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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on February 23, 2010

Date of Meeting: October 6, 2009

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 5:40 p.m., on Tuesday, October 6, 2009 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	Vice Mayor, Council Member Ward 1
Rodney Glassman	Council Member Ward 2
Karin Uhlich	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 Letcher	City Manager
Michael Rankin	City Attorney
Roger W. Randolph	City Clerk

## 2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Stacy Semas, City Clerk's Office, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

Mayor Walkup assisted by Council Member Uhlich presented a Certificate of Appreciation to Ellen Skotheim of the Rillito River Project for excellent coordination and promotion of "Bat Night 2009," an informative and entertaining event.

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

Mayor Walkup announced City Manager's communication number 499, dated October 6, 2009, was received into and made part of the record. He also announced this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

- a. Vice Mayor Romero announced the Ward 1 office was hosting a Community Key Services Dialogue on October 13, 2009, to provide the community an opportunity to have input on setting a vision for the City, participate in discussions regarding where the City receives its funding, how the City had lowered its costs and make suggestions/recommendations for raising additional revenue and how that revenue should be used.

Vice Mayor Romero also announced that Access Tucson and Every Voice in Action were hosting the "Think, Talk, and Take Action" event for youth and families on October 8, 2009.

Vice Mayor Romero encouraged the public to attend the "Tucson Meet Yourself Festival" held on October 9 through October 11, 2009. The event would showcase music, art, and food from Tucson's cultural diversity.

- b. Council Member Glassman announced the Scott Avenue Remodel Project was voted the "Best Example of City Efficiency" in the 2009 Anniversary edition of the *Tucson Weekly Best of Tucson* magazine. He congratulated Fran LaSala, Environmental Services Project Manager and his staff for their work on the project. He added the project was completed in less than twelve months, including the design process, and featured water runoff and harvesting curb cuts.
- c. Council Member Scott announced she wanted to draw the public's attention to a new magazine called *BIZ Tucson*. She said it featured a great profile of why many markets in economic development were watching how the City of Tucson had evolved and continued to grow in a well-managed way. She mentioned she was proud of the many people profiled in the current issue that had touched Ward 4 in meaningful ways which also benefited the entire community.

- d. Council Member Trasoff announced Ward 6 was also hosting a Community Key Services Dialogue on October 7, 2009. She encouraged citizens to attend and give their views and priorities as to where Tucson was going as a city. She said with next year's challenging budget, the more informed the public was and the more views the public provided the Mayor and Council, the better it would be for the community as a whole.

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

Mayor Walkup announced City Manager's communication number 500, dated October 6, 2009, was received into and made part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

Mike Letcher, City Manager, reported on October 7, 2009, the Planning and Development Services Department issued the City of Tucson's first Green Building Certificate to Habitat for Humanity for a newly completed home in the Corazon de Pueblo subdivision located in the southeast area of Tucson. Green Building was the practice of creating and using healthier, more resource efficient models of construction, renovation, operations, and maintenance. He congratulated the City's Planning and Development Services Department and Habitat for Humanity for their achievement.

Mr. Letcher also announced Tucson's own Channel 12 received the National Association of Telecommunications Officers & Advisors (NATOA) Station of the Year Award for the tenth time in fifteen years. The overall excellence in government programming award was given out the previous week during NATOA's National Convention. Mr. Letcher said Channel 12 also received three first-place and three second-place awards for individual programming. He congratulated the Channel 12 staff.

**5. LIQUOR LICENSE APPLICATIONS**

Mayor Walkup announced City Manager’s communication number 501, dated October 6, 2009, was received into and made part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. Liquor License Applications

New License(s)

1. Circle K Store #6469, Ward 1  
1720 W. Irvington Rd.  
Applicant: Kim Kenneth Kwiatkowski  
Series 9, City 61-09  
Action must be taken by: October 9, 2009

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

This item was considered separately.

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)

Person Transfer(s)

2. Saguario Express, Ward 6  
1051 S. Craycroft Rd.  
Applicant: Nashwan Abo  
Series 9, City 62-09  
Action must be taken by: October 10, 2009

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

3. Hideout, Ward 1  
3000 S. Mission Rd.  
Applicant: Ramiro Salazar Flores, Jr.  
Series 6, City 64-09  
Action must be taken by: October 12, 2009

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

NOTE: State law provides that for a person to person transfer, Mayor and Council may consider the applicant’s capability, qualifications and reliability. (A.R.S. Section 4-203)

Location Transfer(s)

4. The Avenue Restaurant and Bar, Ward 6  
522/526 N. 4th Ave.  
Applicant: Andrew Ian Sommers  
Series 6, City 59-09  
Action must be taken by: September 28, 2009

Tucson Police Department and Revenue Department have indicated the applicant is in compliance with city requirements.

Development Services has indicated the applicant is not in compliance with city requirements.

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

This item was considered separately.

5. Circle K Store #FTLWL, Ward 3  
3128 N. 1st Ave.  
Applicant: Kim Kenneth Kwiatkowski  
Series 9, City 63-09  
Action must be taken by: October 9, 2009

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

Public Opinion:           Written Arguments Opposed Filed

NOTE: State law provides that for a location transfer, Mayor and Council may consider whether the public convenience requires and that the best interest of the community will be substantially served by the issuance of a license at that location. (A.R.S. Section 4-203; Rule R19-1-102)

This item was considered separately.

c. Special Event(s)

1. St. Cyril of Alexandria Parish, Ward 6  
4725 E. Pima St.  
Applicant: Daren W. Lowry  
City T74-09  
Date of Event: October 15, 2009 - October 18, 2009  
(Fundraiser for parish and school)

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

2. Southern Arizona Arts & Cultural Alliance, Ward 3  
4502 N. 1st Ave.  
Applicant: Jonas Wes Hunter  
City T75-09  
Date of Event: October 17, 2009 - October 18, 2009  
(Food & wine tasting, arts & crafts, live music and children's activities)

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

3. Southern Arizona Blues Heritage Foundation, Ward 6  
900 S. Randolph Way.  
Applicant: Richard Allen Romero  
City T76-09  
Date of Event: October 18, 2009  
(Promote blues & heritage music within the community)

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

4. Arizona Historical Society, Ward 6  
949 E. 2nd St.  
Applicant: Joseph R. Alvarez  
City T83-09  
Date of Event: October 22, 2009  
(Docent Council fundraiser)

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

d. Agent Change/Acquisition of Control/Restructure

1. Maverick King of Clubs, Ward 2  
6622 E. Tanque Verde Rd.  
Applicant: Jay Samuel Zucker  
Series 6, City AC7-09  
Action must be taken by: October 17, 2009

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

2. Lindy's Diner, Ward 6  
431 N. 4th Ave.  
Applicant: Gordon Lindon Reilly  
Series 12, City AC8-09  
Action must be taken by: October 9, 2009

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

NOTE: The local governing body of the city, town or county may protest the acquisition of control within sixty days based on the capability, reliability and qualification of the person acquiring control. (A.R.S. Section 4-203.F)

Vice Mayor Romero requested that liquor license 5b1 be considered separately as there were objections from the neighborhood association.

It was moved by Council Member Glassman, duly seconded and carried by a voice vote of 7 to 0, to forward liquor license applications 5b2 and 5b3, 5c1 through 5c4, 5d1 and 5d2 to the Arizona State Liquor Board with a recommendation for approval.

## **5. LIQUOR LICENSE APPLICATIONS**

- b. Liquor License Application(s)

New License(s)

1. Circle K Store #6469, Ward 1  
1720 W. Irvington Rd.  
Applicant: Kim Kenneth Kwiatkowski  
Series 9, City 61-09  
Action must be taken by: October 9, 2009

Staff has 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, Circle K Store # 6469, located in Ward 1.

Vice Mayor Romero asked if the applicant was present and if he wanted to say a few words about the liquor license application. She said she had received a very strong protest from the neighborhood association in Midvale Park.

David Cisiewski, representing Circle K, said he was not prepared to speak on this particular Circle K location, because he was not aware of any issues regarding concerns from the neighborhood. He said he wanted to request a continuance of the item so that they could have an opportunity to meet with the neighbors to resolve those issues. He repeated this was the first time he and his client had heard that there were concerns from the neighborhood.

Vice Mayor Romero asked if Circle K had reached out to the neighborhood or Mr. Cisiewski himself.

Mr. Cisiewski repeated he had not been involved in this particular license application. He said he was there on behalf of Circle K on another matter, but was glad to meet with the neighbors and extend the opportunity to see if their concerns or issues could be resolved.

Vice Mayor Romero stated Christina Cruz, Midvale Park Neighborhood Association President, was in the audience. She asked Ms. Cruz if she wanted the opportunity to speak or if she preferred the Mayor and Council to delay the application in order to allow Circle K the opportunity to talk with the neighbors.

Michael Rankin, City Attorney, said the time frame in which the Mayor and Council needed to act upon regarding this license was on October 9, 2009, so they did not have another meeting in which to continue the application to in order to forward their recommendation to the State Liquor Board.

Mr. Cisiewski asked Mr. Rankin to confirm, if no action was taken by the sixty-day time limit, would the application move forward as a “no action vote,” to the State Liquor Board. He added that would give Circle K the opportunity to meet and talk with the neighbors and it still gave the neighbors another public venue to be heard at the State Liquor Board.

Mr. Rankin said he did not disagree with the statement. The application would go forward to the State Liquor Board without a recommendation from the Mayor and Council. At that instance, he recommended affirmatively, that the Mayor and Council make a motion to forward the application with “no recommendation.” That would trigger the opportunity for a hearing before the State Liquor Board and if there was a protest from the neighbors, they could address the Board at that time and Circle K would be ably represented at that hearing as well.

Mr. Cisiewski said, in the interim, he hoped if there were issues relative to the store and that particular license, Circle K was more than happy to meet with the neighbors to discuss their concerns.

Vice Mayor Romero asked if a motion to forward the application with a “no recommendation” was made, would the City be represented at the State Liquor Board hearing.

Mr. Rankin said there was not a position for the City to advocate, so typically the City would not be represented. He said if the Mayor and Council wished to forward the application with a “no recommendation” based on the fact that not enough sufficient information was obtained, or the Mayor and Council did not feel the applicant had the opportunity to address the body adequately at the present meeting, the Mayor and Council could give Mr. Rankin special direction to represent the City at the hearing.

The City would then have the ability to react and provide any statements to the Board that they could consider in making their determination.

Vice Mayor Romero asked again if Ms. Cruz wanted to say a few words.

Christina Cruz, Midvale Park Neighborhood Association President, stated the neighborhood had voted unanimously in opposition of the Circle K application. She said the neighborhood had always communicated with liquor license applicants and had good relationships with the licensees in the area, but they had not been contacted by Circle K. She said in the past, the neighborhood association had tried to work on different issues with the two Circle K stores in the area and were unsuccessful in resolving them. She said, for those reasons, she was asking the Mayor and Council to deny the liquor license request, if that was their only option.

Vice Mayor Romero asked Ms. Cruz what the issues were that the residents of Midvale Park had with Circle K that resulted in their vote for denial against the application.

Ms. Cruz said Circle K already had a beer license so there was already a lot of activity at the location because of that license. She said on a couple of occasions, they spoke to the owner to persuade them to sign "No Trespassing" letters. The neighborhood had "No Trespassing" agreements with area businesses trying to deal with the homeless issues in the surrounding washes and homeless camps. She said neither the Circle K located at Midvale Park and Irvington Road nor the one located at Midvale Park and Valencia Road would sign the "No Trespassing" letters.

Ms. Cruz added there was always broken glass in the parking lot, not to mention that there was a church right next to the Circle K location for the proposed license. She said she thought there were rules against having a license so close to a church. In addition, there were already many places in the area where one could buy hard alcohol, including Wal-Mart and Walgreens, so it was not a matter of convenience.

Vice Mayor Romero said she found it difficult to fathom that Circle K did not approach the neighborhood, as a courtesy, to let them know the location was going from a beer and wine license to a beer, wine and hard liquor license. She said she knew there had been a neighborhood association meeting where the vote to deny the license was unanimous. Not a single person present at the meeting voted to approve the license. She said she thought it was because the neighborhood was already unhappy with the lack of neighborly contact from Circle K. She said hearing the concerns of the neighborhood; she wanted to recommend denial of the application.

It was moved by Vice Mayor Romero, duly seconded, and carried by a voice vote of 7-0 to forward liquor license 5b1 to the Arizona State Liquor Board with a recommendation for denial.

## 5. LIQUOR LICENSE APPLICATIONS

### b. Liquor License Application(s)

#### Location Transfer(s)

4. The Avenue Restaurant and Bar, Ward 6  
522/526 N. 4th Ave.  
Applicant: Andrew Ian Sommers  
Series 6, City 59-09  
Action must be taken by: September 28, 2009

Tucson Police Department and Revenue Department have indicated the applicant is in compliance with city requirements.

Development Services has indicated the applicant is not in compliance with city requirements.

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

Roger W. Randolph, City Clerk, announced the next application to be considered separately was Item 5b4, The Avenue Restaurant and Bar, located in Ward 6.

Council Member Trasoff stated this license was a difficult one. She had been talking to a lot of people, including the men who wished to open the bar and the many neighbors who did not want to see the bar happen. She began by asking the attorney representing the potential bar owners, Thomas Aguilera, to address the Mayor and Council. She said there were five people wishing to speak, and asked each of them to limit themselves to two minutes.

Thomas Aguilera, Attorney for the applicant, asked Michael Rankin, City Attorney, to opine on how to advise the Mayor and Council on what they would be considering that night. He said his thinking was that the Mayor and Council could only consider location to location transfer and that personal qualifications were not before the body. He asked Mr. Rankin to please advise the Mayor and Council on the issue.

Michael Rankin, City Attorney, stated the application was a location transfer, so the only issue being considered was the location, not the capability, qualifications, or reliability of the applicants. He said the criterion for evaluating the propriety of the location was included in their materials as Attachment B and as the Mayor and Council proceeded through the process, he was happy to address any questions.

Mr. Aguilera asked the Mayor and Council to disregard item number R19-1.102, Exhibit B in their packets and that the only factor to be considered in issuance of the liquor license was transfer. He said, number nine on the list was almost like number one, so it was not as if the Mayor and Council would not have the chance to consider the

impact of the location on the businesses in the area or the neighborhood. He also asked that each Council Member consider what they were about to hear, from Phil Carhuff, Architect for the project, Dave Dutson, real estate agent for the location, and Andrew Sommers and Patrick Nash, owners of Zero Gravity, LLC, who were also the applicants.

Mr. Aguilera said he had spoken at length to Council Member Trasoff's staff and most recently to C. T. Revere, who indicated after conversations with Council Member Trasoff, that it was likely they were facing a recommendation for denial for this application. Mr. Aguilera highly suggested the Mayor and Council remember 4201 J, which was the supermajority statute, and implored them to consider the things they had heard that evening on its merits.

Mr. Aguilera explained he had also been in touch with a few of the Council Members by e-mail. In one of his emails to Council Member Glassman, he indicated there was always the option to request a "no recommendation," of which Mr. Aguilera appreciated being reminded of. He said he thought a "no recommendation" was certainly better than a recommendation for denial, but certainly preferred a recommendation for approval.

Mr. Aguilera said, as they looked at the options available to the Mayor and Council, if a "no recommendation" was recommended, they could work to resolve the issues with the Infill Incentive District (IID) and the Modification of Development Regulations (MDR) process that they had been working closely on with the Planning and Development Services Department (PDS). He acknowledged it was up to the Mayor and Council, but stated he wanted to start with the owners, Andrew Sommers and Patrick Nash to give an overview of the process, followed by Phil Carhuff, and Dave Dutson. He said he understood there were protestors who also wished to speak, and he stated he wanted a chance to address the Council after they spoke, if the option was available.

Council Member Trasoff stated she had speaker cards from Phil Carhuff and Dave Dutson and asked them to stay within the two minute time allotted for speakers.

Patrick Nash, Applicant, thanked the Mayor and Council for hearing him out. He said he grew up in Tucson, graduated from University High School, got his undergraduate degrees from the University of Arizona, was currently attending the Eller College of Management getting his Masters of Business Administration and his dad was an A-10 pilot for the Air Force. He said he and his partner had been in business for nine years, and the current project had been in the works for about two years. He said it was something they both felt passionate about and had put everything they had learned in the past nine years into the project. He stated it was a completely new venture, even though it was a transfer, it was in effect a completely new business. He said they were not relocating their current business; they were starting something new, which was going to be a restaurant and bar, versus a bar only. He emphasized they were both very excited about the prospects.

Andrew Sommers, Applicant, stated the project represented just about everything he had ever done in his business career thus far. He said that might seem a bit short because he might look a little young. He explained he started in the bar business when he was nineteen and was currently thirty-five. He added, he did every job there was to do at a bar, from mopping floors to writing the checks in the office. He said he had learned a lot, most of it in the past nine years, where he had spent his time as a business owner on Fourth Avenue.

Mr. Sommers acknowledged that when someone went into business, it was natural to make mistakes and a couple of twenty-five year olds who opened a bar on Fourth Avenue were going to make mistakes, but it was important that they learned from those mistakes. He said, as they put this project together, they looked at a variety of things, mistakes that were previously made, the market as a whole, the things that were going on downtown, and what Fourth Avenue wanted to be. He said they embraced all those things into this project and were trying to bring a number six liquor license to an area that people looked to for nighttime entertainment. He stated they wanted to build a bar that could be so many other things that they were unable to do in their previous business. They wanted to include a place that had live music and a large food component that served both lunch and dinner. He stated it was extremely exciting and he reemphasized the plans the Mayor and Council would see, represented all of his knowledge with bars and restaurants.

Philip Carhuff, Krebs Carhuff Architects, said he was happy to have been selected to design the restaurant and bar, and wanted to point out that it was not just a bar, but a significant restaurant and bar venue on Fourth Avenue. He said his firm was committed to the revitalization of downtown Tucson, one project, one building at a time. He said he was involved with the recent Beacon Building renovation at 300 North Fourth Avenue, as well as, the Sapphire Lounge on Congress Street. He said they felt the "Avenue Restaurant and Bar" which was a two-tenant space, comprised of ten thousand square feet at 522 North Fourth Avenue, just north of Sixth Street was going to be a significant addition to Fourth Avenue and they wanted to design a bar/restaurant that was respectful to Fourth Avenue, its traditions, and the neighborhood. He explained the bar/restaurant would have a large dining area, a bar with large overhead doors, and a large outdoor patio that faced Fourth Avenue. They were eliminating the patio that faced the back neighborhood on Hoff Street, in an effort to mitigate the impact to the neighborhood on the east.

Mr. Carhoff said they wanted to work with the neighborhood and recently engaged Craig Gross, PDSO Deputy Director to assist them. He said the City recently passed the IID Ordinance and the MDR Ordinance, and felt this project would be the poster child for how the ordinance worked. Mr. Carhoff said he was excited to work with PDSO, the Mayor and Council, the neighborhood, and his client, to design a significant project for Fourth Avenue.

David Dutson, Bourn Partners, said he was representing the building owner who had the assigned property for over a year, and commented it was very difficult to find

prospects. Even the most sanguine among them could not ignore the data that showed a twenty-five percent vacancy rate in the area. He said they felt the applicants were very qualified prospects and they had laid out parameters of what they wanted the restaurant to be. He said it was very important the property did not become the type of business it once was or what the prospects originally ran. Bourn Partners had a great deal of comfort from them and from the documents they had built together, and felt would be a good restaurant and asset to Fourth Avenue.

Cheri Wiens said she lived near the corner of Fourth Avenue and Fifth Street. She said she had not heard anything about the new plans that had been revealed to them that evening, so she could only go by what her knowledge and experience was regarding the business, "North on Fourth." She said she was opposing the liquor license transfer because expanding from four thousand square feet to ten thousand square feet was unreasonable and did not feel it was safe for the neighborhood, regardless of the improvements they would have in their clientele. The amount of people who would be attracted to the area would stretch the capacity of parking available and policing of the area. The safety factor was a big issue for her, as well as the noise.

Ms. Wiens said there were vehicles that cruised up and down Fourth Avenue, which she found annoying and once two a.m. rolled around, the noise level increased. She said it seemed that alcohol consumption caused a certain level of hearing loss in people because they talked louder as they walked by her house to get to their vehicles, and weekends were worse. Also, after the bars closed, people would find the need to relieve themselves and do so on Fourth Avenue and the side streets. She stated her main issues were the parking conditions, police presence, public urination, and public and private safety. She said she was not the only one that needed to be protected; it was also the people who would be customers.

Gal Witmer, West University Neighborhood Association Vice President, said the association had two public meetings with the owners, and both times the proposal was voted down. The Association was opposed to the license and encouraged the Mayor and Council to vote for denial of the application. She said the "North on Fourth" bar did not have a good reputation and had not been a good neighbor. She stated the Association did not vote down every liquor license application, in fact they supported a license a few doors down from the proposed location. She mentioned she did not think the area needed revitalization when there was the "Native Seed Search" and a large gift shop where Julia Roberts once shopped. Those businesses were functioning, but if they were to leave, she said she wanted to see more family daytime orientated businesses.

Ms. Witmer said she understood they needed entertainment in the area, but fifty to sixty percent of the businesses on Fourth Avenue were already focused on entertainment. She said the owners seemed like good, young businessmen, but maybe this project needed to be on a large parcel of a Wal-Mart or something similar that was more buffered. She pointed out that ten thousand square feet was a lot of people, and she reminded everyone that Fourth Avenue was right next to neighborhoods with homes that

had children sleeping. She restated that the Association was asking the Mayor and Council to deny the liquor license request.

Council Member Trasoff said she had met extensively with the owners, as well as the neighbors. She said she was impressed with the two men when they came to meet with her and with their plans and concepts, she said she saw it as a true attempt to change. The problem was that there was a tremendous amount of history involved. Though the owners said they were doing something different, and it was clear by the design it was completely different than what they had previously done, and even with the provisos in the lease; it was not something the City could enforce. She said, therefore, if the higher end concept proved not to be successful, it was not something the City could rely on to prevent them from devolving back to what they had before.

Council Member Trasoff explained the extent of the opposition was not only from the neighbors and neighborhoods, but also the business owners operating across the street and around the corner. Some of it was competition, but she said she consistently heard of a history of not following through on commitments made, and that was a problem. She said it was a quandary, because she believed the two owners had tremendous potential, but she was not sure the location was right for the idea or that it was the right time, given what had happened in recent months and years with the current establishment.

Council Member Trasoff asked Mr. Rankin if the application could be delayed because the bottom line was that the applicants were not in compliance with building code and she did not believe she could vote to recommend the application when it was not in compliance. She said she understood they would be working with PDS, and they had the IID, but presently, "Avenue Restaurant and Bar" was not in compliance. She asked that the application be brought back to the Mayor and Council in thirty days with the issue resolved. Also, she said, within that thirty-day period, she asked that the applicants make a major outreach to Ms. Wiens, Ms. Witmer, and the West University Neighborhood Association (WUNA) to see if their issues could be resolved.

Mr. Rankin stated there was already an extension granted by the State to allow the Mayor and Council to get to the current date. What he needed to do was to confirm with the City Clerk if there was a fixed date in which the Mayor and Council needed to act upon or if there was time available.

Mr. Aguilera said he did not think the State gave the City a fixed date. He said he thought there was notification from Gioia Sanderson, City Attorney's Office, asking for more time, which the State granted, but there was no fixed date.

Council Member Trasoff stated the recommendation she wanted to give to her colleagues was that they put the application off for thirty days.

Mr. Sommers said when they were given the extension; it was with the effort to reach out to the neighborhood. A meeting was called by Officer Mark Schur, Tucson

Police Department, to that end and directly to the West University Neighborhood Association, who refused to meet with them to discuss the issues.

Council Member Trasoff asked Ms. Witmer if she and other representatives of the West University Neighborhood Association were agreeable to meeting with the owners.

Ms. Witmer indicated she was agreeable.

Council Member Trasoff asked that, in the next thirty days, the owners work out the IID issues to find out whether the plan can be brought into compliance, if not, she would not support the application. She also asked that they accomplish due diligence with the neighbors, one more time, and that the neighbors listen, before the application was brought back to the Mayor and Council.

Ernie Duarte, Planning and Development Services Director, said he appreciated the time extension that the Mayor and Council were considering giving the applicants. He said he needed to address the specific requirements of the Certificate of Occupancy because they were dealing with some site issues. As was pointed out by Mr. Carhuff, it was a much larger facility. The parking ratio for a bar was one parking space per fifty square feet and they were currently proposing to move into a retail space where the parking requirement was one parking space per two hundred square feet.

Mr. Duarte stated those were issues that needed to be addressed through the IID and the MDR process, which was a full notice procedure with minimum time frames associated with it. It required notice to surrounding property owners within three hundred feet of the application and to neighborhood associations within a mile. He added the input they receive through the notice process would help shape the decisions on the site application. He said he was not certain they would be able to come up with a recommendation within the thirty days.

Council Member Trasoff said she had no problem extending the item sixty days if time allowed. She said she saw a potential for a good project, but also saw very sincere and fact-based concerns about that same project. She said there was a basic compliance issue that made the entire issue moot at that point.

It was moved by Council Member Trasoff, duly seconded to continue the item and have it come back to the Mayor and Council in as short a time frame as possible, given the notification requirements, in order to fulfill the IID process.

Mr. Rankin said he was able to confirm that the City was not been given a fixed date by the State Liquor Board and that it was somewhat open-ended, but could not be continued forever.

Council Member Leal asked Mr. Rankin, as a point of clarification, if the Council sends an application to the State Liquor Board without a recommendation, knowing that the project was not in compliance for other reasons, how did the State deal with a “no

recommendation” when the business location was not in zoning compliance. He asked if the State ignored that fact or did they deny the application because it was not in compliance.

Mr. Rankin said it was hard to say. As applications were individually looked at, and as a general principal, if a “no recommendation” was made from the local governing body, it was fair to say that the Board did not consider a lot of arguments subsequent to that from the local authority as to why it should be denied.

Council Member Leal confirmed with Mr. Rankin that the Board could approve the license even though there were zoning problems.

Mr. Rankin answered it was a possibility.

Council Member Glassman asked Mr. Duarte, if the liquor license was approved by the State, but not in compliance with the City, did that mean that the business could open, or were those two separate issues. He said, theoretically, the business could get a liquor license and still not be in compliance with City issues, and therefore not be able to open until the issues were resolved.

Mr. Duarte answered affirmatively.

Council Member Glassman asked if the Mayor and Council historically dealt with the issues separately or together.

Council Member Trasoff said she did not believe she had ever dealt with a license quite like the one before them. She said she thought the best way to resolve it was to put the application on hold.

Mr. Aguilera indicated he wished to address the Mayor and Council

Mayor Walkup responded to Mr. Aguilera that he was not allowed to speak and that enough was enough. He said it was a good project, but there was a right way to go about it and so far he was doing it the wrong way. He encouraged him to sit down, remain quiet, and let the item sort itself out or they would get a “no” vote. He said he was prepared to vote for the project, but they were going about it the wrong way.

Mayor Walkup asked if there was any other discussion.

The motion to continue liquor license 5b4 for as short a time frame as possible to work out Infill Incentive District issues was carried by a voice vote of 7 to 0.

## 5. LIQUOR LICENSE APPLICATIONS

### b. Liquor License Application(s)

#### Location Transfer(s)

5. Circle K Store #FTLWL, Ward 3  
3128 N. 1st Ave.  
Applicant: Kim Kenneth Kwiatkowski  
Series 9, City 63-09  
Action must be taken by: October 9, 2009

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

Public Opinion:           Written Arguments Opposed Filed

Roger W. Randolph, City Clerk, announced the next application to be considered separately was Item 5b5, Circle K Store #FTLWL, located in Ward 3.

Council Member Uhlich asked Jane Evans and Nancy Reid, representatives of the Keeling Neighborhood, if they wanted to offer their testimony and thoughts.

Jane Evans said she lived in, was a business owner and a landlord in the Keeling Neighborhood. She said she had protested liquor licenses in the neighborhood that were packaged liquor license sales, not restaurants. She stated their neighborhood was over-saturated with packaged liquor sales. In the boundaries of the neighborhood, there were twelve locations that offered package liquor sales. On the corner of the applicant's proposed business, there were already two places where people could get packaged liquor, a Food City and a long time liquor store. She said Circle K had told the neighborhood they were going to remove one of the Circle K's in their boundaries, so instead of having twelve licenses, they would have eleven.

Ms. Evans explained her concern was that they did not know what was going to happen with the license that was being surrendered when the new store opened. She said her experience with the State Liquor Board was once a license had been in the area, it was no longer considered "over-saturation." If someone reapplied for the license, the State Liquor Board would always say that it was there in the first place and no one had a problem with it then, so they would reissue it and that would put the neighborhood back to thirteen licenses. She stated she was not willing to do that to the neighborhood. She reconfirmed they were over-saturated, and did not need more liquor licenses in the area, plus they had no guarantee Circle K would close the other store. She said there were currently three Circle K locations in the neighborhood and maybe corporate wanted four. She said she was not willing to do that.

Nancy Reid, Keeling Neighborhood, said she had lived there for five years. She said it was a low-income, high crime area, and the neighborhood had been fighting crime

and blight with great success since she had been there. They had been working with Ward 3 and Brett Klein, Tucson Police Department Assistant Police Chief. Last year, they had a successful Keeling Initiative and were working hard to make the neighborhood a nice place to live.

She said in the invocation at the beginning of the evening's meeting, they asked for guidance to make right decisions for the good of the City and its citizens. She said she trusted the right decision regarding this license would be made. She stated there was an elementary school in the center of the neighborhood, a number of recovery homes, half way houses, and Alcoholics Anonymous meeting places in the area. They had a problem with drunk drivers racing through the neighborhood and crashing into the traffic mitigation they had worked so hard to get through the Back to Basics program. They also had problems with liquor bottles thrown into yards and people urinating in the easements and front yards. She mentioned Council Member Scott had shown the fancy magazine that had said the City was evolving. She said they were a struggling neighborhood; she was sure other neighborhoods that did not have the saturation of Circle K stores or packaged liquor stores, because those establishments seemed to centralize around where hard living people resided. She asked the Mayor and Council to help the neighborhood and those in the empowerment zone to evolve.

Rick Wicinski, Amphi Neighborhood Association President and a member of the North Tucson Coalition, said the neighborhood was a high-density low-income area with over thirty-four hundred households within one square mile. He said they had a high crime rate which was directly related to alcohol and drug abuse. He confirmed what Ms. Evans said that there were two long time locally owned liquor stores in the area, one directly across the street from the proposed site and the other one two blocks to the north on First Avenue. There was the Food City across the street on Fort Lowell Avenue and other convenience stores, as well as Circle Ks', and bars in the area. He said he applauded Circle K for wanting to come in and put one of their new upscale markets in the area. However, he was afraid the impact would be too costly on the locally owned businesses. He stated they were opposed to the application because of over-saturation of existing liquor licenses and the negative affect it had on the neighborhood. He said he believed it would also undermine the Weed and Seed efforts in the neighborhood.

David Cisiewski, representing Circle K, said when the company became aware of neighborhood concerns, he contacted Mr. Wicinski and Ms Reid. He shared correspondence by e-mail and/or met in person to discuss the project. He said he understood the neighborhood's concerns, applauded their efforts to protect and revitalize their community, and wanted Circle K to be a part of that revitalization. They currently had a store south of the proposed new location, about one half mile at the intersection of First Avenue and Glenn Street. He said that store had been at the same location for many, many years and the property was not owned by Circle K, it was leased.

Mr. Cisiewski said the project before the Mayor and Council was what Circle K termed as one of their foundation projects. It was a new generation store by a new parent corporation. He said the corporation looked throughout the city to relocate stores, and

several had recently opened, such as I-10 and Sixth Avenue, Palo Verde Road and Gas Road , Tangerine Road and Thornydale Road, and others that were in various stages of development. He said the store at First Avenue and Glenn Street was targeted because the lease was coming up for renewal, it was out dated and had served the good of the community for a number of years.

Mr. Cisiewski said in the past, the philosophy was to locate convenience stores within neighborhoods and small residential areas, as sort of a neighborhood market. He explained the current trend, as with most convenience store retailers and larger fast food chains, was to come up on the commercial corridors. He said that was what Circle K was trying to accomplish with the new store. They wanted to take the store at First Avenue and Glenn Street out of the residential neighborhood and move it to a high traffic commercial corner. He reported the project, which had been reviewed by the PDSO, afforded a number of benefits to the community in terms of traffic mitigation, substantial right-of-way dedications, on both First Avenue and Fort Lowell Road, future improvements at the intersection, and all the existing buildings would be removed and rebuilt. Mr. Cisiewski stated currently, there were three or four different buildings and different orientations on the project. The new store would be a single building located to the eastern end of the project, with the gasoline facility located to First Avenue, and a substantial landscape buffer along the two streets.

Council Member Uhlich said in addition to reviewing the correspondence between the company and neighbors, she had the opportunity to meet with the owner of the property at First Avenue and Fort Lowell Road to discuss the redevelopment plan. She said, in part out of acknowledgement of the limitations of the power of the City governing body, she said she wished she could make a “yes” or “no” decision and have the State hear the will of the locality.

Council Member Uhlich stated she traveled to the State Liquor one time and licked her wounds all the way back after having made a compelling case. She said part of the point she wanted to make was that the decision for this application was going to be made by the State Liquor Board and that a hearing was required regardless because written protests had been filed. She said she spoke to Kelly Stetson, State Liquor Board Administrator, who assured her that with a neutral “yes” or “no” vote, the soonest a hearing could be scheduled was December and they did not expect the recommendation to affect the timing of the hearing.

Council Member Uhlich stated the location transfer request, unfortunately, was not from the Glenn Street location to the new location. She said she saw opportunities to look at the development that was envisioned and the net effect of the new investment to the neighborhood. She said it could be a good thing because there might be some crime mitigation benefits in redeveloping the corner. She said she knew it had been a hot spot and a problem area with some companies that she would like to see leave the neighborhood, that did not do the best in terms of their financial practices for their Weed and Seed area. She said she thought there was an opportunity now, before the State hearing, to come together to see if a resolution could be reached. There were compelling

issues that simply had to be further discussed and was happy to involve her office in the discussions. She said her inclination was to offer a “no recommendation.” She said that she saw some potential benefits to the project, especially if the Glenn Street location would sunset, at the time the new location opened so there would be a neutral effect. She said it was probably the best they could do with the State Liquor Board anyway.

It was moved by Council Member Uhlich, duly seconded and carried by a voice vote of 7 to 0 to forward liquor license 5b5 to the Arizona State Liquor Board with a “no recommendation” and that the City Attorney’s Office remain available to attend the State hearing if needed.

(NOTE: Council Member Glassman departed at 6:43 p.m.)

## **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. Bill Katzel spoke about the Household Hazardous Waste Program and asked the Mayor and Council to restore the City’s portion of the funding for the program through an Intergovernmental Agreement with Pima County.
- b. Robin Gomez voiced his concerns about the noise problems associated with the possible addition of the new F35 fighter jet assigned to Davis Monthan Air Force Base.
- c. Anne Gomez spoke of her concerns regarding a very loud aircraft, the F35 fighter jet, assigned to Davis Monthan Air Force Base and its affect on the neighborhoods.

Council Member Leal asked Mike Letcher, City Manager, to get back to the Mayor and Council with information on the required environmental impact studies that should have been done when the mission of the Base changes, especially when sound levels for aircraft were so significant.

- d. Ruth Beeker spoke her concerns regarding a long term solution to problems in her neighborhood with University of Arizona student rentals.
- e. Joe Sweeney spoke about illegal immigration and urged the Mayor and Council to put a stop to the sanctuary provided by local landlords and churches.
- f. Karolyn Kendrick spoke about the problems with student complexes in the Feldman’s Neighborhood and requested the Mayor and Council to address the “Shadow Code” that allowed the Zoning Examiner to approved variances to the *Land Use Code*.

(NOTE: Council Member Glassman returned at 6:54 p.m.)

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

(This item was revisited)

Roger Randolph, City Clerk, asked the Mayor and Council, if before proceeding to the next item, could they go back briefly to Item #4, which was the report from the City Manager.

Mayor Walkup called upon Mike Letcher, City Manager.

Mike Letcher, City Manager stated he neglected to introduce and welcome Sean McBride, Assistant City Manager, who joined the City on October 5, 2009.

**7. CONSENT AGENDA – ITEMS A THROUGH L**

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

**A. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY FOR THE PROVISION OF TWICE-A-DAY INITIAL COURT APPEARANCES**

1. Report from City Manager OCT6-09-503 CITY-WIDE
2. Resolution No. 21400 relating to Intergovernmental Agreements; approving and authorizing execution of Amendment No. 2 to the Intergovernmental Agreement between the City of Tucson, Arizona Superior Court in Pima County, Pima County Consolidated Justice Courts and Pima County for the Provision of Twice-A-Day Initial Appearances; and declaring an emergency.

**B. PARKS AND RECREATION: NAMING LITTLE LEAGUE FIELD NUMBER 8 IN JESSE OWENS PARK THE “STEPHEN E. EMERINE BALL FIELD”**

1. Report from City Manager OCT6-09-507 WARD 2
2. Resolution No. 21401 relating to parks and recreation; authorizing and approving naming Little League Field #8 in Jesse Owens Park the “Stephen E. Emerine Ball Field”; and declaring an emergency.

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

- C. GRANT APPLICATION: FOR FEDERAL BROWNFIELDS FUNDS TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
1. Report from City Manager OCT6-09-508 WARDS 1, 3, 5 AND 6
  2. Resolution No. 21402 relating to redevelopment; approving and authorizing submission of a Grant Application to the U.S. Environmental Protection Agency for federal Brownfields funds for the redevelopment of various sites within the Empowerment Zone, Westside Coalition and North Tucson Coalition Weed and Seed areas; and declaring an emergency.
- D. BUDGET AND INTERNAL AUDIT: APPROVING THE INTERNAL AUDIT PLAN FOR FISCAL YEAR 2010
1. Report from City Manager OCT6-09-509 CITY-WIDE
  2. Resolution No. 21403 relating to Budget and Internal Audit; approving the Internal Audit Plan for Fiscal Year 2010; and declaring an emergency.
- E. APPROVAL OF MINUTES
1. Report from City Manager OCT6-09-514 CITY-WIDE
  2. Approval of minutes for the regular meeting of the Mayor and Council held on April 28, 2009.
- F. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY RENEWING PARTICIPATION IN THE HOME PROGRAM
1. Report from City Manager OCT6-09-513 CITY-WIDE
  2. Resolution No. 21404 relating to housing and community development; authorizing and approving the execution of an amendment to an Intergovernmental Agreement between the City of Tucson and Pima County to incorporate the allocation of HOME Investment Partnership Program Funds (HOME Funds) for Fiscal Year 2010; and declaring an emergency.
- G. REAL PROPERTY: ACQUISITION OF PROPERTY AT THE NORTHEAST CORNER OF BROADWAY BOULEVARD AND CAMPBELL AVENUE UNDER THE ADVANCED ACQUISITION PROGRAM
1. Report from City Manager OCT6-09-510 WARD 6

2. Resolution No. 21405 relating to real property; authorizing the City Manager to acquire by negotiation certain real property located at the Northeast corner of Broadway Boulevard and Campbell Avenue under the Advanced Acquisition Program; and declaring an emergency.

H. TRANSPORTATION: ACQUISITION OF RIGHT-OF-WAY FOR THE MIDTOWN NEIGHBORHOOD SIDEWALK PROJECT

1. Report from City Manager OCT6-09-512 WARD 6
2. Resolution No. 21406 relating to transportation; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, certain real property needed for the Midtown Neighborhood Sidewalk Project along Columbus Boulevard; and declaring an emergency.

I. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY FOR IMPROVEMENTS TO BROADWAY BOULEVARD FROM EUCLID AVENUE TO COUNTRY CLUB ROAD

1. Report from City Manager OCT6-09-511 WARDS 5 AND 6
2. Resolution No. 21407 relating to Intergovernmental Agreements; approving and authorizing execution of Amendment No. 1 to the Intergovernmental Agreement between the City of Tucson and the Regional Transportation Authority of Pima County (RTA) for improvements to Broadway Boulevard: Euclid Avenue to Country Club Road; and declaring an emergency.

J. INTERGOVERNMENTAL AGREEMENT: WITH THE ARIZONA ATTORNEY GENERAL FOR TOBACCO RETAIL COMPLIANCE INSPECTIONS

1. Report from City Manager OCT6-09-515 CITY-WIDE
2. Resolution No. 21408 relating to Police; approving and authorizing the execution of an Intergovernmental Agreement between the City of Tucson and the Arizona Attorney General's Office, the Department of Law, State of Arizona for Tobacco Retail Compliance Inspections; and declaring an emergency.

K. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH KV L.L.C.

1. Report from City Manager OCT6-09-516 OUTSIDE CITY
2. Resolution No. 21409 relating to Pre-Annexation and Development Agreements; authorizing and approving the execution of a Pre-Annexation and Development Agreement between the City of Tucson and KV L.L.C.; and declaring an emergency.

Note: if annexed, area would be in Ward 4

L. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH THE WILBERT M. WYNNE III AND PATRICIA L. WYNNE REVOCABLE TRUST

1. Report from City Manager OCT6-09-517 OUTSIDE CITY
2. Resolution No. 21410 relating to Pre-Annexation and Development Agreements; authorizing and approving the execution of a Pre-Annexation and Development Agreement between the City of Tucson and the Wilbert M. Wynne III and Patricia L. Wynne Revocable Trust; and declaring an emergency.

Note: if annexed, area would be in Ward 4

It was moved by Council Member Uhlich, duly seconded, that Consent Agenda Items A through L, with the exception of Item B, which was considered separately, be approved and adopted and the proper action taken.

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

Upon roll call, the results were:

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

Nay: None

Consent Agenda Items A through L, with the exception of Item B, were declared passed and adopted by a roll call vote of 7 to 0.

**7. CONSENT AGENDA – ITEM B**

B. PARKS AND RECREATION: NAMING LITTLE LEAGUE FIELD NUMBER 8 IN JESSE OWENS PARK THE “STEPHEN E. EMERINE BALL FIELD”

1. Report from City Manager OCT6-09-507 WARD 2
2. Resolution No. 21401 relating to parks and recreation; authorizing and approving naming Little League Field #8 in Jesse Owens Park the “Stephen E. Emerine Ball Field”; 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 stated it was months ago, back in the spring, when he was getting ready for the opening of the Tucson Toros season, that he was thinking about how to commemorate a good friend of his, as well as a good friend of the City of Tucson,

Steve Emerine. He said they had lost Mr. Emerine, former Pima County Assessor, columnist, writer, and all around great person, a few months earlier. As fate would have it, Mr. Emerine's wife, Carolyn, called his office that same day and said she would like to do something to honor him. He said, for the past few months, petitions had been circulating throughout the community, as everyone was thrilled about the idea of adding Steve Emerine's name to the new ball field at Jesse Owens Park. Mr. Emerine was an advocate for kid's baseball and an advocate for everything great. He said he received so much support from the local little league, the Emerine family, and the business community, that they were able to raise one hundred percent of the money needed to have a sign placed in the park in Steve's honor. He mentioned they also had a unanimous recommendation from the Parks and Recreation Commission forwarded to the Mayor and Council.

Council Member Glassman said the ribbon cutting ceremony and presentation of the new sign naming Little League Ball Filed Number 8 to the "Stephen E. Emerine Ball Field" was the morning of October 16, 2009.

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

Mayor Walkup asked if there was any discussion.

Council Member Trasoff stated it was perfect. She thanked Carolyn Emerine for taking the lead and coming up with the thought. She said Steve Emerine deserved it.

Mayor Walkup asked for a roll call. Upon roll call, the results were:

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

Nay: None

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

**8. PUBLIC HEARING: ZONING (C9-04-18) CUSHMAN – ANKLAM ROAD, R-2 TO O-1, TIME EXTENSION AND CHANGE OF CONDITIONS**

Mayor Walkup announced City Manager's communication number 504, dated October 6, 2009, was received into and made part of the record. He also announced it was the time and place legally advertised for a public hearing on a request for a five year time extension and change of conditions for property located at 1601 West Anklam Road.

Mayor Walkup asked if the applicant or representative was present and if they wanted to speak on the item

The applicant indicated he was present.

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

There were no speakers.

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

It was moved by Vice Mayor Romero, duly seconded, to approve the request for a five-year extension and change of conditions for property located at 1601 West Anklam Road, as recommended by staff.

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

Upon roll call, the results were:

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

Nay: None

The motion to approve the request for a five-year extension and change of conditions for property located at 1601 West Anklam Road, as recommended by staff was passed by a vote of 7 to 0.

**9. PUBLIC HEARING: AMENDING TUCSON CODE (CHAPTER 3) SIGN CODE REGULATION OF BANNERS**

Mayor Walkup announced City Manager's communication number 505, dated October 6, 2009, was received into and made part of the record. He also announced it was the time and place legally advertised for a public hearing on the proposed amendment to the Sign Code addressing the regulation of banners. He said the public hearing was scheduled to last for no more than one hour and speakers were limited to five minute presentations. He asked if there was anyone who wished to speak on the matter.

Barbara Dolan, Arizona Multihousing Association (AMA), said she was speaking against the changes to the Sign Code and respectfully requested a thirty-day extension to allow the AMA the opportunity to weigh in with the Citizen Sign Code Committee for the following reasons. She said earlier in the year, the AMA requested to be listed as a stakeholder for any changes being listed by the Sign Code Committee and to be notified of any changes being considered. She said the AMA did not receive notification of the proposed changes and only became aware of the item when they saw the agenda for the Mayor and Council meeting earlier in the week. She said she knew the change was brought about primarily for the liquor industry and alcoholic beverage signs, but the

AMA was concerned about the impact it would have on the rental housing industry. She reported industry statistics showed that seventy-five percent of rental units were leased or made aware of through signs such as the banners and A-frame signs, and they were concerned about any changes affecting such signs. She said the rental housing industry was being hit hard by the economic conditions. For example, the City of Peoria was actually considering rolling back some of the sign code regulations to help businesses. She reemphasized the AMA was concerned about the impact the Sign Code changes would have on the rental housing industry.

It was moved by Council Member Trasoff, duly seconded, to close the public hearing.

Mayor Walkup asked if there were any discussions.

Council Member Uhlich questioned whether the Council should close the public hearing.

Council Member Leal said the changes had been worked on for over a year and it came out of the Economic and Workforce Development Subcommittee. There were concerns from the neighborhoods, the Tucson Police Department, and City staff. He said the City was getting approximately three hundred violations a year, of which eighty percent were called in by the public. He said it was a staffing problem on the City's part, not a complaint against City staff, but it had to be so bad out in the streets that people were taking it upon themselves to call in. He commented that if the City got three hundred violations that way, no telling how many violations really existed.

Council Member Leal explained some of the problems had to do with establishments completely covering windows where police could not see in. After 5:00 p.m. and on the weekends, when they knew it was after hours for City staff, A-frame signs and banners appeared.

Council Member Leal explained the City Manager had brought forth earlier the subject about aesthetics of the community and not just the embedded public safety issues. This issue had become so bad, it became an issue of visual blight of banners, signs and many other things. He said these changes came forward through the Sign Code Committee, who had six public hearings, and had been to the Mayor and Council twice. He stated what was before them was really simple and unique because staff and the Sign Code Committee, half of who were from the sign industry, voted 7-0 in favor of the amendment. The City now had an ordinance that was actually enforceable, because the current one was not. The signs and banners were a little smaller, and the community, neighborhoods, and other business folk would be able to use time stamped dated photographs to help staff with enforcement.

Council Member Leal said the representative from the AMA stated they had not been aware of the item, and said he understood that sometimes happened. He suggested that the Mayor and Council not close the public hearing, but continue it for thirty days to

give the AMA an opportunity to talk to City staff. If there was meaningful input, the City could take that into consideration and bring the item back to the Mayor and Council in thirty days to both conclude the hearing and take action on something that was beneficial to the people of Tucson.

Council Member Leal asked Michael Rankin, City Attorney, if what he just said worked for everyone.

Michael Rankin, City Attorney, said it would work and that the Mayor and Council should pick a date that would approximate the thirty days so that they could make the announcement at the meeting as to when the public hearing was continued to.

Council Member Leal asked the representative from the AMA to contact his office.

Mayor Walkup reiterated that it sounded like Council Member Leal was making a substitute motion for the continuation of the public hearing for another thirty days to give the AMA an opportunity to work with City Staff.

Roger W. Randolph, City Clerk, said, to make the motion date specific, the next available meeting date was November 17, 2009.

The substitute motion made by Council Member Leal, duly seconded, to continue the public hearing to the November 17, 2009, Mayor and Council Meeting, and was carried by a voice vote of 7 to 0.

Council Member Glassman commented that the Mayor and Council were approaching the witching hour for friend and colleague Steve Leal. He said he appreciated the fact that Council Member Leal was willing to postpone the vote for thirty days and the demonstration of confidence that it put on the rest of the Council that they would continue to deal with the issue after the November General Election, knowing that Council Member Leal would not be back.

Mayor Walkup commented that it was a sad notion.

Council Member Leal said that there was a thing called "Call to the Audience" and he would be back.

**10. ZONING AMENDMENT: (C9-08-06) HISTORIC DEPOT AREA – TOOLE AVENUE, I-1 TO OCR-2, ORDINANCE ADOPTION**

Mayor Walkup announced City Manager's communication number 506, dated October 6, 2009, was received into and made part of the record. He asked the City Clerk, to read Ordinance 10715 by number and title only.

Ordinance No. 10715 relating to zoning: amending Ordinance No. 10588 to amend the map showing the OCR-2 District boundaries in the area located on the east side of north Toole Avenue at Congress Street in Case C9-08-06, Historic Depot Area – Toole Avenue from I-1 to OCR-2; and declaring an emergency.

It was moved by Council Member Trasoff, duly seconded, to pass and adopt Ordinance 10715.

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

Upon roll call, the results were:

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

Nay: None

Ordinance 10715 was declared passed and adopted by a roll call vote of 7 to 0.

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

Mayor Walkup announced City Manager's communication number 502, dated October 6, 2009, was received into and made part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member Scott, duly seconded and carried by a voice vote of 7 to 0, to approve the reappointment of Marion Hook to the Small Business Commission, to appoint David Martinez III, Wayne Yehling, and Chad Mosher to the Tucson Commission on Gay, Lesbian, Bisexual and Transgender Issues, and to reappoint Grant McCormick to the Landscape Advisory Committee in the Landscape Architect category and Joan Lionetti to the Landscape Advisory Committee in the Other category.

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

Council Member Uhlich announced her personal appointment of Piper Weinberg to the Tucson Commission on Gay, Lesbian, Bisexual and Transgender Issues.

**12. ADJOURNMENT:** 7:26 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Wednesday October 14, 2009 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 6th day of October 2009, and do hereby certify that it is an accurate transcription.

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DEPUTY CITY CLERK

RWR:jr:cs