle less than two hundred vehicles. She asked where the rest of the vehicles would go. She asked if they would circle Fifth Street and Sahuara Avenue or park in front of Sewell Elementary School. She said the parking calculation on the plan for the development was not adequate for the amount of proposed traffic. Exhibit 16 was taken directly from the site plan. Ms. Henderson said R-1 zoning was low density residential property, listed as such on page 10 of the *SHNP*. She said an R-1 development should not have a development with an increase of one thousand, three hundred sixty-eight vehicles a day.

Ms. Henderson said the proposed development was on a property with a rise in elevation. Exhibit 18 showed a picture she took of the elevation of the property. She said when it rained in abundance in that neighborhood, the intersection of Fifth Street and Sahuara Avenue flooded. She said a neighbor, Steve Mueller who lived at the corner of Fifth Street and Sahuara Avenue, took photos during a fierce rainstorm in 2006. She said that in each of the pamphlets were copies that showed what happened to the corner of Fifth Street. She said currently run off water was absorbed by the desert on that property and the overflow went down Fifth Street to Sahuara Avenue to a drain under Speedway

Boulevard and Sahuara Avenue. She asked what would happen to the water that naturally flowed downhill once the land was paved for the buildings and parking.

Ms. Henderson said on page 27 of the *SHNP* it was required of builders and developers of proposed projects within the *Plan* area to notify and offer to meet with affected neighborhood associations and property owners. She offered Exhibit 20, the aforementioned page from the *SHNP*. She said the church sent out letters to the homeowners within three hundred feet of the proposed development in order to fulfill the requirements of the Special Exception request. She said that due to the placement of the proposed property, many of the neighbors were not notified of the scope of the project. She offered a copy showing the homeowners who actually were notified. She said the church had a sign on its property of its intention to build a church, but it did not address the fact that it intended to build a social hall, classrooms, and a sanctuary. She showed a picture of the sign and noted that it was partially obscured by vegetation.

Ms. Henderson said they were asking the Mayor and Council to overturn the Special Exception approved by the Zoning Examiner. She said the building did not blend in with the neighborhood compared to the other religious facilities. A building with a roof reaching forty-three feet high should not be built thirty-four and one half feet from the curb on Fifth Street. They asked the Mayor and Council to send the plans for the proposed development back to the Zoning Examiner. The additional traffic generated by the proposed mega-church would affect every homeowner in that neighborhood as well as the children traveling to and from Sewell Elementary School. She said parking and drainage needed to be addressed. She asked that the Mayor and Council have the developers of the project schedule a meeting with neighborhood associations in the area to discuss neighborhood concerns regarding the development before the plan was approved.

Mr. Randolph said the second item would be any response from City staff.

Mr. Gavin said he wanted to clarify for the Mayor and Council, as he did at his public hearing on August 14, 2008, that the issue in the case was the additional eight feet for the dome. He said he did not have authority to do anything else and he added that the Mayor and Council did not have any authority to do anything else, such as change the development on the site. Under R-1 zoning, a church was permitted by right. He said he asked Pastor Nixon, if the Special Exception was not approved, would they go ahead and build the church, and the answer was yes. Mr. Gavin said the issue was the additional eight feet on the dome.

Mr. Randolph said item three was for any input from the public.

Mayor Walkup said he had some speaker cards.

Molly Skousen said her house was approximately five hundred to six hundred feet south of the proposed development. She said she was present that evening to address some very serious issues regarding the current architectural plans for the proposed

Antiochian Orthodox Church. She said she believed the plans, as they currently existed, would have dramatic negative effect on the surrounding neighborhoods, churches, businesses, and schools. She said she was also concerned that vital interests in the community were left out of the decision process regarding a Special Exception of zoning.

Ms. Skousen said her house was less than five hundred feet from the proposed sanctuary and she had never been notified by the church regarding their plans for the site. She said she did not understand how a building project of that magnitude could be so hidden from the scrutiny of the public at large. She said it was outrageous to think a religious community would conduct business with so little transparency and regard for the people it would directly impact. She said a small sign covered by vegetation at the proposed site was not adequate notice for that type of building project. She said it was evident that full disclosure of the building's plans was never the church's intent. She said she could assure the Mayor and Council that the majority of the neighbors, businesses, and churches in the area were now fully aware of the current plans and the Special Zoning Exception that was granted by the Department of Urban Planning and Design.

Ms. Skousen said she knew that when the votes for the exception were submitted to the City that approximately twelve votes were counted for only seven households. This meant that two of the houses essentially had three votes each. She said that was not fair and not how a true democracy functioned. It was essentially a very strange kind of gerrymandering of the worst kind and at the least a major misrepresentation of public sentiment for an issue. She said they would do everything in their power to stop the Special Exception and ensure the plans for the church received the consensus and approval of everyone affected.

Ms. Skousen said she knew her neighborhood well and that she walked the perimeter from Craycroft to Wilmot and Broadway to Speedway several times per week. She said she had seen the various patterns of traffic and understood that during peak traffic hours there was a heavy flow of cars that inhibited ingress and egress from homes to the Fifth Street corridor. She said at 7:45 a.m. and 2:15 p.m. children and other pedestrians from the school faced hazards at a dangerous crosswalk. Visibility on both the west and east side of the crosswalk was limited, created by a rise on both sides. She said she had seen numerous vehicular incidents in that area due to flooding and poor visibility. The City of Tucson had estimated church activities would cause an increase of over one thousand, three hundred vehicles per day in that already congested area. She said the high risk of injury and fatalities could not be ignored by the City.

Ms. Skousen said the east end of the Fifth Street corridor was composed of several large neighborhoods, numerous businesses, churches, and the Alamo Wash. The Indian House Neighborhood ran flush with the wash and created a natural wildlife refuge for both native desert plants and animals. Many of the owners of the homes in that area valued that unusual habitat in the center of Tucson and had been good stewards of the land by protecting the unique qualities of that area. She said an eighteen thousand square foot mega-church would most certainly have a dramatic impact on the wildlife and plant life, which continued to coexist with the neighborhood.

Ms. Skousen said the church's current plans showed no allowances, i.e. a desert park, viewing areas for children, preservation of existing vegetation, etc. that respected the existing integrity of the neighborhood. She said Tucson had an obligation to protect not only people, but all forms of life and habitat that defined the City as a wonderful place to live.

Ms. Skousen said the scale of the church dome was so massive in height and breadth that it would completely dominate any of the other treasured features in the area. The plans also did not include a buffer zone or set back from the streets for safety or aesthetic harmony. She said that was achievable and she said she believed the other existing churches and businesses in the area proved that point.

Ms. Skousen said inadequate parking, inappropriate scale, increased traffic, increased noise, flooding, pollution, and an unsafe environment for school children and pedestrians could all contribute to lower property values for the families and individuals who owned homes in that area.

Ms. Skousen said they all knew business as usual, ignoring the needs and concerns of all parties, could lead to the financial erosion of stable and once economically viable communities and institutions. She said they must support the people of the Sewell, Indian House, and other immediate neighborhoods who worked hard to care for their homes and make improvements that benefited everyone. Those were beautiful neighborhoods and they needed to keep them that way. In summary, she said she wanted to state clearly that she was not an obstructionist and not anti-development. She said she did believe zoning laws existed for a reason. They helped shape the kind of communities people wanted to live in. Special exceptions should be given only in exceptional circumstances. She said she saw nothing about the needs of that church that would warrant the override of the needs of the hundreds, if not thousands, of people living in those neighborhoods. She asked the Mayor and Council to please consider repealing the current exception and demanding modifications of the building plans for the church. She said it was not too late to make changes that would satisfy all parties involved.

Charlie Kondrat said he was there representing his mother-in-law, Eunice Grabow, who was in the hospital. She was one of the residents who lived next to Cheryl Henderson at the property right across from the proposed driveway into the mega-facility. He said her concerns were many and he wanted to voice them for her.

Mr. Kondrat said his mother-in-law had been an owner and resident since the 1950's, when Fifth Street was just a dirt road. He said of course the area had grown, they had grown with it, and had accepted things, but this was one thing, the vastness of the church, she was against, not the church itself. She was against the stated amount of traffic per day, which seemed like a very unreasonable calculation that would inundate the neighborhood.

Mr. Kondrat asked that it not be forgotten there was an elementary school right next door and children in the neighborhood. It was a residential neighborhood and Sahuara Avenue was a side street. Any traffic coming onto it or Fifth Street would not make any difference. He said one of the major things he thought of was the torrential river that flowed through there whenever there was any rain. He said as far as he had seen, the property did not have any provisions for any retaining basins. That meant if they paved everything and built everything up, the water would flow out onto Fifth Street and make it even worse. This was something the City would have to worry about. He said putting up control signs and barriers would not do it, especially if the water situation got worse.

Mr. Kondrat said that Ms. Grabow's concern was not so much that there would be a church there, but its proximity to Fifth Street, the amount of traffic, the water situation and how it blended into the neighborhood was very important, too.

Alana Blickley said she moved into her house in 1969 when her parents moved. She said she was opposed to the church in general. There were already thirteen churches within about one mile of her house. She said the traffic increase would be horrendous and would put the children of Sewell Elementary School at risk. She said although she did not have anything against churches in general, that building did not blend with the area. It was going to be equivalent to about a four story building. She said that within about a half mile, there were only about three two-story homes that she knew of.

Ms. Blickley said she agreed with what Ms. Henderson had presented in more detail than she could have. She said if the church went in she would probably move and may end up leaving Tucson because of it. She said she had been trying to give back to the community by volunteering at the IFG Conference which was held in Tucson the previous April and had offered her name for consideration for openings within the next year to the Tucson Commission on Gay, Lesbian, Bi-sexual, and Transgender Issues.

Ms. Blickley said she feared if the church went in then lots 036F, 040A, 1050, 1060, 1070, 1080, and 1090 would all suddenly become church property in the next few years expanding it far greater than the current proposed site. She said this was her biggest concern.

Tim Reckart said he was one of the property owners whose house and lots he owned were most immediately to the south of the property under consideration. He said on behalf of Dr. John Swain and himself, he wished to speak in favor of the Special Exception on behalf of the church. He asked Mayor Walkup, Vice Mayor Uhlich, and Council Member Leal to recall that he and Dr. Swain had worked about four years prior with the Council and Canoa Homes to avoid a development of eleven houses on the property immediately to the south in order to maintain the character of the neighborhood. He said, at great expense, they had maintained the character of the neighborhood, so if anyone was interested in its preservation, it was he and Dr. Swain.

Mr. Reckart said the result was the replatting in order to maintain a certain size of houses within the community, instead of having gone with the eleven homes that Canoa had proposed to build. He said he had a vested interest in what was going on there as well as what went in on the property immediately to the north. He said if anyone would be affected by the height limitation, it would be he and Dr. Swain. He said he thoroughly endorsed the height limitation and stressed that was the sole issue before the Council, not whether a church could go there or not. He said as for he and Dr. Swain that was absolutely permissible.

Mr. Reckart said it was a beautiful facility and would present a great frontispiece to people to the south, something framed by the mountains. It was consistent with the character of the neighborhood. He said the architecture was Mediterranean and was absolutely fine.

Mr. Reckart said the problem as he saw it was that if the church did not go in, the land would become available for other uses which would repeat the scenario of four years prior that he and Dr. Swain had fought so vigorously for, to avoid multiple dwelling unit developments or very small acreage homes being placed on the land and undermining the character of the neighborhood.

Mr. Reckart said there had been a lot of hyperbole about a mega-church. As an attorney who traveled quite a bit, he worked from time to time in Dallas and they had mega-churches. This was a miniscule church by comparison. He said he thought the hyperbole mis-characterized what was going on. It was a beautiful facility and he wanted to do what he could to endorse and support the church. He added he was not a parishioner of the church.

Mr. Reckart said if anyone was concerned about childhood safety, he was. He had six children, some who lived there and some who had moved away to college. He said if anyone was concerned about safety it was he and his wife, but they did not have those same concerns. He said Father Nixon would be ecstatic if he had that kind of traffic going through his parish, as would any pastor in Tucson.

Mr. Reckart said he wanted to emphasize that he and Dr. Swain were in favor of the proposed height exemption, which was the sole issue before the Council.

Albert Moussa said he wanted to show the Mayor and Council the design of the church. He said he belonged to the church for twenty-eight years and it was currently located at 721 W. Vanover Road. It was a small church with approximately one hundred twenty families. He said the new Byzantine design church would seat approximately three hundred people.

Mr. Moussa said the whole issue was only the eight feet of the central dome. He said the two palm trees in the picture with the church superimposed on it were almost as high as the dome. What they were there for was only a small portion of the dome and everything below was acceptable. He said they had done everything the City asked them

to do. Staff reviewed the set back, the drainage, the landscaping and traffic. He said he did not know where the numbers mentioned before had come from. There was a retention area on the side and landscaping that had all been approved. They had an approved set of plans and could begin tomorrow.

Mr. Moussa said with respect to the neighborhood, they had done everything they knew to do. He and Father Nixon met with Council Member Trasoff's assistant. They received the mailing list from the City and invited everyone, but only four people showed up, who said they did not want the church. They tried to work out landscaping and other issues, but he said they just did not want a church.

Mr. Moussa said they wanted to build on the property they owned for many years and hoped to be friendly with the neighbors. He said as far as he knew, they allowed neighbors to have meetings at their current location free of charge.

Mr. Moussa stressed the only reason they were there was concerning the eight additional feet to the dome. The reason for the Byzantine design was to accommodate the windows below the dome that allowed in natural light and ventilation, which was similar to the Pima County Courthouse. He said the additional height was just for the dome, not the entire eighteen thousand square feet.

Father Philip Nixon thanked the Mayor and Council for the opportunity to speak and said that, although they were there only for the additional eight feet for the exception, he wanted to personally address the traffic issue for the parish. He said as stated they presently had about one hundred twenty families, and daily traffic in the residential area was maybe eight cars, if that. They had two staff who were there daily, he and an administrative assistant and then any visitors. He said there were about forty-five to fifty parking spaces on their current one-acre facility. They barely exceeded the parking during their Easter services. At the new facility they would have nearly double the seating.

Fr. Nixon said when he first came to Tucson in 2002, they had a one acre facility and added an additional acre and had eighty parking spaces. He said he believed the ratio required was five to one. He met with the parish council immediately and said the ratio might be five to one, but that was not enough parking and they could not do that to their neighbors. They began to look at how to reduce the size of the facility based on the two acre parcel. When they acquired the additional acre, they were then able to add additional parking, still exceeding substantially the required five to one ratio for church parking. He said the new facility would seat about three hundred. They had about one hundred forty parking spaces and they intended to be good neighbors.

Fr. Nixon said he did not know what he would do with the kind of traffic previously mentioned. There would probably be only five to six staff at the new facility, and grow to maybe three hundred to four hundred people and then be at the maximum for the facility. As part of their practice, they only conducted one service per day. He said he could not ever see approaching any situation like that and if they did they would

reconsider the situation themselves. He said he wanted to address that for the sake of the Council and the neighbors. They would be very good neighbors and were very interested in being very accommodating and fitting in with the neighborhood.

Mayor Walkup said that was the last speaker card he had and asked if anyone else wished to speak. Hearing no one, he asked for a motion to close the Public Hearing.

It was moved by Council Member Trasoff, duly seconded, and carried by a voice vote of 7 to 0, to close the Public Hearing.

Mr. Randolph said item four was so the Mayor and Council could allow rebuttal if they desired.

Cheryl Henderson said the one thing she wanted to make clear to the Mayor and Council was her desire that they please read the fifty-six letters of protest she had filed. She said every single neighbor opposed the height of the dome and that it was not only an ornamental dome, but was the ceiling and roof of the church. It was thirty-five feet in diameter and was humongous, making it a very high building. She said every letter she had brought, except the one from Mr. Swain, opposed the height.

Alana Blickley said she had forgotten to mention how the noise that the proposed bell tower would generate would be a great disturbance in the neighborhood. Her significant other worked odd shifts and sometimes needed to sleep. The bell tower may ring when he wanted to sleep and would have a great impact on them as long as they lived there.

Barbara Chilson said that was one huge building very close to Fifth Street. She asked that it be considered to move the building to the back of the property and to put a big buffer on Fifth Street; that doing so could soften the visual impact. She said it was a terrible shock to see the picture and imagine it right on Fifth Street; if they could move it back and cover it up, it might be easier to live with.

Ronny Ben-Dov said although they were there only for the eight foot difference, apparently when the agreement was reached to build the church as is, he was not sure that at that time the neighbors had been informed and were able to bring up their opposition. He said they were not opposed to the church, but when they were told it was already decided and they had no say, that was when they decided to look into it and that was when they were first informed of the size. He said all they were asking for was to look at the plans again. He said the numbers Ms. Henderson quoted were not made up and had come from a report that was issued by either the City or by some sort of official agency. He said something did not add up with the numbers coming to the church which the Pastor had mentioned. If there would be that kind of traffic on Fifth Street they would perhaps need some sort of segue to enter and exit the church. He said when he went to work in the morning it took him three to five minutes to get on to Fifth Street. If that number was not correct then they would not have a big problem with the issue. He said if

nothing else it would be appreciated if things could be put on hold until it could be verified.

Ms. Henderson said a copy of the report from Albert Elias, Urban Planning and Design Director, to Mr. Gavin was where she got her figures from the Department of Transportation.

Mayor Walkup asked if there was anyone else who wished to speak. Hearing no one, he said they would move to item five where the Mayor and Council may direct any questions to any parties appearing before them, or any other persons who may have relevant information in order to establish the reason for the decision.

Council Member Trasoff questioned how they had gotten to that point. Opponents and proponents had met in her office with one of her staff about two years ago and then the next she heard was they were there fighting over eight feet. She said she knew the only thing they were making a decision on was the extra eight feet, but she found it very difficult to make that decision not knowing if there were options along the way or if anything was missed. She asked Mr. Rankin if that was a fair question to ask given that their only role was the eight feet.

Mr. Rankin said that probably really was not a fair question to ask because, as the Zoning Examiner had explained earlier, the sole issue in front of the Council during the Public Hearing was the approval or not of the Special Exception, which only related to the height of the structure. As the Zoning Examiner had mentioned earlier, the development and location of the church, etcetera, was something that was approved as a matter of right under the Code and their compliance with the Code requirements. The sole Code requirement they were not in compliance with was the height, which then triggered the Special Exception approval. He said it was a full notice procedure through the Zoning Examiner who reached his decision. The appellants had exercised their rights under the Development Compliance Code, asking for the hearing before the Mayor and Council. That was how the appeal procedure had come forward, but it was just the height of the dome that was before them.

Council Member Trasoff asked, when Mr. Rankin said it was approved as a matter of Code, whether the parking, flood control measures, square footage and coverage of the lot, and size of the building were in compliance with the Code, and whether the neighbors were notified of all this.

Albert Elias, Urban Planning and Design Director, said the notice required by the *LUC* was a function of the Special Exception request, which only related to the building height.

Council Member Trasoff asked if there had been no notice for the prior elements.

Mr. Elias said that was correct. The applicant had created a site plan that met all the *LUC* requirements and would be able to proceed, except that the height did not comply with the *LUC*.

Council Member Trasoff asked Mr. Gavin if the applicants had indicated they would proceed with the building even if the Council did not approve the exception, just that it would not have the extra eight feet on the dome.

Mr. Gavin said that was correct, he had asked that question of Fr. Nixon and he said they would go ahead and build the church anyway.

Council Member Trasoff said she would like to let her colleagues have a chance to ask questions before she wrapped it up in any way.

Vice Mayor Uhlich asked if the architect for the church was present.

Mr. Moussa said he was not the architect, but would be happy to answer any questions.

Vice Mayor Uhlich asked if there was any design consideration possible to retain that centerpiece, but simply have the dome lowered.

Mr. Moussa said he was interested in lowering the dome more than anyone else, because every inch it went up cost money and they were not a rich parish. He said the entire church building was approximately six thousand, two hundred square feet, yet the dome was not the whole roof. He said the purpose of the dome was to represent a Byzantine style, having natural light and ventilation with the windows. If the windows were removed it would bring down the height, but it would take away the true feeling of a Byzantine church. He said it was in their best interest to bring it down. They presently had plans approved by City staff for the lot coverage, landscaping, and flood management and the only thing they were there for was the eight feet.

Vice Mayor Uhlich thanked him and said she thought he answered her question about the height.

Council Member Leal said there were two senses of place colliding. When he looked at the graphic of the church, he confessed he was stunned by its beauty. He said that pulled on him to say, "Wow" because he was a sucker for beauty. He said there was a sense of place regarding the architecture and the function of the church that Mr. Moussa appropriately argued would be lessened if the dome were lessened and the windows were gone. On the other hand, the neighbors had a different sense of place, arguing the context of the church where they lived. He said when they looked at the graphic, the church was sort of floating by itself not in the context of an adjacent community.

Council Member Leal said he had previously lived behind a structure that was probably not as tall as the church. It dominated and gave one the feeling that it was

always omnipresent. He said eight feet did not sound like much, but the scale of the church was one that really changed the massing of it, irrespective of its beauty. He said he thought it pushed at the fabric of the sense of place of that neighborhood in a way that would be problematic in the sense that it would be a shame to have something that beautiful also be a misfit. He said he thought that was what the neighbors said and that there was some legitimacy to what they said.

Council Member Leal said there were clearly many more issues imbedded that he thought his colleagues and he were reeling from. They had just had a conversation about the *LUC* and things it did and did not permit. He said he was sure they would be looking at some of the criteria, which allowed that kind of facility to come forward.

Council Member Leal said, not to be too simplistic, but as the City Attorney stated, they were very limited in what the Council could address, so he tried to focus his comments on just that. The church had said if they were not given the eight feet they would build it anyway. He said maybe that was the case, and maybe not and perhaps they would change some of the design. He said for himself, he thought he would say no.

Mayor Walkup said he appreciated Council Member Leal's impression of the beauty of the church. He said he wished he could speak authoritatively about proportions and that it was a matter of architectural proportions. He said he was frankly taken by the beauty and the proportions of a Byzantine church, as had been seen in other places. He said he was called to think about the beauty of some of the churches in the community that had some history to them, such as churches downtown, which were properly proportioned and appropriate to their surroundings.

Mayor Walkup said he would stay with architectural design and proportion, because if it was tampered with it would look inappropriate. He said he had seen churches that looked inappropriate in the community. He said he would go with the architecturally proper proportion of the church and he said he thought eight feet would not be significant and intrusive and it was a beautiful structure for the community. He said he thought the case had been made that it was an appropriate structure, pleasing to the eye, and was what architectural proportion was all about.

Mayor Walkup said he would stay with the design as submitted and thought it would be a welcomed addition to that area and to the community. He said they were making curious statements about their positions, but he said he thought the proposal as approved was reasonable for the church as designed.

Vice Mayor Uhlich said she wanted to clarify that it was noted in the materials the project had gone through the Design Review Board as well as the Zoning Examiner with support.

Council Member Trasoff asked if the positioning on the lot was absolute or could it be moved back from the street a bit without interfering if the Council were to grant the scale.

Mr. Moussa said the closest point to the street was thirty-four feet and the Code allowed twenty-one feet and that was actually to the future curb, not what currently existed. He said the distance to the center of the building was seventy-one feet, but they were still looking to push it farther back in order to do the right thing.

Council Member Trasoff said the bird's eye view showed the proportion with trees around the church and Mr. Moussa had mentioned that a lot of the trees were almost as tall as the building itself. She asked if the trees would be saved.

Mr. Moussa said the trees on the north side of Fifth Street were not on their property, but there were some on the property that would be moved. He said the trees he had referred to were north of Fifth Street, but they would be trying to save as many of the trees on their property as they could.

Council Member Trasoff said she hoped they would consider moving the church farther back.

Mr. Moussa said they met last Thursday and asked the civil engineer to see if it could be moved as much as possible without losing a lot of parking spaces.

Council Member Trasoff said it was very difficult, but the project had been through the full process and they were within their rights to build exactly what they proposed. She said that was not what was before the Council. She said when she was reviewing the Zoning Examiner's hearing, the arguments were about whether to have the church or any kind of business there, which were moot arguments to be considered. It was what was allowed by Code.

Council Member Trasoff said if the Council said no, the massing of the building would not change. She said she thought both of her colleagues to her left and right had made the point of the beauty of the structure and she thought they would diminish it if one messed with what the Byzantines had created for a long time, creating a tremendous amount of beauty. She said it was with very mixed feelings, because she said she really did understand the neighbors' concerns. However, if the Council said no, they would still have the church, it would be just as big, and it would be right where it was because it was allowed to be as Code said. She said they had gone through the full process.

It was moved by Council Member Trasoff, duly seconded, to affirm the Zoning Examiner's decision, deny the appeal and direct the City Clerk to send the applicant a written letter with the decision and stated findings.

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

Upon roll call, the results were:

Aye: Council Members Romero, Glassman, Scott, and Trasoff;
Vice Mayor Uhlich and Mayor Walkup

Nay: Council Member Leal

The motion to affirm the Zoning Examiner's decision, deny the appeal and direct the City Clerk to send the applicant a written letter with the decision and stated findings was declared passed and adopted by a roll call vote of 6 to 1.

9. ZONING: (C9-05-21) 4-D PROPERTIES – GOLF LINKS ROAD, RX-1 TO O-3, C-1 AND C-2, ORDINANCE ADOPTION

Mayor Walkup announced City Manager's communication number 645, dated November 25, 2008, was received into and made a part of the record. He asked the City Clerk to read Ordinance 10608 by number and title only.

Ordinance No. 10608 relating to zoning: amending zoning district boundaries in the area located on the south side of Golf Links Road, between Langley Avenue and the Alamo Wash in Case C9-05-21, 4-D Properties – Golf Links Road, RX-1 to O-3, C-1 and C-2; and setting an effective date.

Council Member Scott said it was with great pleasure she welcomed the new neighbors who would provide badly needed nearby medical services.

It was moved by Council Member Scott, duly seconded, to pass and adopt Ordinance 10608.

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

Upon roll call, the results were:

Aye: Council Members Romero, Glassman, Scott, Leal, and Trasoff;
Vice Mayor Uhlich and Mayor Walkup

Nay: None

Ordinance 10608 was declared passed and adopted by a roll call vote of 7 to 0.

10. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 633, dated November 25, 2008, was received into and made a part of the record. Mayor Walkup asked if there were any personal appointments to be made.

Council Member Leal announced his personal appointment of Carlos Lozano to the Tucson-Pima County Historical Commission.

11. ADJOURNMENT: 7:26 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on December 9, 2008, 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 25th day of November 2008, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:dp:mz