



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on August 4, 2010

Date of Meeting: November 17, 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 5:42 p.m., on Tuesday, November 17, 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 (departed @ 7:43 p.m.)
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 Father Charlie Knapp, Catholic Diocese of Tucson, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

- a. Mayor Walkup presented a Copper Plaque to Old Tucson Studios in recognition of their 70th Anniversary. Pete Manglesdorf, General Manager of Old Tucson Studios accepted the Copper Plaque.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 577, dated November 17, 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 Council Office was partnering with the Arizona Attorney General's Office to present a Senior Anti-Crime University on November 20, 2009. This was an opportunity for citizens to learn how to prevent fraud against seniors. Space was limited and pre-registration was required.

Vice Mayor Romero also announced the Ward 1 Council Office was hosting an event called "Viva David Tineo/Viva Los Tamales" on December 10, 2009, which included a tamale contest for neighborhoods and a preview of the Tucson Museum of Art's retrospective of the artwork of David Tineo.

- b. Council Member Uhlich announced the La Madera Neighborhood Association was one of five finalists for a Playspace Improvement Grant to build a shaded structure for the neighborhood's playground. She said the grant would be awarded to the top vote getter and she encouraged citizens to support La Madera Neighborhood by voting on-line at playday.kaboom.org.

Council Member Uhlich also announced the City/County Water and Wastewater Study Oversight Committee had completed their "Draft" Phase 2 Report and sought public comment by viewing the report on-line at tucsonpimawaterstudy.com.

- c. Council Member Trasoff announced the Ward 6 Council Office was hosting a reception for the opening of the Drawing Studio's "Waxing Poetic" Art Show featuring encaustic art, on December 3, 2009.
- d. Council Member Glassman recognized Ward 2 residents, Melissa Shaner and Jennifer McCaig, for their collaboration with the YWCA of Tucson, Saguaro Girl

Scouts, Bolchalk Frey Advertising and Public Relations and the Ward 2 Council Office in a partnership program called “Cinderella’s Closet.” The program was designed to provide prom dresses to young women who might not be able to afford one and at the same time, provide a way to recycle/donate nearly new dresses. He said the kick-off reception would be held on November 18, 2009, at McMahon’s Steakhouse and the website was cinderellasclosettucson.com.

- e. Mayor Walkup reminded citizens that the El Tour de Tucson was on November 21, 2009, and asked everyone to be conscientious of bicycles on the road.

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

Mayor Walkup announced City Manager’s communication number 578, dated November 17, 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.

No report was given.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager’s communication number 579, dated November 17, 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. Sporty’s Restaurant & Bar, Ward 3
1300 W. Prince Rd.
Applicant: Panagiotis Lembessis
Series 12, City 76-09
Action must be taken by: November 22, 2009

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

- 2. La Botana Taco Grill & Cantina, Ward 3
3200 N. 1st Ave.
Applicant: Arnoldo Silva
Series 12, City 78-09
Action must be taken by: November 22, 2009

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)

Person/Location Transfer(s)

3. El Molinito, Ward 5
5380 E. 22nd St.
Applicant: Wayne Lee Hallquist
Series 6, City 77-09
Action must be taken by: November 27, 2009

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

NOTE: State law provides that for a person and location transfer, Mayor and Council may consider both the applicant’s capability, qualifications, reliability and location issues. (A.R.S. Section 4-203; R19-1-102)

c. Special Event(s)

1. Tucson Rodeo Committee Inc., Ward 5
4801 E. 6th Ave.
Applicant: Gary Gene Williams
City T81-09
Date of Event: February 20, 2010 - February 28, 2010
(To stage the 85th Annual Tucson Rodeo)

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

2. Kokopelli Winery, Ward 6
546 N. 4th Ave.
Applicant: Dennis M. Minchella
City T97-09
Date of Event: December 11, 2009 - December 13, 2009
(4th Avenue Street Fair)

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

3. Tucson’s Young Professionals, Inc., Ward 1
140 N. Main Ave.
Applicant: Stephanie R. Bermudez
City T98-09
Date of Event: December 4, 2009
(To promote community event in downtown Tucson)

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

4. Most Holy Trinity Parish, Ward 1
1300 N. Greasewood Rd.
Applicant: Kenneth N. Moreland
City T99-09
Date of Event: December 6, 2009
(Christmas party for Ladies Club)

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

- d. Agent Change/Acquisition of Control/Restructure

NOTE: There are no agent change(s) scheduled for this meeting.

It was moved by Council Member Leal, duly seconded and carried by a voice vote of 7 to 0, to forward liquor license applications 5b1 through 5b3 and 5c1 through 5c4 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. Jim Hannley spoke in opposition to the resolution of support for local business submitted to the Mayor and Council by Diamond Ventures.
- b. Richard DeBernardis spoke about the 27th Annual El Tour de Tucson, benefiting seventeen different charities. He asked for the Mayor and Council's assistance in notifying citizens to keep off the roads during the tour.
- c. Joe Sweeney spoke about illegal immigrants.
- d. Al Wiruth spoke about the timing of speed limit changes throughout the City.

(Note: Council Member Glassman departed at 6:06 p.m., returned at 6:10 p.m.)

7. CONSENT AGENDA – ITEMS A THROUGH F

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. GRANTS: GRANT-IN-AID AGREEMENT WITH THE GILA RIVER INDIAN COMMUNITY FOR DISTRIBUTION OF GAMING MONIES TO PLANNED PARENTHOOD ARIZONA
1. Report from City Manager NOV17-09-588 CITY-WIDE
 2. Resolution No. 21438 relating to finance; authorizing disbursement of gaming monies; and declaring an emergency.
- B. GRANT AGREEMENT: WITH THE ARIZONA ATTORNEY GENERAL'S OFFICE FOR THE VICTIMS' RIGHTS PROGRAM
1. Report from City Manager NOV17-09-582 CITY-WIDE
 2. Resolution No. 21439 relating to Victims' Rights; approving and authorizing execution of an award agreement with the Arizona Attorney General's Office for the FY 2010 Victims' Rights Program (VRP); and declaring an emergency.
- C. INTERGOVERNMENTAL AGREEMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY FOR THE UPGRADE OF TRAFFIC SIGNAL ETHERNET COMMUNICATION CARDS
1. Report from City Manager NOV17-09-587 CITY-WIDE
 2. Resolution No. 21440 relating to Transportation; authorizing and approving the Intergovernmental Agreement for Transportation Funding, between the Regional Transportation Authority of Pima County and the City of Tucson for NTCIP Compliant Ethernet Communication Cards; and declaring an emergency.
- D. TUCSON CODE: AMENDING (CHAPTER 20) RELATING TO SPEED LIMITS, UPDATING CITY TRAFFIC ORDINANCES
1. Report from City Manager NOV17-09-583 CITY-WIDE
 2. Ordinance No. 10728 relating to motor vehicles and traffic; repealing Ordinance No. 10543 adopted June 10, 2008; designating current streets or parts of streets where thirty miles per hour speed limit is imposed, pursuant to Section 20-140 of the Tucson Code; and declaring an emergency.
 3. Ordinance No. 10729 relating to motor vehicles and traffic; repealing Ordinance No. 10544 adopted June 10, 2008; designating current streets or parts of streets where thirty-five miles per hour speed limit is imposed, pursuant to Section 20-141 of the Tucson Code; and declaring an emergency.

4. Ordinance No. 10730 relating to motor vehicles and traffic; repealing Ordinance No. 10545 adopted June 10, 2008; designating current streets or parts of streets where forty miles per hour speed limit is imposed, pursuant to Section 20-142 of the Tucson Code; and declaring an emergency.
5. Ordinance No. 10731 relating to motor vehicles and traffic; repealing Ordinance No. 10546 adopted June 10, 2008; designating current streets or parts of streets where forty-five miles per hour speed limit is imposed, pursuant to Section 20-143 of the Tucson Code; and declaring an emergency.
6. Ordinance No. 10732 relating to motor vehicles and traffic; repealing Ordinance No. 10547 adopted June 10, 2008; designating current streets or parts of streets where fifty miles per hour speed limit is imposed, pursuant to Section 20-144 of the Tucson Code; and declaring an emergency.
7. Ordinance No. 10733 relating to motor vehicles and traffic; repealing Ordinance No. 10413 adopted by Mayor and Council on June 12, 2007; designating current streets or parts of streets where fifty-five miles per hour speed limit is imposed, pursuant to Section 20-145 of the Tucson Code; and declaring an emergency.

This item was considered separately at the request of Council Member Scott.

E. PARKS AND RECREATION: NAMING SOFTBALL FIELD #2 AT JOAQUIN MURIETTA PARK THE “PETE MORENO SOFTBALL FIELD #2”

1. Report from City Manager NOV17-09-586 WARD 1
2. Resolution No. 21441 relating to parks and recreation; authorizing and approving naming Softball Field #2 at Joaquin Murietta Park the “Pete Moreno Softball Field #2;” and declaring an emergency.

F. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY AND MUNICIPAL FIRE DEPARTMENTS AND FIRE DISTRICTS WITHIN PIMA COUNTY FOR THE EMERGENCY RESPONSE PROGRAM

1. Report from City Manager NOV17-09-585 CITY-WIDE
2. Resolution No. 21443 relating to Intergovernmental Agreements; approving, and authorizing the Fire Chief’s execution of, Amendment No. 1 to the 2004 Intergovernmental Agreement between the City of Tucson, Pima County, and the Northwest, Green Valley, Golder Ranch, and Drexel Heights Fire Districts regarding cooperative provision of emergency response to hazardous materials incidents within Pima County; and declaring an emergency.

Mayor Walkup said Council Member Glassman had an announcement to make before moving onto the Consent Agenda.

Council Member Glassman announced he had the opportunity to attend the National Association of Realtors Conference in San Diego. He said the new National President for 2010 was from southern Arizona, Vicki Cox Golder. He apologized for not sharing this information during Item 3.

It was moved by Council Member Trasoff, duly seconded, that Consent Agenda Items A through F, with the exception of Item D, which was considered separately, be passed and adopted and the proper action taken.

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

Upon roll call, the results were:

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

Nay: None

Consent Agenda Items A through F, with the exception of Item D, which was considered separately, were declared passed and adopted by a roll call vote of 7 to 0.

7. CONSENT AGENDA – ITEM D

D. TUCSON CODE: AMENDING (CHAPTER 20) RELATING TO SPEED LIMITS, UPDATING CITY TRAFFIC ORDINANCES

1. Report from City Manager NOV17-09-583 CITY-WIDE
2. Ordinance No. 10728 relating to motor vehicles and traffic; repealing Ordinance No. 10543 adopted June 10, 2008; designating current streets or parts of streets where thirty miles per hour speed limit is imposed, pursuant to Section 20-140 of the Tucson Code; and declaring an emergency.
3. Ordinance No. 10729 relating to motor vehicles and traffic; repealing Ordinance No. 10544 adopted June 10, 2008; designating current streets or parts of streets where thirty-five miles per hour speed limit is imposed, pursuant to Section 20-141 of the Tucson Code; and declaring an emergency.
4. Ordinance No. 10730 relating to motor vehicles and traffic; repealing Ordinance No. 10545 adopted June 10, 2008; designating current streets or parts of streets where forty miles per hour speed limit is imposed, pursuant to Section 20-142 of the Tucson Code; and declaring an emergency.

5. Ordinance No. 10731 relating to motor vehicles and traffic; repealing Ordinance No. 10546 adopted June 10, 2008; designating current streets or parts of streets where forty-five miles per hour speed limit is imposed, pursuant to Section 20-143 of the Tucson Code; and declaring an emergency.
6. Ordinance No. 10732 relating to motor vehicles and traffic; repealing Ordinance No. 10547 adopted June 10, 2008; designating current streets or parts of streets where fifty miles per hour speed limit is imposed, pursuant to Section 20-144 of the Tucson Code; and declaring an emergency.
7. Ordinance No. 10733 relating to motor vehicles and traffic; repealing Ordinance No. 10413 adopted by Mayor and Council on June 12, 2007; designating current streets or parts of streets where fifty-five miles per hour speed limit is imposed, pursuant to Section 20-145 of the Tucson Code; and declaring an emergency.

Council Member Scott asked the Department of Transportation Director to clarify some of the comments made during the call to the audience and asked why the speed limit changes had to be done now and go through that expense.

Jim Glock, Department of Transportation Director, replied that speed limits were reviewed on an annual basis by conducting speed studies and evaluating development patterns that had occurred. He said the adjustments before the Mayor and Council under Consent Agenda Item D were reflective of changing environment, requests from neighborhoods, and a desire to make a small investment now that could potentially save lives in the near future. The improvements along Houghton Road were planned to occur within the next year and were for one particular reach, Irvington Road to Valencia Road. He said the remainder of the roadway was still out there. The need for the change in the speed limit accurately reflected the eighty-five-percentile speed that they actually saw the public travel along at.

Council Member Scott stated some of the other roads, not Houghton Road, but the Old Vail Road, Rita Road, and others mentioned, did not have the kind of intense infrastructure of buildings. She asked if there was any reason why they could not leave those speed limits currently in place on both sides of Old Vail Road, a quarter mile west to Houghton and Old Vail Road from Valencia, to a quarter mile west of Houghton, again from fifty miles per hour to forty-five miles per hour. She asked why the change was needed right now, and why they could not wait.

Mr. Glock replied it was certainly the Mayor and Council's prerogative to set speed limits, which was why the item was before the Council. He said his recommendations, with respect to these speed limits, were due to the liability of the City to have speed limits that did not conform with national standards, as in the case of the vertical curves on Rita Road. In the case of the lower speed limit approaching Houghton Road, along Old Vail Road, Mary Ann Cleveland Way, they were trying to provide consistency for both directions of travel as vehicles approached that particular intersection. He said they were looking out for the safety of the traveling public, as well

as, the liability of the City to make sure the speed limits were in conformance with national standards. This was based on the geometric standards they had along the City's particular roadways, and the increasing overall traffic volumes they saw in the southeast area.

Council Member Scott asked what the cost was for putting up the signs. She referred to Mr. Wiruth's comments about the cost for putting up the signs, being converted to make bike lanes and other investments.

Mr. Glock said the total cost of all of the sign changes, as recommended in the ordinance, would be less than five thousand dollars as they stretched across the entire City, as reported in the item. He said Houghton Road alone would be somewhere around eight hundred dollars total for the sign changes.

Council Member Scott asked if the City had enough money to line some bike lanes in the area instead of posting signs, had those funds been available for all the roads in the southeast area.

Mr. Glock replied they did not; the eight hundred dollars did not let them conduct the recommended improvements.

Council Member Scott asked then if it would harm the public safety at large if they were to leave the signs as they were for the time being to be reviewed again for a change at a future date. She said the City was just going by a standard in a book, and were talking about somebody who just lived there and did not understand the issue. She asked if there was any harm and human safety at risk if she were to pull the item and leave the signs as they were.

Mr. Glock replied it was his recommendation as the City's Director of Transportation, and as a professional engineer in the State of Arizona, to make these modifications to improve the safety of the traveling public and reduce the liability and risks to the City of Tucson as a governmental agency.

Council Member Scott asked Mr. Glock if he had spoken with Mr. Wiruth and the Rita Ranch Neighborhood Association about this issue prior to it being on the Consent Agenda.

Mr. Glock said they had these discussions over the course of the summer back in August, and it had taken this long to finally get the item scheduled before Mayor and Council, so he did not have recent discussions with Mr. Wiruth. He said he had been working with the Ward 4 staff in getting the item on the Mayor and Council agenda, and he was under the impression that Mr. Wiruth was contacted. Obviously, he said, that was not the case.

Council Member Scott said in light of the fact that the Rita Ranch Neighborhood Association (RRNA) did not have a chance to vote on this issue, she wondered if they could pull the items pertaining to the neighborhood from the agenda, leave the speed limits as is, and bring the item back to the Mayor and Council after there has been a vote and a change, if necessary, from the RRNA. She said she wanted to ask the RRNA, since they were intensely interested, as noted in the representation from the neighborhood at the meeting. She said she thought the neighborhood should have a chance to review the item, and vote on it. Once the Rita Ranch Neighborhood Association voted on it, the item could be brought back to the Mayor and Council. She said she wanted to do that as a form of a motion.

It was moved by Council Member Scott, duly seconded, to remove the portions of the ordinances that effected roads around Rita Ranch, and continue them until the Rita Ranch Neighborhood Association had an opportunity to vote on the matter.

Council Member Trasoff said she did not remember ever asking neighborhood groups to vote on speed limits, which were done through traffic studies. She said they had a chance to comment, but asked if she missed something. She asked Mr. Glock if it was standard procedure for a neighborhood association to vote on a speed limit.

Mr. Glock replied they certainly liked to communicate with the Ward Offices and the neighborhood associations, where they had speed limit changes and modifications. He apologized for not having done so in the case of the RRNA on the evening's agenda. However, he said his recommendation as the Director of Transportation still stood.

Council Member Trasoff expressed concerns that even though she understood the neighborhood association was strong, with very good people, and it was a tight knit community concerned about this issue, it was the Mayor and Council's responsibility to look out for the health and safety of the community. She had liability concerns about what could happen if the Mayor and Council knowingly did not vote for the change, when their senior staff in the Transportation Department, who had expertise based on studies, made a recommendation that the speed limits had to be changed for the health and safety of the community. She asked the City Attorney what kind of liability the City would be open to if something was to happen that was deemed a result of the posted speed limit on the road, after a recommendation was made to change it.

Michael Rankin, City Attorney, said what it meant in terms of liability, was that if the City was in a course of litigation and Mr. Glock was asked to testify, he suspected Mr. Glock would do so in the same manner he did that evening, indicating it was his recommendation as an engineer that there were liability risks with not making the changes. He added that would make it a difficult position to defend from the City's standpoint.

Council Member Glassman asked if they were officially being put on notice.

Mayor Walkup replied he thought so.

Mr. Rankin said the Mayor and Council were on notice in the sense that Mr. Glock gave them his opinion from an engineering standpoint, and that was really his job to do. He said if the motion were simply to continue this item for a week, so that some explanation could be made, it would be one thing. However, if it led to something else, he thought the Mayor and Council would probably want to have a discussion in an Executive Session the following week to discuss that.

Council Member Glassman asked the City Clerk to read the motion that they were being asked to vote on.

Roger W. Randolph, City Clerk, said his understanding of the motion was to continue the item to allow the Rita Ranch Neighborhood Association an opportunity to take a vote on the item, and then it would be brought back to the Mayor and Council.

Council Member Glassman asked Mr. Glock if that could happen within the one-week time frame that the City Attorney just recommended.

Mr. Glock said he would need to confirm with the RRNA to determine whether or not they had a meeting scheduled between now and next week.

Council Member Glassman asked if it was possible to put this item on hold to give the Department of Transportation Director time to confer with the neighborhood association to find out if they were going to have a meeting within the next week, and then come back to the Mayor and Council later in a meeting so that they could vote.

Council Member Scott stated the RRNA was not scheduled to have a meeting within the next week. She did not believe a meeting was scheduled, but she wanted to give them the opportunity to review the item. She said it was procedure and policy that other neighborhood associations vote on these types of changes. She added that over the summer, there were not enough people there to have regular meetings and full attendance. Now that summer was over, it was at her request that the Mayor and Council allow them, as a neighborhood, to give their two cents worth, and continue this item until that happened. She asked neighborhood representatives in the audience if there would be another meeting within the next few weeks.

An unidentified speaker replied there was not one scheduled, and it would take them about a month to schedule one.

Council Member Scott said she would let her motion stand to honor the neighborhood's request.

Vice Mayor Romero asked Council Member Scott if she was putting this on the table for the neighborhood to vote on the speed limit.

Council Member Scott replied affirmatively stating it was for the neighborhood in the area that lived and drove there every day and for their children, from newly licensed

drivers or people driving to the new IBM site and Raytheon. She said there were many cars that drove up and down the area, and she felt anyone who had an interest in it should have an opportunity to honor the neighborhood's request to review this and come back to the Mayor and Council when they were ready. She said she hoped the neighborhood was able to put this item on their next agenda, and asked them to do that. She asked that once the neighborhood association voted on the issue, they immediately notify her office with the results, so that the item could be brought back to the Mayor and Council for a vote.

Vice Mayor Romero asked the City Attorney if that was legal. She expressed concerns about who was able to change speed limits. For example, she said it was wonderful if they could pass through a school zone at thirty miles per hour. However, they could not do that, nor could they dictate changing various speed limits throughout neighborhoods. It concerned her that it would put them in a precarious situation with other recommended speed limits around the City for various reasons.

Mr. Rankin replied that it was certainly legal to continue the item for consideration at a later time. He said he could not speak for the Department of Transportation Director, but he would surmise that Mr. Glock would not change his recommendation or opinion based on the vote of the neighborhood association. He said the Mayor and Council could continue the item to let that process take place, but he recommended that it not be for an extraordinarily long period of time.

Vice Mayor Romero asked if it was possible to capture, in honor of the neighborhood association and Council Member Scott, just the speed limit areas she was concerned about and let everything else pass.

Council Member Scott said she was in absolute agreement with that.

Vice Mayor Romero said she agreed with the idea of giving the neighborhood the opportunity to give feedback to City staff, for them to know what was happening, and why staff was recommending the speed limit change.

Council Member Scott said since that happens everywhere else in the City, she could not imagine why this neighborhood should be excluded.

Council Member Trasoff expressed some concerns. She said she had been on the Council for four years, and had never been asked to go to a neighborhood association meeting to give feedback on a speed limit. She thought that was why the City had skilled professionals who used scientific methodologies to make recommendations. She said Vice Mayor Romero's point was well taken that neighborhoods did not decide speed limits. She commented that Broadway Boulevard went right through the middle of Ward 6, and people were always asking questions about the speed limit. However, adjustments to speed limits were made based on the City's scientific data.

Council Member Trasoff said she felt bad badly that the neighborhood did not know about this ahead of time to have an opportunity to provide feedback, but the fact

remained that they had a scientific study that determined speed limits. She said she would not be making a substitute motion, but she would like to see the item passed, as is. She said it should include a specific request to Mr. Glock to attend the next RRNA meeting, to provide all of the studies and rationale so they can understand what was done, how it was decided, why it was done and give them assurance that the next time anything came up in that area, or any neighborhood in the City, the neighborhoods would be informed.

Council Member Trasoff said she did not think this was something a neighborhood voted up or down on. She told the neighborhood representatives she thought they were fabulous, and the work they did was great. However, whether or not the neighborhood supported the changes, the Mayor and Council were likely to support it anyway, because they were advised by their chief authority what was needed to be done and as Council Members, it was their fiduciary responsibility to follow that advice. She said she hoped, if the motion failed, that Mr. Glock would meet with the neighborhood association, present all the facts, the rationale, how they got there, and that this not happen again.

Mayor Walkup asked for a roll call vote:

Upon roll call, the results were:

Aye: Council Members Scott and Leal

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

The motion to continue the item to allow the Rita Ranch Neighborhood Association an opportunity to take a vote on the item, and then bring the item back to the Mayor and Council failed by a roll call vote of 2 to 5.

Council Member Glassman asked for clarification on the policy. He said that during the two years he had been on the Council, anytime the Department was interested in changing speed levels in his Ward, his office was contacted. It was then the Council Office's responsibility to speak with the neighborhoods and give feedback to the City as to whether it was 'thumbs up' or 'thumbs down' before the item was on the Mayor and Council agenda. He asked if that was the City's policy, how they could make sure this did not happen again, and how they could make sure that neighbors were interacting with their Council Offices and Council Offices were interacting with City staff. He asked for clarification of the protocol. He wanted to know if he understood it correctly and what it would be for the future so that this did not happen again.

Mr. Glock said that was what was done in this particular case. They worked with all Ward Office staff with respect to the proposed changes. He said what happened was, because of the summer schedule, the conversations they had with the Ward Offices and the neighborhood associations were somewhat inactive at that time. He said in this

particular case, they did not make the appropriate contact with the RRNA through the Ward Office, as evidenced by Mr. Wiruth's testimony.

Council Member Glassman requested clarification as to if it was to the responsibility of the Ward Office or the Department of Transportation to contact the neighborhoods.

Mr. Glock replied that the Transportation Department worked directly with the Ward Office and followed their direction with respect to how they wanted staff to contact their respective constituents. He said some Ward Offices like to have the Transportation Department make that contact directly, and others did not. They, therefore, went on a case by case, Ward by Ward basis.

It was moved by Council Member Trasoff, duly seconded, that Consent Agenda, Item D be passed and adopted and the proper action taken, with the understanding that the Department of Transportation Director meet with the Rita Ranch Neighborhood Association and give them all details on how they got to this recommendation.

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 Item D, with the understanding that the Department of Transportation Director meet with the Rita Ranch Neighborhood Association to give them all the details on how they got to this recommendation, was declared passed and adopted by a roll call vote of 7 to 0.

8. PUBLIC HEARING: ADOPTION OF THE MILES NEIGHBORHOOD PLAN

Mayor Walkup announced City Manager's communication number 584, dated November 17, 2009, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on the proposed adoption of the *Miles Neighborhood Plan*. He said the public hearing was scheduled to last no more than one hour and speakers were limited to five-minute presentations.

(Note: Council Member Glassman departed at 6:27 p.m., returned at 6:31 p.m.)

Jamey Sumner thanked Council Member Leal, stating they would not be there without his help, along with help from Gina Chorover, Rebecca Ruopp, and also Chris Kaselemis from the Housing and Community Services Department. Mr. Sumner

said the *Miles Neighborhood Plan* was so essential, because without it, the neighborhood would be faced with many challenges. He commented there were four impending projects encroaching upon their neighborhood; the Broadway Corridor, if downtown was ever revitalized, the expansion to the University of Arizona, and also the Arroyo Chico Project. He emphasized that they supported the projects, but wanted to maintain and protect the integrity of their neighborhood; it was a unique neighborhood. He said it was one of the older neighborhoods outside of the downtown area, and thought it was a wonderful opportunity to watch their neighborhood bloom and flourish.

Bill Richards said he had been selected to read a letter from Corky Poster who was unable to attend the meeting, but wanted the Mayor and Council to know how he felt. He proceeded to read the letter from Corky Poster.

“My name is Corky Poster. I am an architect and planner. For the past thirty-six years, I have resided at 1336 East 12th Street in the Miles Neighborhood. I am sorry I am unable to attend this public hearing. I am in Silver City working on a downtown plan for the community. Please accept my written comments in lieu of my personal attendance. For the better part of last year, I have had the pleasure of being a member of the project steering committee for the *Miles Neighborhood Plan*. First, I want to congratulate my neighbors for their diligence in working so hard these last months on a carefully thought-out and reasonable *Plan*. I also want to specifically commend them for soliciting, even hand-delivering door hangers, to ensure that everyone with a stake in the *Plan*; businesses, institutions, homeowners, renters, landlords and vacant property owners, had ample opportunity to participate and shape the outcome. If someone did not provide us input, it was through no lack of effort on the part of the steering committee.”

“Second, I want to commend Gina Chorover, Rebecca Ruopp and their supervisors, Director Albert Elias and Administrator Chris Kaselemis from the Housing and Community Services Department for their skill, intelligent professionalism and support throughout this neighborhood planning process. Finally, I wanted to thank my longtime friend and Council Member Steve Leal for twenty years of great community service, and in particular, for his extraordinary efforts to assemble the resources for this very necessary planning process. As a professional planner who has worked on dozens of neighborhood plans in Tucson, I want to emphasize the excellence of the work product before the Council this evening. The *Plan* is modeled in format on the already approved *Miramonte* and *Jefferson Park Neighborhood Plans*. The *Plan* has the full support of the steering committee, the neighborhood association, and the vast majority of public attendees to all of our neighborhood plan meetings. I urge you to approve the neighborhood *Plan*, the *Miles Neighborhood Plan*, and allow us to begin the implementation process.”

Josie Zapata commented she had lived in the Miles Neighborhood for thirty-four years. She said she was not part of the steering committee, but went to all the neighborhood meetings. She expressed how impressed she was with how the data was collected, how they were asked to participate in collecting the ideas of the neighborhood, and how they envisioned the future for their neighborhood. She said she was one

hundred percent in support of the *Miles Neighborhood Plan*. They were a small neighborhood that few people knew of and unfortunately, did not know how great the neighborhood was. She said they had a lot of individuals that went out of their way to really make it special. There was a man named Peter who collected food for the Community Food Bank, and he collected more than six thousand pounds of food and over one thousand dollars.

Ms. Zapata commented her neighborhood cleaned any graffiti in the area within twenty-four hours. She said, in going through her neighborhood, anyone could see that there was no graffiti, not even the garbage cans or signs had graffiti. They had neighbors that looked out for each other, and she felt a neighborhood like theirs deserved to be preserved, because they were so close to many resources from the City and they also had a lot to offer.

JoAnn Phillips, resident of Blenman Elm Neighborhood, said she would read some remarks of her own, and then would follow with a letter from another one of the steering committee members. She said she was a property owner in the Miles Neighborhood. Her property had been a triplex unit since 1995 and she had managed that property herself since that time. She commented there had been various people living there and her tenants were mostly university students, young professionals, families, and some Section 8 housing at times. Over time, she said she had upgraded the complex and was aware of keeping the neighborhood up. She wanted to keep a connection in the neighborhood, so she was very interested in being on the steering committee when this *Plan* was brought up. She said she also had a professional commitment to support historic neighborhoods as they continued to interface with new development in their areas, including businesses.

Ms. Phillips said she supported this group and supported communication between all the parties concerned which included business, property owners, tenants, landlords and all the residents, and the historic Miles School. Ms. Phillips said she was particularly concerned that these urban neighborhoods be maintained and safe for everyone who lived there. She thanked Councilman Leal and Albert Elias for supporting their vision for the *Miles Neighborhood Plan*. She said she could not say enough about the expertise and support they received through the work of Gina Chorover and Rebecca Ruopp throughout the entire process. Rebecca and Gina, as well as everyone on the steering committee, made it their goal to consider the interests of all parties associated with the neighborhood. She said every effort was made to contact residences and businesses and request their involvement consistently throughout the past year.

Ms. Phillips said this had been a very inclusive endeavor that everyone could be proud of. It was with great optimism that the residents of the Miles Neighborhood could be assured their urban neighborhood also had a plan for maintaining individuality while also including a guided growth plan. She urged the Mayor and Council to approve the *Miles Neighborhood Plan*. She said the Miles Neighborhood residents were anxious to move forward over the next few years to put into place some positive changes, and to

identify the neighborhood as essential and desirable in the interest of residents and businesses alike. Ms. Phillips said she thought there were a number of people that wanted to talk. She mentioned the name of Shelly Reed, and said she had a letter from another steering committee member. She asked if she could read the letter.

Mayor Walkup replied that speakers were limited to five minutes, but said the Mayor and Council were prepared to move forward.

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

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

Mayor Walkup asked the City Clerk to read Resolution 21442 by number and title only.

Resolution No. 21442 relating to Planning & Zoning, adopting the Miles Neighborhood Plan and setting an effective date.

Council Member Leal said he was happy for the residents of the area who worked together to create the document. He said it was a guidepost into the future for them, and too many of the City's neighborhoods had *Neighborhood Plans* that were, in some cases, fifteen years old. He said *Neighborhood Plans* were supposed to exist and function as frames of reference for decision making as they came upon the future each day; and when those plans became really old, they no longer served their function.

Council Member Leal stated that part of what happens when a *Neighborhood Plan* was created was that the residents unite into a community with a shared vision. He said he thought they all had come to understand that they could not have shared action unless they shared a vision, and he thought they created a great document. He said the neighborhood came to know people they did not know, and at a time when they really needed it for the reasons mentioned, whether it was for the Broadway expansion or the revitalization of downtown, it brought both pressure and opportunity to many inner City neighborhoods.

Council Member Leal said the Mayor and Council were dealing with a collection of opportunities and burdens that happen to inner city neighborhoods like Feldman's Neighborhood, which would be discussed later in the evening. Again, he said he really meant it when he said he was happy for the neighborhood, because they had a great document.

Council Member Leal stated some people really understood that neighborhood associations were the immune system of the body politics. He said when neighborhoods were strong and viable, it prevented bad things from happening in the City; and when they were weak, like an immune system, bad things happened easier. He commented that

the Miles Neighborhood was a really strong and vibrant place. He said the neighborhood had done well for themselves; and because of that, they would do well for the City.

It was moved by Council Member Leal, duly seconded, to pass and adopt Resolution 21442.

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

Resolution 21442 was declared passed and adopted by a roll call vote of 7 to 0.

Council Member Leal thanked City staff, who he said not only did the work, but were caught up in a good way in the enthusiasm and integrity of the process and brought to bear all their abilities in partnership with the community. He said he wanted to commend City staff for that, because it made a big difference in this case.

9. PUBLIC HEARING: AMENDING TUCSON CODE (CHAPTER 3) SIGN CODE REGULATION OF BANNERS (CONTINUED FROM THE MEETING OF OCTOBER 6, 2009)

Mayor Walkup announced City Manager's communication number 581, dated November 17, 2009, was received into and made part of the record. He also announced this 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 no more than one hour and speakers were limited to five-minute presentations.

(Note: Council Member Glassman departed at 6:48 p.m., returned at 6:50 p.m.)

Lizet Torres stated she was a retained speaker on behalf of the Tucson Metropolitan Chamber of Commerce and their two thousand member businesses. She asked the Mayor and Council to reconsider the proposed changes to the *Sign Code*, stating that the recommended changes before the Mayor and Council did not address their direction to the Citizen Sign Code Committee (CSCC) and the original intent of the issue brought up by Council Member Leal.

Ms. Torres said, originally, the issue was centered on the issue of banners in windows of liquor stores and the resulting safety impediment they caused. She said the changes before the Mayor and Council did not address those issues, but instead went well

beyond the original scope addressing banner signs City-wide regardless of business or placement. In a time when Tucson businesses were struggling, this action would only further hurt them. She said it was only a few weeks ago that the Mayor and Council adopted a resolution to support local businesses to make decisions that would enhance the ability of a business to be successful. Ms. Torres said this change to the *Sign Code* was in direct opposition to that resolution. Signage was extremely important to the success of a business and, in turn, the success of a municipality.

Ms. Torres said that in the past few months, Chandler and Peoria, among others, re-evaluated their old sign codes to help local businesses, and Tucson should do the same. She asked that the Mayor and Council adopt a moratorium on changes to the City of Tucson's *Sign Code* and immediately start an effort to re-evaluate the current *Code*. A public survey to gauge Tucsonans' feelings on signage could be implemented easily. She said at the very least, the *Sign Code* could be simplified so that citizens, business owners, attorneys, and even City staff was able to understand it. The Tucson Metropolitan Chamber of Commerce was willing to take a leadership role and work with the City to accomplish this. She said they looked forward continuing their work with the Mayor and Council on this issue and other important issues facing the Tucson business community.

Mike Addis asked the Mayor and Council to look at the *Sign Code* with a high degree of skepticism. He said he was a member of the Arizona Sign Association (ASA) and the ASA said that the Mayor and Council needed to look at who would be impacted by this change to the *Sign Code*. He said businesses would be impacted. He commented that he spoke to local businesses and mentioned the reduction of the size of the banner and the time frame that they could have banners. He also mentioned it would affect the timeframe if they were advertising for special events or certain times of the year; and they could only do it once. Mr. Addis said he asked the businesses what their opinion was, and they said it would obviously hurt their business.

Mr. Addis stated that now was not the time to pass the amendment. He encouraged the Mayor and Council not to chase after crumbs, but to look at the bigger picture. He said he thought they had some bigger picture issues that were before them with the *Sign Code*. Again, he encouraged the Mayor and Council not to chase after crumbs, stating he thought that was what this amendment did. He said businesses that were opening, businesses that were continuing with advertised specials, and unfortunately, businesses that were periodically going out of business would be impacted by this *Code*. He said it was not good, it was not fair, and it would negatively impact the Tucson business environment.

Jude Cook stated he represented the Arizona Sign Association (ASA), and was on the Citizen Sign Code Committee (CSCC). He said he was at the CSCC meeting where Council Member Leal presented the *Sign Code* changes. He stated the CSCC spent several meetings going over the changes and determined, as the Chamber noted, that everything in place in the *Code* was to enforce what they had going on, but the problem really was due to a lack of enforcement. He said this change came through the CSCC and was forwarded to the Mayor and Council. He did not vote for the amendment for several

reasons. In going through the items, he said Item 1 was fine, and he did not see a problem with it.

Mr. Cook stated Item 2 created an inequity in size as allowed and it was based on an arbitrary way of measuring the amount of banners they would get. He said they recommended that Item 2 be deleted, or leave the *Code* as is, or change it to a square foot per foot of frontage which allowed them to keep a banner in proportion to the size of the façade they had.

Mr. Cook stated Item 3 was going to cause trouble, based on how it was interpreted. He said he had worked with the *Code* for about twenty-five years and commented the amendment was hard to interpret and would just create headaches. He stated that Items 5, 6, and 7 did not create any real problems and basically mimicked what was already in place. He emphasized that one of the problems that could happen was already happening. He asked if anyone remembered when American Home Furnishings was closing, and had banners up that they did not have permits for. He said those banners were probably in the neighborhood of eight hundred square feet. The City received no revenue for those permits because they were not permitted. He said the amendment would increase the problem, because a business would not be able to pull a permit for a banner in the first place. Bandit banners would increase in the community because a permit would not be able to be pulled. He urged the Mayor and Council not to accept the *Sign Code* amendment, and asked that they direct the CSCC to revise it and make it fair for businesses.

Mark Mayer stated he was present representing the Luz Southside Coalition and the Twenty Ninth Street Corridor Communities, a coalition of five neighborhood associations in the Twenty-Ninth Street and Alvernon Way area. He urged the Mayor and Council to proceed to adopt the Ordinance. He said the amendment spent a lot of time in the CSCC, and if there was any real criticism, it was the undue time and attention that was spent on a relatively minor ordinance. He told the Mayor and Council the document had already been to them once, a couple of months ago, when they graciously continued the item to listen to some concerns of the Arizona Multi-Housing Association (AMA). Mr. Mayer stated many of the speakers at the evening's meeting that raised concerns never appeared before the CSCC or before the Mayor and Council meeting in September.

Mr. Mayer said the recommendation was unanimous by the CSCC. He questioned Mr. Cook's comments, stating that Mr. Cook, as a member of the Committee, voted in favor of the recommendation. He said that was his recollection and was also documented in the staff report before the Mayor and Council.

Mr. Mayer said the core issue of what they were talking about was sales event banners and sales events were just that. He said occasionally, when a business had a sale, it was not for three hundred sixty-five days a year. That was essentially a fix based on a history of this particular issue that went back a long time. He stated when the modern sign code was adopted in 1980, in response to Speedway Boulevard being referred to as

the ugliest street in America, banners were not allowed at all except for grand openings like special events, where businesses were allowed ten days to have banners, bells, whistles, etc. He said in 1992, quite a few of these issues regarding temporary signage came up in response to the S & L meltdown and the recession that they were in during that period of time. For the first time, A-frame signs were allowed on a temporary basis in response to the economic concerns of the very vocal business community. He stated that banners for the first time were also allowed on sales event basis.

Mr. Mayer said the issue to allow the sales event signage to become full time came before Mayor and Council in 1992. The Mayor and Council very consciously opposed and said they would only allow them to have the signage up for ninety days a year. He believed it was two forty-five day periods. He said that was done very consciously by the Mayor and Council. Somehow, in 2001, this issue slipped through the back door, got into the *Code* and was never in an ordinance. Mr. Mayer said that was one aspect the Mayor Council wanted to have changed and sent it back. When it came back to the Mayor and Council, there was oblique language in the ordinance to make the sales event banners full-time that was never really discussed. He said basically, this was fixing things and going back to what the Mayor and Council consciously did in 1992.

Mr. Mayer stated that during these difficult times, businesses could still have banners for sales events twenty-five percent of the time. A-frame signs were still allowed. He said the beleaguered neighborhoods were tired of the saturation of liquor banners and some of the other undue, uncontrolled banners and temporary signage. He said he thought the amendment struck a reasonable balance. For that reason, he urged the Mayor and Council to vote for it.

Mr. Mayer added that he was involved in a meeting with the AMA about concerns they raised. He said he was not at the public hearing in September, but he noted, as did the AMA, that would not affect the apartments because they were in residential zones and this ordinance only related to commercial zones. He said there were other issues, as well, with compliance and how to address the kind of messages they wanted to get across when they had units for rent.

Mr. Mayer urged the Mayor and Council to move forward and pass the ordinance. Again, he said they had a lot of eleventh hour speakers coming in that were either not involved in the process or they were changing their position at the last minute.

Mark Jones said the proposed changes to the *Code*, regarding banners, was a step back. The City should be looking towards some relief and trying to help local businesses during the downturn in the economy. The proposed changes would only serve to keep people away from the City's Planning and Development Services Department to secure permits for banners. He said he did not think that was what the City wanted to accomplish.

Mr. Jones said he would bet the majority of banners currently out there did not have permits, and this change only added to that. He said he had no doubt that there were

those who abused the system, and should be taken care of by enforcement of the current *Code*, not by making the *Code* more restrictive, which would only serve to drive away the people that tried and wanted to do the right thing. Mr. Jones also said he attended almost all of the CSCC meetings for the past year, and did not see a huge public outcry for the need to address this issue.

Mayor Walkup asked if there was anyone else who wished to speak on the issue. There was no one.

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

Mayor Walkup asked the City Clerk to read Ordinance 10714 by number and title only.

Ordinance No. 10714 relating to advertising and outdoor signs; amending regulation of banners by amending the Tucson Code, Chapter 3, Sign Code, Article V, Sign Types and General Regulations, Section 3-67(c)(1), Temporary Signs; adding a new section 3-67(c)(1)(f); and declaring an emergency.

Council Member Leal said they had worked on this issue with neighborhoods and businesses in the community for a little over a year. He was very involved in sign issues because it came up at the Economic Workforce Development Subcommittee, which was the reason most of the neighborhoods affected by the problem with banners contacted his office, irrespective of where they were in the City. Council Member Leal said it was safe to say that most of the problems existed west of Country Club Road, including Wards 1, 3, 5, and 6. He said the existing status quo was one in the *Code* where things were sort of not enforceable; there was not a good way to tell how much time a person had for a banner. It became so untenable that the inspectors were not citing violations, so businesses kept banners up in a semi-permanent way.

Council Member Leal said the other thing that happened was that many posters, banners, and butcher paper were now starting to occupy some businesses. The businesses that took advantage of this were mostly convenience stores and liquor stores. He said this was not about the business community who had taken advantage of this. In some cases, they saw twenty-nine advertising banners at one location. He said in many locations, they saw all the windows covered with butcher paper and banners. Currently, the Tucson Police Department (TPD) had a policy about the need to be able to see into a location for security purposes, but that policy was not in the *Sign Code*. Council Member Leal said the TPD asked the Mayor and Council to marry those two things up on that point, and said the former Chief of Police, Richard Miranda, would speak to that.

Council Member Leal said the other issue had to do with size; the banners started to grow in size. He said they started finding banners strapped to cars in the right-of-way, in particular on the weekends, because a lot of those places knew that inspectors were not out on the weekends. He used the expression, “when the cat’s away the mice will play,”

and referred to it as “mushrooms springing up after a rain.” While driving through many of these neighborhoods on the weekend, it was a horrible, visual blight. He said many business owners complained that this created a climate of disinvestment, but to have a livable, sustainable community meant to have convenient adjacent retail. However, he said, businesses were reluctant to invest in some areas because it simply looked awful.

Council Member Leal said a lot of businesses, neighborhood residents, and City staff wanted some resolution to those three things, and he thought the Ordinance resolved the problems. He explained the amendment gave clear dates and times on when the permits were taken out so staff would know when the permit ended. He said there was a simple algorithm to figure out size and the issue that the police were concerned about was easily satisfied with the Ordinance. He asked the Deputy City Manager to comment on the public safety issue on visibility.

Richard Miranda, Deputy City Manager, said police officers who patrolled when the business opened and closed, in terms of safety for the individuals working in the business, preferred to have a direct line of sight into the business to make sure that nothing bad was happening inside the business. Mr. Miranda said over the years they saw that come and go; and it became prevalent, on the officer’s part, to make contact with the business and ask for voluntary compliance in terms of removing the obstruction into the businesses. He said, for the most part, they found compliance for that, but the issue was for police officers to have a direct line of sight into the building. The officers could see that the store clerk was safe, or when the business was closed, that no one was burglarizing the business or committing a theft.

Council Member Leal asked the Planning and Development Services Department Director to comment on the simple changes that were made that made it easier for staff to work with the community to enforce this so that untenable systems became manageable.

Ernie Duarte, Planning and Development Services Department Director, said as pointed out in some of the comments heard that evening; the proposed changes did not apply to businesses that were in multi-housing. The reason for the continuation was that some concerns were raised at a previous meeting that the AMA was not given an opportunity to review the proposed amendments. He said, as pointed out, there was a meeting that took place where staff clarified that this applied only to the general business districts, which were corridors in the community that were zoned primarily C-1 and C-2, and contained a lot of the retail establishments that were pointed out. It also clarified the frontage that was allowed. He said the reduction in size was forty-five square feet, and it used to be ninety square feet.

Mr. Duarte said, as Council Member Leal pointed out, it limited the amount of time that a banner could be placed to forty five days, and no more than two banner permits could be issued for use during any calendar year. He said that made it a lot easier for staff to administer and enforce when questions arose as to the duration of permits in place. He explained they captured that information in their database so when enforcement staff was out in the community, they could call and ask how long a permit

was good for, and they would have a specific date. Previously, that information was not available under the current regulations.

Council Member Leal commented that earlier in the meeting, they had a significant discussion about sustainability and economic reform and recovery. He referred to comments made by Council Member Trasoff, which was for the Mayor and Council and staff to keep an eye on the difference between things that helped the City now and things that helped the City all the time. He said when the City looked for economic acts, they had to be able to tell the difference between things that might seem like they helped the City right now, but would create worse problems in the future, as opposed to economic things that helped the City now and always. He said when they thought about sustainability, they had to look for policies that were both pro-business and pro-community. When the City did things that seemed to be pro-business, but were anti-community, he thought that should give them all pause.

Council Member Leal said he believed this simple housekeeping change was both pro-business and pro-community, because it helped put pressure on those businesses that acted in a rogue way and violated the laws on the weekend. Good businesses then would not be painted with the same brush and the neighbors did not have to live with it all the time. He concluded his statements, stating he thought this amendment was simple and a “win-win” situation. It had been before the CSCC about six times and this was the third Mayor and Council public hearing. He said there was a great deal of input, it was a simple housekeeping issue, and it was a good thing.

It was moved by Council Member Leal, duly seconded, to pass and adopt Ordinance 10714.

Mayor Walkup asked if there was any discussion.

Vice Mayor Romero said one of the issues that started this discussion was the prevalence of convenience stores and liquor stores covering up their windows, and the safety issue that came along with that. She said a lot of the neighborhoods, including the Sunnyside Neighborhood Association Partnership (SNAP) group, which was a coalition of neighborhoods in the south side and west side of Tucson, were very concerned about this. She asked if this particular amendment directly modified or dealt with enforcement issues in terms of the public safety of signs in liquor stores or convenience stores.

Mr Duarte said the amendment complements a law that currently existed, as Council Member Leal pointed out. He believed it was referred to as Late Night Hours Establishment. Mr. Duarte said officers had to have a clear line of sight into these convenience stores as Mr. Miranda, pointed out. He said the proposed amendment reinforced and complemented the law already in existence, making it easier to enforce. He added that one of the issues they discussed at the Economic Work Force and Development Subcommittee was the ability to list in their database the placement of the sign when a permit was issued. He said that would specifically spell out that it could not

be placed in certain locations that would be in violation of the current law to promote that clear line of sight into late night hour establishments.

Vice Mayor Romero asked if this affected the convenience stores and liquor stores, or if it was broad based, in terms of retail, that could affect other retail establishments.

Mr. Duarte replied it did not purely affect the liquor store-type establishments. It affected any businesses that were along what was termed in the *Sign Code* as general business district, retail, possibly office; primarily corridors that were zoned C-1 and C-2.

Vice Mayor Romero said she was concerned for the “mom and pop” stores that opened up and could not purchase a permanent sign. She said many stores open their shops with a temporary sign and a backup, which were mostly banners. She asked how the amendment affected those stores and the “mom and pop” stores that had their Easter sales, Christmas sales, or their back to schools sales. She said it concerned her that they had an issue they wanted to target, but it would inadvertently affect other types of businesses in the area.

Mr. Duarte replied these were temporary signs that were designed to be utilized in these instances Vice Mayor Romero described, such as closing businesses, and temporary, seasonal sales. He said it could be over and above the sign if it was already allowed by the *Sign Code* for that particular establishment.

Vice Mayor Romero asked how the forty-five day banner permits worked. She said they were allowing ninety days to place banners, but wanted to know how that would be cut up. She asked when businesses wanted to have Easter sales, Christmas sales, or back to school sales, how they would apply for those permits. She asked if a small business could go to the City’s Planning and Development Services Department to apply for a ten- day banner permit for their Easter sale or a twenty-day banner permit for a different function.

Mr. Duarte replied that the *Code* language, as provided, was pretty explicit. It said two banner permits could be issued for use in a calendar year, for no more than forty-five days. He thought they could work that out with their customers in interpreting the language, so they could have more flexibility to carve that ninety days up into multiple periods. He said if the permit was needed for ten or fifteen days, they could issue the appropriate amount of permits, provided that they did not exceed that ninety-day allowance.

Council Member Leal said that had been discussed, and thought it was something that could easily be done to create more flexibility if needed, as Mr. Duarte explained.

Council Member Glassman said he had a few questions, which were based on Vice Mayor Romero’s questions. He said when Mr. Duarte was explaining to the Mayor

and Council why this was a good thing, he spoke about specificity and how it delineated the rules. When Vice Mayor Romero asked him whether small businesses could have three sales, even though this ordinance specifically said they could not have three sales, Mr. Duarte's response was that it was good, because they could craft each particular business in their own way. Council Member Glassman said he was hearing two different messages. One that delineated the rules and one that was precise. Then, in a response to be positive towards the Ordinance, he said Mr. Duarte responded and said they could chop it up however they wanted. He asked if that would not defeat the purpose of his original statement.

Mr. Duarte replied that he thought the key components to the Ordinance were reducing the size and the overall duration that banners were allowed. He added that the proposal before the Mayor and Council was not to exceed ninety days worth of permits for any one establishment, and that was the key in administering the *Code*.

Council Member Glassman referred to Item D underlined in the *Code*, and said in the second line it stated that no more than two banner permits could be issued for use during any calendar year. He asked if someone had to demonstrate what the banners would look like when applying for a permit.

Mr. Duarte replied they looked at the size of the banners and the proposed placement.

Council Member Glassman, using Vice Mayor Romero's example, asked if he was correct that it meant two banners, a Christmas banner and an Easter banner, no back to school sale banners.

Mr. Duarte replied there was one banner that could be placed, and asked staff if that was correct.

Council Member Leal suggested if that was just what was proposed, it could be changed to be three or four as long as it was within the ninety days.

Council Member Trasoff asked if the Ordinance could be amended.

Glenn Moyer, Planning and Development Services Administrator, stated that the way the *Code* was written, two banner permits could be issued for a year. They did not look at the content of the banner, as it would be a first amendment issue if the content was looked at. So it did not matter whether it was for a Christmas or Easter sale, but they could have two permits and could be the same banner any time of the year.

Council Member Glassman said to some extent, the tone for this item was set during the study session earlier, when they talked about making Tucson more business friendly and referred to the issue Council Member Scott brought forward. He said those were obviously much larger ideas in regards to large-scale development; but to a lot of the small business people in the community, these were the big issues. He commented

they just had a cupcake store open in Ward 2 at Grant and Swan, and a lot of business people, as Vice Mayor Romero said, could not afford to buy a permanent sign right off the bat. He said it could take more than ninety days for them to get that permanent sign.

Council Member Glassman emphasized that was three months. He said he and Council Member Uhlich were taking about an economic crisis that was currently going on now for more than a year and a half and could go on for another two or three years. The economic crisis would be going on for a while, and said he hated to see the Mayor and Council handicap small businesses, while in study session earlier, they talked about helping businesses. He said it seemed contrary to him.

Council Member Glassman said he had additional questions for either Mr. Duarte or Mr. Miranda. He referred to Council Member Leal's comments about butcher paper and banner issues, and asked if those were more enforcement issues with the laws they already had, because he knew they already had a lot of *Sign Code* ordinances. He asked if those were enforcement issues, or if it was the public safety panacea, and that was why they needed it. He asked the former Police Chief if he could answer if it was a public safety ordinance, or if it was a business ordinance.

Richard Miranda, Deputy City Manager and former Police Chief, replied that in terms of a public safety issue, he had to say that a direct line of sight into the business was the issue, and for him that was a public safety issue. He said when they start talking about some of the corollary problems that had been brought up by the Mayor and Council, then they would be transgressing over to a business problem.

Council Member Glassman asked if there was a current ordinance on the books that, if enforced, eliminated the issue of direct line of sight for public safety officials.

Mr. Miranda deferred the question to Mr. Duarte.

Mr. Duarte stated there were Late Night Hours Establishments Laws that dealt with visibility during late night hours, and the proposed ordinance complemented that. In other words, he said they could be more specific in the issuance of banners in the permit that would limit where the banners could be placed, and it would be to complement something that was already in place.

Council Member Glassman referred back to Mr. Miranda, because he said it was a late night ordinance they had right now. He asked if the late night ordinance was enforced, would it eliminate the issues that Vice Mayor Romero alluded to for convenience stores and retail stores of that type, with the current ordinance.

Mr. Miranda replied affirmatively and complimented the business owners, because it was his experience when they contacted them, they voluntarily removed the signs. Usually, the businesses were not aware of what they were doing. He said with the crime prevention staff and the community policing initiatives, those kinds of contacts were made and consequently adjustments were made.

Council Member Glassman said from the City's public safety perspective, it seemed to be an enforcement issue with the current ordinance they already had relating to direct line of sight.

Mr. Miranda said it was an enforcement and compliance issue.

Council Member Leal asked for a point of clarification. He asked if this was a police enforcement issue and not a *Sign Code* enforcement issue; *Sign Code* inspectors could not enforce this because it was not in their purview. He said that would achieve what Council Member Glassman wanted, which was to put it in the *Sign Code*, allowing inspectors to do the enforcement, as was discussed.

Council Member Glassman asked Mr. Duarte for a point of clarification, and asked if the sign inspectors had purview to enforce the late night ordinance as it currently stood.

Michael Rankin, City Attorney, replied the Ordinance was enforced by peace officers, the Tucson Police Department, not sign inspectors.

Council Member Glassman asked Mr. Duarte how often his employees inspected signs at night and Vice Mayor Romero asked about weekends.

Council Member Glassman said he was trying to understand the concerns Vice Mayor Romero had with convenience stores and public safety. At the same time, he said he was trying to stay consistent with what they talked about for the last few months, which was focusing on businesses and how they could nurture businesses in the City of Tucson, as opposed to putting up more hurdles.

Council Member Glassman said he was trying to understand if this was an enforcement issue or if it was another ordinance from the City of Tucson telling business people something else they could not do. He said he respected staff's opinions, which was why they were trying to get their opinions, because he kept hearing it was a public safety and enforcement issue. He said if that was it, he did not think another ordinance was needed; they just needed to enforce the codes that were already on the books, or perhaps allow the *Sign Code* inspectors to enforce the existing ordinances, if that was the issue.

Mr. Duarte replied to the question about evening hour inspections. He said enforcement inspections were now handled by the Housing and Community Development Department. He said he could speak from experience that there were occasional evening and weekend sweeps, but most enforcement inspections took place during normal business hours Monday through Friday. In addition to that having some elements of public safety components, it really was about community aesthetics and the proliferation of signs in some of those establishments. He said the *Code* was pretty clear as to the number of signs that were allowed, but their response had been to situations where they exceeded the amount of signage that was allowed by the *Code*.

Council Member Glassman asked if that was by the existing *Code*.

Mr. Duarte replied that was correct.

Council Member Glassman asked if this issue went away, would the *Sign Code* inspector enforce the rules that were on the books and the police officers enforce banners on windows that should not be there.

Mr. Duarte replied they would still have the issue of a perpetual banner, where the applicant came to get a banner permit every forty-five days.

Mr. Moyer stated the reason he was called up was to answer the question about how many banner permits could be issued a year and how long they could be up. He said the way the *Code* was currently written, banner permits could be issued for forty-five days, and then the banner had to be taken down; another banner permit had to be issued for another forty-five days. He said the City did not have the ability to go out to see if the banners were taken down and then put back up the same afternoon. It was just not efficient. In a business friendly mode, the City allowed them to get repeated permits because that was what the letter of the *Code* allowed. He said the amendment specified a maximum of two forty-five day permits for a total of ninety days a year. As staff, he said he thought it was appropriate and from a business standpoint, if someone wanted a thirty-day permit, it had to be allowed. He said now they would be able to track that and they could have three permits a year, not totaling more than ninety days.

Council Member Uhlich said she had a couple of thoughts. She thought that if they wanted to comply with that approach, then the Ordinance needed to be clearly amended. She did not know that tinkering with it at the table made a lot of sense and it was very difficult to craft policy at the dais. She would look to Council Member Leal if they kept this item open for a week and have some cleanup done; but she did not think they could, in good faith, say they could do three sales without being very specific with the Ordinance. She said she shared the concerns about the timing of the Ordinance and whether it was getting at the issues they were trying to address. She appreciated that they wanted to address certain issues, but said she was not clear that this was head-on in addressing the issues.

Council Member Uhlich said, just that afternoon, she asked staff to do some hard work to make sure they did not come into small businesses and slam them with a list of things that could really affect their bottom-line in this economy. She understood this was a priority, but in this economy, she thought the number one priority, in her mind, really had to be to support local businesses and help them through these tough times. She said she had one final thought, but did not know how to integrate it into whatever action Council Member Leal suggested. She said if the amendment was implemented, she would ask the Mayor and Council to consider some kind of phase-in so that businesses had time. She stated that changing the size of a banner in the *Sign Code* might not seem like a big deal, but in working with a non-profit, she said they had one banner. She said it was not an insignificant cost to them to make a nice banner, especially if they were going

to dictate materials. She said they were talking about people who were really scraping nickels and dimes together, so changing the size of the banner from one hundred feet to ninety feet was a cost. She said she just wanted to make sure that they were balancing their priorities. As the Ordinance stood, she said she was uncomfortable supporting it.

Council Member Scott said another piece to consider was the issue of the fees. Every time someone came in to get a banner, there was a new fee, and asked if that was correct. She asked if there were three or four banners in a year, would there be a fee each time.

Mr. Moyer replied there would be a banner fee of thirty-one dollars and twenty-five cents each time.

Council Member Scott said that was a reasonable amount for one time, but if they had to pay that amount four times in a year, like the three examples that had been given at the table, that would be taken into consideration by someone who was a “mom and pop” business and was not flush with money to cover those kinds of costs. She said she wondered if the fees were going to be harmful in the discussion. She asked what would be the net effect, or what had been a complaint from the business owners about having these things restricted.

Council Member Scott asked what the general complaint was, noting that they could not put this up as an item for sale for longer than a period of time. She asked what the basis was for the complaint from the business side, stating this would hurt them.

Mr. Moyer replied he could not directly address what the business community was saying about the amendment, but he did hear from the sign contractors that they might not get permits if passed.

Council Member Scott said she thought it was interesting that the business community might not get permits for just a couple of banners a year. She also said she was concerned about the fees and the number of times a person would have to pay each and every time they went in to get a sign.

Council Member Leal suggested two simple changes, and said they had been discussed before. One would be to maintain the ninety days, but allow a varying number of duration of times as opposed to the forty-five days twice a year. He suggested that it be made flexible, as Vice Mayor Romero brought up; he felt it was reasonable, so that the businesses could better dovetail seasonal types of activities. He said he thought that was a simple thing to do and it was a helpful thing to do. He believed Council Member Uhlich brought up the issue of a phase-in, and thought it made sense. Maybe the City should have a six-month phase-in so that people could evolve into it. He said he thought this was a “win-win” situation for both the neighborhoods and the business community, because many business owners have told him there were people who were bending the rules and having a visual blight up there. Those who were following the rules did not like

those who were bending the rules and felt compelled to act like the bad guy just so they would not lose market share.

Council Member Leal said he thought this was pro-business in the sense that it helped to support pro-business because they believed in community standards and were not opportunistic. He said he was happy to modify his motion to include a six-month phase-in and have the ninety days of permits broken up into however many were necessary to fit the needs of the business community.

Council Member Trasoff seconded the motion and said she accepted Council Member Leal's modification. She said it was basically going to be her suggestion to allow as many signs as someone wanted within a maximum of ninety days. She added there was one other thing she thought should be added because the points raised were valid. When there were businesses saying they would just not get permits, she thought the only way to address that issue and the visual blight issue, was for the City to be more consistent with enforcement, and that was part of what the sign fee went to. She said the permit fee would do that for consistency and even the playing field. She said they talked a lot about one business really wanting it, and it would also impinge on the neighboring business.

Council Member Trasoff said if one business had all the signs up and the neighboring businesses were doing things the right way, it would detract from them. She said she supported Council Member Leal's approach to extend and add the six-month phase-in, with a maximum of ninety days per calendar year. She said it would be up to the business to decide how many permits he or she wanted within that ninety-day period, but they would have to get a permit for each.

Mayor Walkup said they had a motion and it had been modified, and he asked for a roll call vote.

Vice Mayor Romero reiterated the importance of being able to have visibility and public safety issues in the regulation. She said that was what started the whole discussion and said they should continue to focus on enforcement, whether it was evening or weekend hours. She also said the appropriate departments should be given those enforcement rights, the Tucson Police Department or the Planning and Development Services Department. She said she was uncomfortable that they were moving with details on how to fix this particular issue at the dais without further input from the neighborhood and the small business community. She said they needed some time to get more input and knew they had been given some time before. They spoke with Barbara Dolan, the representative of the Arizona Multi-Housing Association, and they understood it would not affect them. She just wanted to make sure they were doing this in the correct manner and giving people the opportunity to give their input and feedback. Again, she said she was uncomfortable making these changes on the dais.

Council Member Glassman stated he respected Council Member Leal's comments, and understood Council Member Leal was retiring and the next meeting

would be his last. However, he said he could not support the motion because it flew in the face of the business-friendly attitude they had been talking about. He referred to Council Member Uhlich's comments, stating he was concerned about the idea of creating an ordinance from the dais that was not the recommendation of the committee, having a six-month phase-in, talking about what it might be, and not being quite sure about the enforcement. He said it did not make sense, especially in light of the economic situation, and especially in light of the fact that there were other communities around the State that were relaxing their banner ordinances because of the economy. He said it was not to say that was what they were going to propose, because he thought public safety was a real issue, but so were small businesses.

Council Member Glassman said he wanted to make a substitute motion in light of the fact that they had the holidays coming up and that they were going to need to engage the small business community in this discussion to make sure they addressed the issues of enforcement and being business friendly.

A substitute motion was made by Council Member Glassman, duly seconded, to postpone the vote for a ninety-day period to get them through the holidays and to allow City staff to meet with the CSCC, small business representatives, and public safety. At the end of the ninety-day period, if it was truly warranted that another ordinance was needed to deal with the issue of banners, they would bring it back and the Mayor and Council would support it.

Mayor Walkup asked if there was any discussion on the substitute motion.

Vice Mayor Romero asked for a point of clarification on what motion they were voting on.

Mayor Walkup replied it was for the substitute motion. He asked for a roll call vote.

Upon roll call, the results were:

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

Nay: Council Members Leal and Trasoff

The substitute motion to postpone the vote for a ninety-day period to allow City staff to meet with the CSCC, small business representatives, and public safety was passed by a roll call vote of 5 to 2.

10. PUBLIC HEARING: (C9-09-07) FELDMAN'S NEIGHBORHOOD PRESERVATION ZONE, R-1, R-2, R-3 TO NR-1, NR-2, AND NR-3, CITY MANAGER'S REPORT, DIRECT ORDINANCE ADOPTION (CONTINUED FROM THE MEETING OF NOVEMBER 9, 2009)

Mayor Walkup announced City Manager's communication number 591, dated November 17, 2009, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on the request to rezone residential zones in the Feldman's Neighborhood to include the *Neighborhood Preservation Zone (NPZ)*. The Zoning Examiner and staff recommended approval subject to certain conditions. He stated the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations.

(Note: Council Member Scott departed at 7:39 p.m., returned at 7:42 p.m.)

(Note: Vice Mayor Romero departed at 7:39 p.m., returned at 7:43 p.m.)

(Note: Council Member Leal departed at 7:43 p.m.)

Council Member Uhlich apologized if she did not communicate previously that said they wanted to allow staff to give a review because the public hearing was kept open for one week. She said this had evolved somewhat and there were some specifics that they wanted staff to address prior to opening the public hearing so that people understood exactly how this was taking shape.

Ernie Duarte, Planning and Development Services Department Director, said he appreciated the opportunity for some opening remarks. He said, as was pointed out, this was a continued public hearing from the previous week, and at the request of the Mayor and Council, staff produced maps based on the issues that were raised, the maps were included in the Mayor and Council's materials. Mr. Duarte stated that, in addition, they had a map to present on an easel.

Mr. Duarte stated the maps identified the larger U of A pilot study area. He said they also contained key elements which included the Feldman's Neighborhood, the Infill Incentive District (IID), current and eligible National Historic District Neighborhoods, the U of A planning area, the Modern Streetcar Alignment, Grant and Broadway Regional Transportation Authority (RTA) corridors, the Downtown Links, and the possible Urban Infill Planned Area Development (PAD) in the area of the Downtown Links and the Warehouse District. He said it was important to note that the policy development in the U of A pilot area project had been about a three-year effort. Its initiation implementation, over that time period, was deeply influenced by the efforts and leadership of the Council Offices in Wards 3 and 6 in trying to reach a balance between neighborhood preservation and compatible infill development.

Mr. Duarte stated that over the last three years, the pilot project involved the development of the *Neighborhood Preservation Zone (NPZ)* Enabling Ordinance, the current consideration of the Feldman's Neighborhood as the first *NPZ* Overlay District with the Design Manual, the initiation of Jefferson Park Neighborhood as the next *NPZ*

Overlay District, the development of flexible regulations encouraging in-fill development within the already established IID, a more flexible planned area development option ordinance encouraging infill, and an idea such as Transferable Development Rights to help balance preservation and infill issues that Council Member Uhlich suggested.

Mr. Duarte stated a key issue that came up last week was what incentives the Feldman's *NPZ* contained for the densification of arterials and collectors in the area, which included mainly Speedway Boulevard, Park Avenue and Euclid Avenue. He said the answer was none. Over the last few days, staff attempted to develop a concept that created options for compatible densification of these areas, while at the same time protecting the historical integrity of the core of the Feldman's Neighborhood. He said if the Mayor and Council were interested in including incentive language, staff could return next week with language for compatible infill options within the arterials of the Feldman's *NPZ* overlay area.

Council Member Uhlich said it was important to clarify, very specifically, what this proposal entailed. She said it entailed adopting the Design Manual and Ordinance for Feldman's Neighborhood and adding a mechanism that was called Transferable Development Rights, which specifically allowed for densification along the arterials through rezonings. She said those rezonings did not have to go through the U of A area amendment process, which could take four to six months additional time before the rezoning proceeded.

Council Member Uhlich said the incentive was by trimming time off of a rezoning request to densify the corridor, and allow for some of the historic properties to be taken into consideration in rezoning requests. So, if somebody wanted to have a dense project along an arterial, they could file for a rezoning, so long as they were transferring protection to an interior property. She said if there was any historic property along an arterial that was receiving consideration it had to be included in the rezoning request; something that provided permanent historic protection in the interior. She said the City Attorney could explain that in further detail, but the mechanism was called Transferable Development Rights (TDR).

Council Member Uhlich said the second thing she did not think Mr. Duarte mentioned, but made sense in the proposal, was to include a two-year sunset clause on the pilot project. The reason being, in part, was that they were in the process of streamlining the *Land Use Code (LUC)*, and also implementing a number of other mechanisms for protection of those neighborhoods. She said she thought it made sense, as it was to be discussed, to include a two-year sunset so they could see how the impact unfolded, and to make sure it made sense in all the efforts they were undertaking. She said she would offer further comments later, but just wanted to make it clear to the public that the TDR piece and the two-year sunset piece were two issues that would be discussed. She said if anyone wanted to comment on that, they could include that in their comments.

Mayor Walkup announced there were about eight speaker cards left over from the previous week, and he would call on those people first. After that, he said he would call speakers in the order in which he received the cards based on the time. He also announced that far more cards were received than the time allowed for the public hearing, giving each speaker five-minute presentations; therefore, not everyone would have an opportunity to speak. He advised the speakers that if they liked, they could make their presentation shorter, so that more people had the opportunity to speak on the issue.

John Lee said he thought it was really important to let everybody speak, so he really appreciated the process that they had been through so far. He said he also liked the meeting he had with Peter Gavin, Zoning Examiner, stating it was more of a dialogue than just somebody rambling on for a while. Mr. Lee said he owned a lot that was zoned R-3 in Feldman's Neighborhood; and he felt that the redevelopment rights of that lot had more value than the home sitting on that lot. He said for him, what the *NPZ* did was restrict the redevelopment of his property, making that redevelopment more expensive. As a property owner in the Feldman's Neighborhood, he said he felt it decreased his property value and violated Proposition 207. He said he wanted to hear from the Council Members who were in favor of the *NPZ*, why they thought it did or did not violate Proposition 207, and if they did not think it violated Proposition 207, he wanted to know why. He asked Council Member Uhlich to go first.

Council Member Uhlich advised Mr. Lee that his question would be deferred to the City Attorney, as she believed that the Mayor and Council were not allowed to engage the public during a public hearing.

Michael Rankin, City Attorney, stated that during the public hearing, the Mayor and Council listens to the comments from the public and then they can address them or have staff address them at the close of the public hearing.

Mr. Lee stated that, with all due respect, as a taxpayer of the City of Tucson and if it did violate Proposition 207, the City was already engaged in a lawsuit in the middle of discovery. He said the City did not even know how much money was owed on the first lawsuit they lost. He said that was a problem with the demolition ordinance and wanted at least to find out how much money they were going to owe Michael Goodman as a City before they engaged him in another lawsuit. He said as a taxpayer, that was a significant problem to him.

Paul Felix thanked the Mayor and Council for the opportunity to speak. He said he lived on North First Avenue with his wife, Annette, for about thirty years. He was present to speak in support of Item 10, merely as a property owner and a homeowner that would be directly affected by the new mini-dorm that was being built just two houses away from his property. Mr. Felix stated that one of his favorite things to do on a Saturday morning was go out and water the lawn in his boxers. He said that had been taken away from him. He commented he now had this huge mini-dorm that looked down into his back yard. He did not want to share his boxers with them, nor did he want to subject them to having to watch him water his lawn in his boxers. Mr. Felix said they

took away a little bit of his privacy and little bit of the value from the home that he had lived in for thirty years. He said he really enjoyed the neighborhood and being able to raise a family there.

Mr. Felix said secondly, he thought they had the same problem that McDonald's had long ago when they super-sized their menu. They did it for all the good reasons; it was a good deal for the consumer; it was going to be a little bit more profitable; but in the long run it was bad news. Mr. Felix said that allowing mini-dorms to go into neighborhoods was bad news, bad for business. He urged the Mayor and Council to support Item 10.

Karolyn Kendrick stated she was a resident of the Feldman's Neighborhood, and wanted to read a letter from Bob Schlanger. She proceeded to read the letter.

"Dear Mayor and Council. My name is Bob Schlanger, and I live at 1001 East Edison Street in the Jefferson Park Neighborhood. On behalf of myself and the Jefferson Park Neighborhood Association, I would like to encourage you to support the Feldman's *NPZ*. As I am sure you recall, the Council passed the enabling legislation unanimously after Mayor Walkup requested that the Infill Incentive District be created, which it was."

"As Feldman's and Jefferson Park were directed by Council to be the pilots, I see no reason not to continue on and approve this *NPZ* unanimously. Any reservations need to be set aside at this point. After all, all a pilot is is just that. It is an experiment and we must give it chance to work."

"City staff, both in the Planning Department and City Attorney's Office, has given the plan their okay. The Zoning Examiner has approved it, the Administrator has approved it. And most importantly, many citizens have poured thousands of volunteer hours into this project over the last three years."

"We cannot possibly ask them to wait longer. This is not a perfect plan. However, it is time to find out what is good and what is bad about it. Not by conjecture, but by putting it to the test."

"Thank you for your consideration. We're counting on your leadership to make sure that we preserve a livable, high quality of life in the urban core of our City. Sincerely, Bob Schlanger, Past President, Jefferson Park Neighborhood Association, Neighborhood Preservationist, Pima County JTED, Board Clerk, Tucson small business owner for 35 years."

Tom Keating stated he owned all of the vacant properties between Fifth Avenue and Sixth Avenue, and from Speedway Boulevard back to the alley, except for one home. He said he had been invited to and attended some of the early organizational meetings of this neighborhood preservation effort and applauded the effort. He said his problem was with how it was being applied. He said there were roughly ten city blocks facing Speedway Boulevard. Six of those city blocks had already been excluded. Of the four

remaining, one was an entire city block all the way back to Helen, which was Casa De Los Niños, except for two homes in the southwestern corner. He said another was the First Baptist Church, an entire city block all the way back to Helen Street, except for three homes on the northeast corner. He said there just did not seem to be any logic or consistency.

Mr. Keating stated Council Members Uhlich and Glassman, at last week's meeting, put emphasis on the need for commercial quarters. He said that was their language, not his, and they were right on the money. It did not make any sense to him for four blocks out of ten to have this overlay included when it came right down to the sidewalk on Speedway Boulevard. He said the same argument could be made for Euclid Avenue and Park Avenue. He said as it applied to his property, he was half-in and half-out. From what he had heard, he said the City was already in the process of addressing those inconsistencies, and he applauded them for their effort.

Russell Krone, Attorney, stated he was a retained speaker on behalf of Michael Goodman. He said they previously sent the Mayor and Council letters with their position in opposition of the Ordinance, but he did not see them in the materials. So, he brought some copies to be distributed to the Mayor and Council and to make sure they made the official record.

Mr. Krone said he had three points he wanted to make. First, there had been a lot of talk that evening about health and safety, and the first they heard of it, in the context of Proposition 207 and the Ordinance, was at last week's meeting. Proposition 207 provides specific guidance as to what constitutes regulations relating to public health and safety. He said it allowed for laws regulating fire and building codes, health and sanitation, transportation, traffic control, waste and pollution control. He stated that none of those recognized public health and safety purposes could be found in the current proposed rezoning. Rather, the *NPZ* ordinance itself indicated that its purpose was ostensibly to preserve, protect, and enhance the unique character and historical resources of established city neighborhoods. He commented that was what they heard from the proponents of this Ordinance.

Mr. Krone said the Zoning Examiner's reports, the minutes of the hearing before the Zoning Examiner, and the report provided by City staff to the Zoning Administrator, did not state public health, safety, or welfare considerations for the Feldman's *NPZ* Ordinance. He said, as mentioned before, the first they heard of it was last week. The fact that the assertion on this matter was raised for the first time in a public hearing without notice to the stakeholders and without any general notice to the public, revealed the extent to which health and safety was being raised as a pretext and not as a real issue. He said while it might be tempting to test the extent of the health and safety exemptions to Proposition 207, this rezoning was not going to survive the challenge.

Second, Mr. Krone said he wanted to talk about the level of protests as reported in the City Manager's report. The last paragraph indicated that by area, approximately nine percent of the Feldman's Neighborhood opposed the Ordinance. It did not make any

reference to what area within Feldman's approved of it. He said he mentioned that only to point out they could not tell by the vote count alone what the area inside of Feldman's came to. While many property owners had more than one property, their vote was only counted once. Their approval or disapproval was only counted once. For instance, Mr. Goodman had forty one properties inside the Feldman's boundaries, and his opposition was only counted once. And so when there were sixty-six comments in favor and twenty- two comments opposed, that was not a fair indication of the real amount of property that was commenting on this.

Mr. Krone commented that his final words were, if the Mayor and Council believed historic preservation of the Feldman's Neighborhood truly benefited the City of Tucson and its citizens, it then should follow the historical preservation ordinances already in place. He said it should not use historical preservation as a context to prohibit certain types of development that a small group of owners in the neighborhood blamed for the unruly behavior of some university students who also lived there. In fact, Mr. Goodman wanted the Mayor and Council to know he was hiring off-duty officers to check his properties on the weekends. He said that more importantly, a fair discussion of who should bear the cost of this proposed historic preservation had been glaringly absent from the proceedings. Historic preservation was a valid and laudable goal; it was a public purpose. He stated, however, like any intrusion upon private property rights, when a public purpose intrudes on private rights, the public must compensate the private property owner. Proposition 207 was enacted to assure that the cost of imposing the public's will on private property was borne equally by all benefiting from it, and not just solely the people that were being affected by the Ordinance.

Mr. Krone commented that if preserving the history of Feldman's was important; all Tucsonans should bear the costs, not just the property owners in Feldman's, who were affected. He said the City of Tucson's residents looked to the Mayor and Council to be good stewards of their hard-earned taxes, and they deserved financial responsibility. Mr. Krone concluded his comments stating that if the Mayor and Council could not proudly proclaim that the cost was going to benefit all Tucsonans, and instead must hide behind the thin cover of pretext that the staff offered, they should and must vote down the rezoning.

Martha Seidel Bond stated she was a Pima County resident, and owned a house on East Helen Street in the Feldman's Neighborhood. She commented that one of her former tenants referred to the property as the "sunshine house" because it was orange. She stated her family in Willcox, Arizona ran the oldest store in Arizona that had been continuously operating from the same location. She said she and her family valued historic preservation. She stated that people did not shop there for the prices; it was not a high volume discount store. She said its appeal to visitors from all over the world was due in part to its unique character and representation of the history and the culture of the area. She stated that was exactly why she chose to buy a house in Feldman's Neighborhood in 1996.

Ms. Bond said that the Feldman's Neighborhood was a unique Tucson suburb of the twenty's and thirty's. The initial design of the neighborhood worked well for community building. The setbacks of the houses were far enough to afford some privacy, but close enough to the sidewalk to greet passing neighbors. The porches were inviting of conversation. She said one's safety was enhanced if one knew their neighbors, and the design was conducive to meeting one's neighbors.

Ms. Bond said that some things had not changed. There was less crime in a neighborhood where people knew their neighbors, and people were safer when they knew their neighbors. She stated some things were changing. Homes were being torn down and being replaced with thoughtless designs and with disrespect for the neighbors. She said those changes were diminishing the quality of life for the homes that surrounded the new, larger homes that were masking the mountain vistas and putting their yards in shade where they did not have them before.

Ms. Bond said that houses with garage doors in the front where people drove in, closed the door, and did not even see their neighbors were replacing well thought-out homes. Multiple unit houses were replacing the single-family residences. She said this did not foster community building, which must be a goal of the city planners to benefit everyone in the community. She said they could not throw planning to the wind and expect to end up with a desirable place to live. The five original historic districts in Tucson were sought after places to live, as they demonstrated appropriate infill. The property values were increasing, and were a joy to visit. She said historic structures had to be preserved while they could because when they were gone, they would be gone forever, and they seemed to be disappearing at an exceedingly alarming rate.

Ms. Bond said she wanted to thank the City for tying in new sidewalks for Feldman's with the old ones still useful. She was happy to see that the stamp of the "WPA" (Works Progress Administration) was still on the corner of her sidewalk. She said they needed more continuous sidewalks and it was a good example of conserving what they had. She said she thought that at least one of the myriad of women named Hazel that lived her house in the twenty's and thirty's probably saw the "WPA" put in sidewalks originally, and again she thanked the City for that.

Ms. Bond said the Feldman's Design Manual was a compromise, which was important for them all to get along. It allowed for expansion of a home as long as it did not change the look of the streetscape. It helped to keep the historical integrity of the neighborhood intact, and it allowed for appropriate infill. She said it let people be proud of their neighborhood and kept the unique character of Tucson, and that not everyone wanted to live in a concrete Phoenix with generic buildings and big box stores. She urged the Mayor and Council to give people the opportunity to live in a historic neighborhood by helping to preserve Feldman's.

Ms. Bond commented that the future of Feldman's must be thought of as a viable neighborhood. As technology took them into the next decade, they would see more and more people taking on-line courses, which would make the need for being near the

proximity of the U of A less necessary for some. She said multiplexes going up in the neighborhood might no longer be supported, making their community even more prone to crime. She urged the Mayor and Council to adopt the Design Manual and continue with the *HPZ* procedure and the ordinance. She thanked the Mayor and Council for the advocacy of their neighborhoods and of Tucson.

Monika Ashe stated she was a renter within the area of the rezoning request, and as Feldman's Neighborhood Association President. She said the Feldman's Neighborhood Association supported the Design Manual. She said they presented their arguments to the Mayor and Council respectfully using logic and facts, and the opponents of the Design Manual presented the Mayor and Council and the people of the City with lies and threats. She said they were offended by that and hoped they were too.

Ms. Ashe said they hoped the Mayor and Council vote in favor of the Design Manual in the best interest of the urban core of the City and in the best interest of all of their constituents. She said they could not predict the future, but could say that the Feldman's Design Manual was a positive step for the City. She said first, the Feldman's Design Manual created a favorable environment for improving property values. She said residential property values were likely to improve, because the streetscape of the Feldman's Federal Historic District would be preserved. She said protecting the appearance of a historic district had been shown repeatedly in Tucson and nationally to increase property values.

Ms. Ashe said secondly, the Design Manual created a favorable environment by reducing crime. They had to save the single-family homes in Feldman's and other older residential neighborhoods. She said that single-family residences surrounded by defensible personal space were a key factor in controlling crime. That was why the Federal government adopted Oscar Newman's defensible space as part of the Housing and Urban Development (HUD) housing guidelines. She said it was also why the City of Tucson tore down the Connie Chambers Housing Project and replaced it with individual homes.

Thirdly, Ms. Ashe said, the Feldman Design Manual reduced extreme summer temperatures. The heat island effect was likely to be less than what they would experience if development in the U of A area continued without planning or regulation. The Design Manual specified that historic front yards would continue to exist. These yards contained mature trees and other vegetation that absorbed heat and carbon dioxide.

Ms. Ashe said the fourth point was that the Design Manual also reduced flooding. Flooding was likely to be less than what would be experienced if development continued without planning or regulation. Again, she said historic front yards were key. The bare soil and vegetation in these yards absorbed most of the runoffs from storms and reduced flooding problems far outside the Feldman's Neighborhood.

The fifth point Ms. Ashe made was that the Design Manual attracted customers to downtown businesses. Downtown businesses could be expected to benefit because the

historic homes nearby would remain attractive to young, urban professionals who patronized downtown restaurants and other businesses.

Ms. Ashe said the sixth point was that the Design Manual supported other small businesses. Hardware stores or skilled craftspeople could be expected to benefit because historic homes would continue to be owned by families willing to spend tens of thousands of dollars on upgrades and restoration.

Lastly, Ms. Ashe said the Design Manual allowed the elderly to age in place. She said the Feldman's Neighborhood took care of their elderly. It allowed their older neighbors to postpone entering a nursing home or assisted living facilities for many years, reducing the demand for taxpayer supported services.

Ms. Ashe said when the Mayor and Council voted in favor of the Design Manual, they would acknowledge that Feldman's and other residential neighborhoods around the U of A were valuable to the City. She said those neighborhoods provided a host of invisible services to all taxpayers in the City. It was not just about old buildings, but about the kind of community associated with the buildings. She said that stable, older neighborhoods kept taxes down for everybody in Tucson by preventing urban blight. They benefited the entire City by fighting crime, reduced demand for nursing home beds, reduced the heat island effects, and reduced flooding. She urged the Mayor and Council to vote in support of the Feldman's Design Manual and help to preserve Tucson's older neighborhoods.

Diana Lett, Feldman's Neighborhood Association Vice President, said she was a member of the Feldman's Design Manual Committee and the *NPZ* Stakeholders Committee that preceded it, otherwise known as the University Area Pilot Committee. She said the Feldman's Neighborhood was a big supporter of the Design Manual. She asked for a show of hands of everyone in attendance in support of the Design Manual, and thanked everyone for sitting through the public hearing. She said they supported the Design Manual, but they were concerned about the recent discussion of TDR and the sunset provision they considered appending to the Design Manual. She said they felt that under the guidelines of enacting neighborhood preservation, the Mayor and Council were considering neighborhood destruction. She said they were considering opening the arterials in their neighborhood to wholesale demolition and redevelopment, and they were disturbed by this apparent bait and switch.

Ms. Lett commented that for three years they worked with Planning and Development Services Department staff on the *NPZ* and the Design Manual. During that time, they repeatedly shared with the Mayor and Council and staff their view that some of the parcels along their arterials were suitable for more intensive development. She said that vacant lots and distressed commercial properties were suitable for dense development. She commented on what was not suitable for dense development, such as irreplaceable historic treasures like the houses on Speedway Boulevard designed by famed Architects Josiah Joesler and Henry Trost, national historic landmarks such as the University Heights Elementary School remodeled by famed Architect Henry Astadt on

Park Avenue, and buildings that were significant to the history of Tucson, such as the Wittwell Sanitorium for tubercular women located on Euclid Avenue.

Ms. Lett said she also wanted to point out that the concept of densifying arterials and protecting the core did not quite work for them. The oldest and most historic structures in Feldman's Neighborhood were along the arterials because that was where construction began over a century ago in the Feldman's Neighborhood. For example, the oldest house on Speedway Boulevard built in 1902 was in their neighborhood at the corner of First Avenue and Speedway Boulevard. The demolition of those structures would negatively impact their neighborhood and possibly cost them their National Register of Historic Places status.

Ms. Lett also stated that the demolition of historic residences was so unnecessary. Feldman's was twenty-five percent commercially zoned. Two of the commercial properties on Speedway Boulevard were vacant lots occupying over half a city block, and were ideal locations for intensive development. She said two of the commercial properties on Stone Avenue were nearly vacant motel complexes occupying nearly half a city block, and also ideal locations for intensive development. She said their neighborhood was home to a former ASARCO office building, now vacant, which was another ideal location for intensive development. She said she could go on, but said the Mayor and Council had the picture.

Ms. Lett stated that Feldman's Neighborhood had so many sites that were appropriate for intense development; there simply was no need to risk the demolition of historic structures in order to achieve greater density. She said there was no need to open up all the properties along arterials to demolition nor was there a need to trade the history of their neighborhood, which was part of the history of the City, for density. Ms. Lett said there was ample room for both preservation and densification along the arterials in Feldman's Neighborhood, just as there was ample room for both densification and preservation throughout all of the arterials of the City. She said Tucson had an embarrassment of riches when it came to distressed, commercial properties and vacant lots.

Ms. Lett stated that in the Feldman's Neighborhood, some of those distressed, commercial properties were havens for drug dealing, and they were enthusiastic supporters of redevelopment of those sites. Ms. Lett concluded her comments stating that the Feldman's Neighborhood Association urged each and every one on the Council to vote for the Design Manual without modifications, without TDR and without a sunset clause.

Ellen McMahon echoed Ms. Lett's comments; but on a more personal note. She said she lived on the block being considered. She wanted to make sure that Council Members Uhlich and Glassman were listening, because she very much wanted to speak against excluding the block she lived on from the Design Manual. She said, in her mind, it was the block that had the most significant historic buildings in the entire neighborhood.

Ms. McMahan commented how proud she was to be a Tucsonan, when Speedway Boulevard was widened, the City moved those historic houses back to protect them. She thought that was a wonderful thing for the City to do. She said it was a gateway into the neighborhood from the University, which was very populated and there was a lot of foot traffic. She said it was also the block where the neighborhood was introduced to the outside as being a pedestrian human-scaled neighborhood. She said she did not agree that those buildings should be demolished and that there could be some kind of trade-off in the interior part of the neighborhood, because those were unique contributing structures to the historic neighborhood.

Ms. McMahan said she had lived in Feldman's Neighborhood since 1983. For almost thirty years, she walked to her job at the U of A. She was a professor there for many years, and raised two children. She conducted graduate seminars in her beautiful historic home on that block, and hosted visiting artists' and scholars' receptions. She said she was very happy and proud to be a resident of a historic neighborhood in a town that cared about historic buildings, and she thought it was wrong for one developer to make such a tremendous difference in the way their neighborhood, that surrounded the University, should look.

Ms. McMahan commented that Michael Goodman recently bragged to her that he owned ninety properties in the U of A area. She said he developed the properties with extreme disrespect for the neighbors, shading their yards, and reducing their property values significantly. Her neighbor, just two houses down, had a house that she could not imagine being able to sell to anybody except Michael Goodman, and heard that he owned every house on her block except four. She said with so much property that could be developed for density, she was curious why they were even considering her block, which was the block with the most historic structures in the entire neighborhood.

Ms. McMahan said she thought that to make a choice for the economic benefit of one or two developers at the cost of a quality of life for hundreds of residents, was the wrong choice. What she really loved about the neighborhood was the combination of students and the diversity in age. It was a neighborhood that students with less money could live in. It was more economical than living in the dorms and certainly less costly. It was also less costly than living in one of the mini-dorms that Michael Goldman bragged to her about that he rented for seven hundred fifty dollars a bedroom.

Ms. McMahan said she liked living with students who did not think they were entitled to marble countertops. She liked living with students who were respectful to their neighbors, and felt they could mentor students to be good neighbors, whether it was through gentle conversation, getting to know them so that there was mutual respect, or maybe it was through red tagging. But they were doing a service to the City for helping these young people understand what it was to live in a neighborhood in a cooperative way.

Ms. McMahon said she saw many benefits to the Design Manual. She urged the Mayor and Council to vote in support of it and said she did not feel this was a good compromise by any means. She said there were already plenty of properties for density. She said she did not think her block should be looked at for personal and historic reasons.

Dyer Lytle stated he lived in the Jefferson Park Neighborhood. He supported the Feldman's Design Manual and encouraged the Mayor and Council to support it as it was written. He said the Mayor and Council unanimously supported the enabling legislation for the NPZ. The process for developing the Design Manual was set by the City, and the Feldman's volunteers diligently followed the process.

Mr. Lytle said economics should not be the highest priority in a society and there were ethical and moral standards they must aspire to. He said a society in which money was the highest priority must fear disastrous consequences, witnessed by the current economic turndown fueled in large part by greed. He said arguments had been made about the need for student housing, and that certain individuals decided they would fill this need as if they were providing a service to the City to make the world a better place. If this was the case, those persons should have no objections to having everyone whose lives were affected by this construction, at the table, to reach consensus about the nature of the student housing.

Mr. Lytle said education at the college level was moving more and more towards on-line distance learning. The need for student housing would actually be decreasing in the next decade, so the argument about the need for student housing was specious. He said incompatible infill contributed to the loss of quality of life for the residents near that infill. The persons responsible for this incompatible infill were exploiting attractive neighborhoods to make money. An attractive neighborhood was not necessarily a rich neighborhood. In the process, they were transforming the neighborhoods into something most current residents did not want. Money and the power that came with it should be used wisely and for the benefit of everyone, not for self-interest, as this was unethical and morally destitute. He stated that the needs of the many outweighed the needs of the few.

Karolyn Kendrick stated she had lived on East Mabel since 1991, and they owned their home and were landlords of another property in the Feldman's Neighborhood. She said they did not have enough information about TDR and sunset provisions to make informed decisions at the meeting because they had been excluded from all of the discussions. The type of eleventh hour, back door dealing, that was being pulled off without representation by their neighborhood indicated a total contempt for the citizens and voters of Tucson, and she said she was speechless. She commented that perhaps those who invested thousands of hours of work on water harvesting measures and were treated with such contempt by Diamond Ventures might empathize.

Ms. Kendrick said that in the Feldman's Neighborhood, their core was on the arterials. Most of their historic houses, as everyone said, were on the arterials. Euclid Avenue bisected the neighborhood and thoughtless development on any arterial would devalue and ultimately destroy the neighborhood. She said that was why Feldman's

representatives had to be involved in any development discussion. They actually knew the boundaries of their neighborhood, and they knew who lived there and who did not. Feldman's had already supported mixed-use development in appropriate locations. Not all locations were appropriate for development, even on the arterials. She said she spoke personally, because she lived on a block between Euclid Avenue and North First Avenue that would be impacted by any incentives to arterial development. On this one small block, rehab developers, landlords and live-in owners had invested between 1.5 million and two million dollars to update and restore the 1920's bungalows.

Ms. Kendrick stated that was an investment in the City. It was an investment in a community; and even if the arterials were restricted to one lot, bulldozing did not stop at one lot because they had to have buffering and integration. She said the residents of Tucson had invested in this area because the *Tucson General Plan* and the *University Area Plan* stated unequivocally that housing along arterials should be preserved. As she mentioned before, the Design Manual offered minimal protection, was a no-brainer as far as she could see, and did not close any options. By approving it, the Mayor and Council were not closing off any options for further discussions. It was a starting point for further discussions.

Ms. Kendrick urged the Mayor and Council to approve it at the evening's meeting, and asked that they take it to the table and speak rationally, not at the eleventh hour, and not with deals going on here, there, and everywhere up until the last minute. She urged them to talk about how they really saw the City and what they wanted to preserve in the City and how they wanted it to develop. She also urged them to think carefully about this. She said they voted unanimously for the NPZ; and they voted unanimously to establish the neighborhood infill district. The Zoning Examiner recommended its passage, and City staff worked hard on it. She said they would be devaluing thousands and thousands of hours of citizen and staff time by waffling now.

Erika Kreider said she resided on North First Avenue, and had been a Tucson resident since 1976. She owned her home since 1991 in the Feldman's Neighborhood. She said she moved there for several reasons; she loved the houses, it was close to the U of A which had a lot of things she wanted to be close to, and it was also close to a good bus line - the Speedway Boulevard bus. She said that last week and at the evening's meeting, there had been a lot of speakers who said a great number of very eloquent things about the neighborhood.

Ms. Kreider said one of the things she wanted to do was to describe what happened when one of those old houses was torn down; and the perfect example was the house at 735 East Helen, which was a block and a half from hers. She said the ground was razed; there was nothing there, no trees, no bushes, no plants, nothing. She said Tucson was not a City where someone could casually chop down vegetation of all kinds; they needed everything they had. She said one of the beautiful things in Feldman's were the very old trees. She had a beautiful example of that in her back yard. She said she did not know how old it was, but it was one of those very old mesquite trees, and there were other old trees like that in the neighborhood.

Ms. Kreider said that when someone bought a house, tore it down, graded the land, it was gone. Not only did the historic house go, but so did everything else that was on the land. This contributed a great deal to their neighborhood. She said it was something to walk around the neighborhood and notice the trees, the bushes, and the plants that everyone had. She said there were many neighborhoods in Tucson that did not have those things, or if they did; they were new, they were just beginning; they were new neighborhoods. She said that was just one additional factor.

Ms. Kreider stated that as far as the proposed changes mentioned, she knew that the committee had been working on the *NPZ* overlay for several years, and the idea of making last minute changes was very disturbing. She said the idea of having a two-year sunset, on a plan that people had been working on for two or three years, was a little silly. She urged the Mayor and Council to vote in support of the Ordinance.

C. J. Jones said he lived on East Fourth Street in the West University Neighborhood, and owned two properties in the Feldman's Neighborhood. Both were single-family rental houses. Mr. Jones said he just wanted to make sure that people realized that it was not just the homeowners who lived in the Feldman's Neighborhood who were interested in supporting the *NPZ*; he also supported it. He said he thought it was an excellent idea. Mr. Jones said he thought by allowing the developers to tear down houses and build mini-dorms, in his opinion, would reduce his property values.

Mr. Jones said he thought that Michael Goodman's statement about increasing values in the neighborhood had to do with the land. However, he said, that meant the house had to be torn down. He intended to keep houses for a long time and was interested in a long time value of the neighborhood. He thought that a well-preserved historic neighborhood near the downtown and the University was one of the most desirable places for people to live, and enhanced the value in the future. He said he thought the longer into the future, the more value there would be.

Mr. Jones said he also agreed with Council Member Leal's assessment pertaining to neighborhood associations. He said he thought that democracy was well served when a city, like Tucson, had strong and active neighborhood organizations. He also thought the Mayor and Council was wise to rely on the neighborhood associations to make their decisions and they spoke very well about why they liked the neighborhood, and why they liked historic preservation. He urged the Mayor and Council to support the neighborhood organization, bring them into all discussions and listen, and let them lead the way.

Ila Abernathy said she had been a homeowner in the Feldman's Historic District since 1976, and she wanted to speak in favor of adopting the *NPZ* Overlay for Feldman's as it existed. She said she felt it would be a bit reckless to make hasty changes without much consideration that would eviscerate it. She wanted to add her personal views, even though they closely conformed to what many others had, and to make a plea to the Mayor and Council not to be threatened or intimidated by anyone.

Ms. Abernathy said her neighborhood had always been a modest neighborhood, but it was a neighborhood. The sturdy little houses manifested integrity, charm and character, appropriate in scale that was both welcoming and uniquely representative of one era in Tucson's history. She said in her block, renters and homeowners alike appreciated this ambience and the quality of life it generated. She stated that as the City became more and more anonymous, and the architecture became more bland and uniform, such intimate spaces became more and more important and significant for everyone, not simply aesthetically and architecturally. She said that neighborhoods offered a sense of continuity and connectedness that contributed manifestly to the City's general health.

Ms. Abernathy said she thought it had been clearly indicated why the *NPZ* Overlay appeared to be necessary, and said she certainly thought it was necessary. It might reduce the likelihood of another flagrant zoning era such as the one that occurred in the fall, which had already been mentioned when a little R-1 bungalow was bulldozed and an oversized and a two-story multiple-occupancy "snout house" was squeezed into a fifty-foot wide lot before the matter could be rectified. She explained to the Mayor and Council that a "snout house" was one where the lot was so narrow; the only place for the garage would be to poke it out in front of the structure where the rest of the residents had lawns and trees.

Ms. Abernathy said the plan also did not preclude appropriate investment or exclude renters. In July, an investor who owned thirty to forty properties in Tucson purchased the property just north of her property, and was in the process of refurbishing the two historic 1925 houses and a small studio on the property. She commented that she did not like all his design decisions, but the scale was appropriate and the houses were going to be maintained. She said she was assured that the rentals, when completed, would be maintained and be an enhancement to the neighborhood rather than a detriment. She said essentially, they needed to find ways to sustain this intimate, variable, and even sometimes eccentric, part of Tucson's history and the *NPZ* Overlay helped. She said what the Mayor and Council did also mattered and had implications for all other neighborhoods and their integrity.

Ms. Abernathy added that recently, she was both amused and offended by a letter from a contractor to the *Arizona Daily Star*, which referred to their small little houses in Feldman's so full of character as "hovels." She pointed out that her little "hovel", built in 1919, and never a finer or elegant house, has stood for ninety years. It had wood lath and plaster walls, a nine-foot lath and plaster ceiling, a cellar, French doors and incredible infusions of natural light. She said she wondered what Michael Goodman stapled together, sprayed on, characterless and bloated structures, which were never meant to be homes, would look like in ninety years. She asked what sort of residents they would attract, and what sort of community they could possibly generate.

Jayne Weissman thanked the Mayor and Council for having them, and said it was good to see them and the Zoning Examiner again. She said she loved being in Tucson and loved living close to the University. She said she loved her front porch, which

covered the entire eastern side of her house. She loved being able to sit there, getting to know her neighbors, listening to the City going by, and enjoying the peacefulness of the neighborhood. She said if she wanted to live in a brand new neighborhood, she would. She chose to live where she lived because of the size of the lots, the size of the houses, and the privacy that was allowed between the neighbors. She said they did get to know their neighbors, but they also had privacy between them.

Ms. Weissman said she had three properties. She lived in one of the properties and she had a property that she rented, ironically, to students. But, she said, most of Feldman's was rented to students. So for Michael Goodman to say they hated students could not possibly be true because they all rented to them. She said the Design Manual would not be necessary if the development was done in a way that worked with the neighborhood. If the streets remained even remotely similar, all that had to be done was to use some setbacks, some privacy mitigation, and not have three or four-car garage doors facing the street. She said Feldman's Neighborhood was historical. Their garages, if they existed at all, were behind the property, facing the alleyway.

Ms. Weissman commented that the construction that was currently going on was totally inappropriate. She was not against redevelopment, nor was she against somebody taking care of their property. She said she was not against somebody making money, but thought it should be done in a way that felt good to the rest of the neighborhood; something that worked.

Ms. Weissman said she was not sure what the sunset clause meant, but she suspected it meant that they had a lengthy time to deal with the Design Manual if it was passed, which she hoped it was. Ms. Weissman said the Mayor and Council unanimously passed the *NPZ* in 2008. Since 2008, all of the developers in town knew that it had passed. She said it was not a surprise; they had about a year to get used to the idea. She said Mr. Goodman was on the committee and so were a couple of other developers. She said she was also on the committee. Everybody knew it was coming, it was not a surprise. She said she really did not want to see the sunset clause in there. She did not think that the Design Manual should be changed from the way it currently was, not until the City and the neighborhood had a chance to let it work and see where changes needed to be made.

Kathleen Williamson thanked the Mayor and Council, and City staff for their service and dedication to their work. She especially thanked Council Member Leal, stating she was going to miss him. He had been a friend to the citizens of Tucson for many terms. Ms. Williamson said she has lived in Tucson since 1986, and lived on Lee Street in the Feldman's Neighborhood Association since 1991. She had owned her home since that time, and also rented out part of that property. There were two houses on the property and she lived in the other house, so she had been a landlord as well as a homeowner in the area.

Ms. Williamson said she could talk to the Mayor and Council for five days about this. She lived in the eye of the storm at Fourth Avenue and Lee Street with her back house near Fourth Avenue and Adams. She commented there was a cancer that was

happening and was spreading throughout that neighborhood. She said she had notes with her, and she had been scribbling through the whole meeting. She said she probably would not be able to read her own notes, so she would just talk for five minutes until her time was up.

Ms. Williamson said during the time she has lived in Tucson, more than two decades, she has served as a Deputy County Attorney, a Special City Magistrate for eight years, a Judge Pro Tem for the State and County Courts, an Adjunct Professor of Law at the University of Arizona, and had also been a student in Feldman's Neighborhood Association. She said she earned a Juris Doctorate and a Ph.D. in Cultural Anthropology from the University of Arizona, while living in that house. She was also a local songwriter and performer. Some on the Council might know her in that capacity, and she has donated many shows to benefit local charities and causes over the years.

Ms. Williamson stated that living in the epicenter of this mini-dorm nightmare in Feldman's had been such a shock to her and to the neighbors around her. She said she was speaking on behalf of the people that were too elderly and/or sick to actually be present at the meeting. She said she asked her 96-year-old neighbor, Canara Price, to join her, and actually it was originally her idea, but she was not well enough to come to the meeting. Ms. Williamson said her neighbor, Ms. Price, lived across the street from her, and as lived in that house since the 1960's. She now had one of these two-story monstrosities right behind her, so her view of the Catalina Mountains, which she enjoyed for all those years, was gone.

Ms. Williamson said they could talk about aesthetics for a long time, and aesthetics were important. She said they should never forget that the gross national happiness for Tucson was important, and that this was not just about trees. It was about birds, life and people being healthy in an environment that nurtured plants and vegetation, being able to see the moon and the stars at night, instead of bright lights from a two-story building looking into their bedrooms. She said there were balconies that people could actually look into her bedroom now, in a 1927 adobe house right off the corner of Fourth Avenue and Adams. She said she saw balconies when she opened the window.

Ms. Williamson said law enforcement could be thrown at this forever. There were behavioral problems to be dealt with. She said she wished the Mayor and Council would walk the neighborhood with her at midnight and see what was happening. She said she was actually starting a YouTube channel called Tucson Real, and was going to get a video camera and post what was happening. She said the Mayor and Council had to see it and walk it, instead of just being aware of the problems and living far away from them.

Ms. Williamson said the speakers who just addressed the Mayor and Council were so articulate, and she could only echo what they said; but all they were asking for were the same things the Council wanted in their lives. She told the Mayor and Council they did not want this kind of structure to move in next to them. She said these buildings,

these developments were a nuisances in the real legal sense of that term and in the nuisance aspect of this needed to be explored. The way it was built with the balconies on the second floor that faced each other, faced out in the street, clustered, and said the development was built piecemealed.

Ms. Williamson said she was a Renaissance woman, and had actually studied urban design and urban planning. But she said it created an environment, especially with the one-room rentals by Mr. Goodman, to strangers who were clustering together in the development. She said it created a ghetto of unsupervised, out-of-town, male undergraduates, and it was like living in a demilitarized zone. She commented it was worse, because in a demilitarized zone those young men had supervision; there were military police there. She said they did not have that at Fourth Avenue and Adams. It was just unbelievable. She urged the Mayor and Council to let her have more time to speak about the issue in the future.

Ms. Williamson commented on the kids that were there, stating their brains were not even finished forming yet and there were scientific studies to that fact. They were drinking to such excess that it was not only a danger to her, but those kids. It was not only just because of sleep deprivation, but the accidents, violence, and everything else that went on. She also commented on the environment it created, and said it was a nuisance, a dangerous nuisance that was being nurtured by the developers. She said the developers had to be on notice that they were going to be liable for the things that happened not only to the residents in the neighborhood, but to the students as well. She said she saw a student lying in the in the alley the other night, and she swore that the student looked like he had a broken neck. The Emergency Medical Team (EMT's) came to take him away. She said everyone around him was drunk, and nobody saw what happened. It was really horrible. She said the incident happened about 1:30 in the morning. Those were her typical weekends in Feldman's Neighborhood Association now.

Ms. Williamson said she would wrap up her comments by urging the Mayor and Council to vote for the Design Manual as presented. She said she had so much more to say, it was horrible. She said that any Council Member that did not vote for the Feldman's Design Manual as presented owed the community a clear, honest, transparent explanation as to why they were not going to approve the Overlay.

J. Lisa Jones stated she lived in Jefferson Park Neighborhood, and she had recently been elected Vice-President of Jefferson Park Neighborhood Association. From everything she could hear from the neighbors in Jefferson Park who came to their meetings, the majority of people were for Feldman's and the NPZ and Design Manual. She said she wanted to speak about something she had not heard a whole lot of, except by Mr. Goodman's Attorney, which was the issue of safety and health. She suggested to the Mayor and Council that multiple, intense infill, a whole of people, and increased quantity intensity, led to a lot of negative impacts. She said she saw and lived with increased unregulated density since she moved into her house in May of 1978. She said she experienced the negative impacts, and it blew her mind.

Ms. Jones spoke about the negative impacts of increased motor vehicle traffic. She said there were lots of speeding vehicles, speeding little loud scooters that were fun stuff for 18-year-old kids to play on. She said there was more wear and tear on the streets, and obviously there was a problem with finances in Tucson. She added that potholes were not just obnoxious, but were dangerous. She continued speaking about the increase in motor vehicles. She said there was a single-family house next to her property that had, at any given time, five, six, and seven vehicles on the street. All those vehicles also increased pollution. She said she had a breathing problem, and it was true that the increase in motor vehicles changed the air.

Ms. Jones said there was also a lot of inappropriate parking; and inappropriate parking was not just obnoxious, it was dangerous. She said she was not against renters, but had renters who parked so close to her driveway she could not back out to see safely. She commented she could not just call ParkWise or 911 because the vehicles did not stay that long. They were just there for maybe half an hour to forty-five minutes, and there was not even time to get law enforcement to do something about it.

Ms. Jones stated there was also an increase of bicycles. Again, she said she was not against bicycles. Actually, she loved bicycles, but was against bicyclists riding at night with no lights. She commented that there was the time she took her dog to obedience class at the park and she counted seventeen bicycles with no lights. She said she lived off of Park Avenue and traveling to the park was dangerous. The more bodies, the more people, the more intense population, especially students, and especially the more bicycles that drove at night without lights, the more dangerous it was. She also commented that she respected the Tucson Police Department, but did not think police officers ticketed bicyclists without lights, which she said was kind of funny. She said if she drove her little car without lights, she would get ticketed.

Ms. Jones also spoke about the enormous amount of increased trash on the streets and the alleys, including broken glass and garbage debris on the ground. She said she was really talking about sanitation issues that were left behind for months and months, creating nesting places for rats, mice, cockroaches, and mosquitoes. She said the big old trash containers were so full and no longer had lids. So when the rains came, the water sat for four or five days and mosquitoes would breed in the sitting water. She commented on wildcat dumping which created dangerous playgrounds for kids. There were also loose, abandoned animals a lot of times spreading sickness and disease, and that was from transient populations. Sometimes there were dangerous dogs. She said she was a dog person, and was attacked a year and a half ago by a loose pitbull on her own front porch; and by the grace of God, she was able to stand there. She said she had never been viciously attacked by a dog before. She said she was a dog nut, so she could not believe it. The dog belonged to a renter who lived next door, who happened to be out of town, and the roommate let the dog loose.

Ms. Jones concluded her comments by stating that intensity and quantity of infill increased exponentially dangers to neighborhoods, it jeopardized the health and safety of residents in those neighborhoods, it ultimately played Monopoly with people's homes and lives, and was not conducive to a healthy community.

Janet Halloran said she lived on Helen Street right next to the home of that big albatross that everyone had been talking about. She emphasized she was right next door, six and a half feet away from her fence line. She said she wanted to talk about two things. First was the human factor. The house that was torn down was occupied by a family who brought up young children. The woman who lived there used to tell her stories about everyone on the block, who they were, where they lived, and who grew up there. She said all that was important. Her house was now torn down. She expressed how the house was torn down, and she happened to be there at that time and tried to get out of her house as quickly as she could. She commented how important the human factor was.

Ms. Halloran said they moved to the neighborhood because it was close to downtown, and close to the University of Arizona. They had a little theater right in the neighborhood, where they could just walk to the theater if they wanted to see a play. She said it was great there and she loved it there. She moved there because of the homes, people, and the diversity and there were students, elderly, and children in the neighborhood. Now right next door to her, she had this large home. She said she would like it to stop and urged the Mayor and Council to make it stop.

Mayor Walkup said they had expended the hour and asked for a motion to close the public hearing.

It was moved by Council Member Uhlich, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Leal absent/excused) to close the public hearing.

Mayor Walkup asked the City Clerk to read Ordinance 10727 by number and title only.

Ordinance No. 10727 relating to zoning: amending zoning district boundaries in the area bounded by E. Lee Street on the north, E. Speedway Boulevard on the south, N. Park Avenue on the east, and N. Stone Avenue on the west in Case C9-09-07, Feldman's Neighborhood Preservation Zone, from R-1, R-2, and R-3 to NR-1, NR-2, and NR-3; and setting an effective date.

Roger W. Randolph, City Clerk, announced this item required a three-quarter majority vote.

Council Member Uhlich asked for a point of clarification; a three-quarter majority vote was six votes of seven or five of six members present.

Mr. Randolph replied it was six votes of the Council.

Council Member Uhlich said she was going to offer a motion that required staff to come back with some added language. She said it was her understanding that in that instance the six-vote requirement would apply when that language appears on the agenda the following week, and asked the City Attorney if she was correct.

Michael Rankin, City Attorney, replied that the six-vote requirement was in place in connection with any motion to adopt and approve the overlay district itself.

It was moved by Council Member Uhlich, duly seconded, that they proceed by directing staff to prepare the adoption of the Design Manual Ordinance with an amendment that included establishing a policy with language that development and rezoning applications for properties along the arterials of Feldman's NPZ, would result in promotion of increased density and intensity through the use of Transferable Development Rights, utilizing a mechanism called Transferable Development Rights, and/or recorded covenant or similar instrument, and that staff bring back that amended ordinance and manual for consideration at the next meeting.

Council Member Uhlich said she wanted to explain because she knew that this was a challenge that involved a compromise, and she wanted to explain what the compromise was in terms of TDR. She explained that currently, there had been a number of different proposals, one which included having the Design Manual apply, but only to properties at least one lot off of the major arterials. She said that was one proposal that was discussed which she thought left the arterial properties vulnerable to immediate problems.

Council Member Uhlich said the TDR simply allowed for rezoning requests for properties along the arterials without those rezoning requests having to go through an amendment of the *University Area Plan*. She said it would not circumvent the rezoning process, but it allowed for consideration of proposals for density along the arterials. Those were still within the Design Manual area, but it allowed for proposals to come forward in a more rapid way for consideration.

Council Member Uhlich said it would still go through the entire rezoning process and still fell within the Design Manual area. Only if those properties were rezoned with approval specifically to waive the Design Manual requirements or specifically to include other accommodations would those go forward. She said she just wanted to be clear about what that meant. They still had another week for this language to be finalized. She said, as confirmed by the City Attorney, they needed six votes to have any portion of the Design Manual proceed.

Council Member Uhlich said she thought that clearly there was not a full understanding of what the Transferable Development Rights proposal was. She said she understood that. She said because a straightforward motion to adopt the Design Manual as it stood requiring six votes did not seem to have support, at least from conversations amongst staff and the offices and with stakeholders in the community, she believed that this was a reasonable proposal.

Council Member Uhlich said she believed the proposal was in keeping with the Mayor and Council's desire. She added she was not only talking about the historic properties, and said those would be something that would specifically have to be proposed for redevelopment. But the proposal did address the Mayor and Council's dual priority of encouraging density along the corridors and preserving historic properties to the very best of their ability. She commented that by not moving or not passing the Design Manual at all meant losing everything. She said she understood the frustrations, and also understood that they had a number of priorities which were brought up at the onset of the process both to protect the interior of neighborhoods and the historic nature and character of those neighborhoods, while understanding that density was going to be increasingly incurring along corridors for transit oriented infill and more pedestrian-friendly infill. She said it was a balance. She knew it was a challenge and they had more time to provide information on Transferable Development Rights as staff prepared this language, but she believed that was an appropriate balance to strive for.

Mayor Walkup said they had a motion and a second. He asked the City Attorney for clarification, and said they wanted to be sure of the position and the outcome. He asked what vote was required.

Mr. Rankin replied that the motion as made required four votes to approve.

Council Member Trasoff stated she really resented the position she was being put in on a whole lot of levels. She said she had tremendous respect for the compromise that Council Member Uhlich was trying to propose, but resented that they had to be talking about a compromise like that. She said the reality was that they needed six out of seven votes in order to pass this; and the fact that there had been last minute meetings taking place in the last four or five days relating to this trying to change what had been worked on for three years really annoyed her. She said the fact that those conversations took place without anybody from Feldman's being present or anybody from the Ward Office that represented Feldman's that had been working on this for three years being present, she found unconscionable.

Council Member Trasoff said that did not mean that there was no room for compromise and that there was not a give and take. She said she was really listening to what every single one of the speakers said at the meeting, and she was ready to uncomfortably go with that. She said she was still not sure she was not, but she was still in the thought process. She was just sharing her thoughts with everyone as they were going through her brain. She commented that passage of the Ordinance was incredibly important, but so was the integrity of the process.

Council Member Trasoff said protection of the sanctity of the neighborhood was incredibly important, and so was transit-oriented development along major corridors. But then she said they talked about those things and in general she was absolutely supportive. She said when you looked at "A" specific, she was ready to say that Euclid Avenue was fine. But then in her mind she remembered what Euclid Avenue looked like in those few blocks north of Speedway Boulevard, and that was not a typical major corridor. She said

Euclid Avenue, south of Speedway Boulevard, was a whole other animal, but said it was different up there.

Council Member Trasoff said she looked at the folks down on Twenty-Second Street who were fighting to protect old houses that really did not have as much going for them as these houses did, and they were willing to fight for it, because of the sense of neighborhood. She commented that was one side of her resentment. She said the other side of it was that one person who was irresponsible with blatant disregard for anybody but his own life, his own profit, including the people he rented to, had put the City in this position, she found even more unconscionable. She said it was disgusting beyond words.

Council Member Trasoff spoke about how the developer's attorney talked about health and safety. She said she would argue that there were a lot of health and safety issues; that was not what they were doing there. The issue was neighborhood preservation. She said, let's talk health and safety; let's talk about the danger to the neighbors who have had reprisals because they dared to call 911 because a party was going on at four in the morning. She said let's talk about the danger to police officers where students in those particular houses, not the other students who were renting homes and were good neighbors, but these students who are unsupervised were throwing eggs and other things at police officers.

Council Member Trasoff said that was just such blatant disregard, so that took them to the safety of the students themselves. She said if you threw an egg at a police officer, she believed it was a felony, and she asked the City Attorney if that was a felony. She commented that was some sort of assault on a police officer. She said they had thrown other things. They were jeopardizing their entire future because they were put in a situation where they were unsupervised before their brains were fully developed, as someone commented earlier. Again, she said they were young people; and the students themselves were in danger from too much alcohol and no supervision.

Council Member Trasoff said one night she was walking in the neighborhood with three or four neighborhood representatives. She said there was this beautiful young woman standing right at the corner of Fourth Avenue and Adams. The young woman had long blond hair, she was lovely, and was eighteen to nineteen years old max, with a very mini dress. She said the young woman was drunk, barely able to stand up with three guys standing around her. Council Member Trasoff said that was not healthy. She said that dorms had residence assistants who helped guide kids. They were not enforcement but they gave guidance to kids. They were kids themselves not that many years ago.

Council Member Trasoff stated the U of A had fallen down on its responsibility, and asked where they were five years ago when they were planning for this, to have adequate housing so that the neighborhood would not be subject to this kind of blatant disregard for the students themselves, if not for the neighborhood. She said they were working with the University of Arizona, and hoped that conversation would continue on for years. She also hoped that with the streetcar, large developments would take place

along the streetcar into downtown so that students could have good places to live, and they could have the urban density they needed and deserved in this community.

Council Member Trasoff referred to comments made about Proposition 207, and how it was taking away individual property rights and loss of value. She asked about the loss of value for all of the property owners around those buildings. She commented how now, one to three years-plus later, he was talking about maybe hiring some off-duty police officers. She said it was about time, but beyond that, it was inadequate. She said the City had great police officers, and that did a wonderful job. She said the kids needed supervision; they needed residence assistance, guidance. They were not ready to be out on their own in this kind of an environment.

Council Member Trasoff referred to comments made by some of the speakers who said the Mayor and Council should walk through the neighborhood some night. She suggested the Mayor and Council do just that, stating it was scary. She said she did not mean scary like she feared for her own safety, although she had heard from neighbors about cars being broken into, and all kinds of detritus being thrown into yards. She said she meant bad circumstances. She asked the Mayor and Council to walk it and get a sense of what went on at 10:30 or 11:00 at night on a Friday or Saturday night. She said it was not safe for anybody involved.

Council Member Trasoff said the developer had pushed the limit of the *City Code*. She said her colleague, Council Member Leal, who unfortunately was not currently present, sent a memo in September and she thought he had a point. This was a public nuisance, and she hoped that in months to come the Mayor and Council chose to pursue the possibility of public nuisance. She said they had done this before. They had landlords who owned apartment buildings who willingly signed agreements that if they had renters who did not follow the rules, they could be evicted. She thought this certainly seemed to qualify. She said there were other people who owned mini-dorms like this. There was one not too far from her office. She said they just opened, and after the first weekend of school, there was all kinds of litter on the street, it was a mess.

Council Member Trasoff stated there was a neighborhood association meeting. The landlord actually attended the neighborhood association meeting. He listened to the problems and called a mandatory meeting of all of his tenants the next day. He advised them that they would be evicted if they were a nuisance to the neighborhood. She commented it was not an ideal circumstance, but at least the landlord put his foot down, telling his renters that if they could not behave, they were out.

Council Member Trasoff said that was not happening with this development and that was what prompted this item to come before the Council. She said everything the Council and staff had been through that evening, all of the angst that the neighborhood went through, all of this planning because they had not found a way to really deal with the situation. She said someone spoke about being threatened or intimidated. She said it really was not that. She was concerned. She wanted something to pass because all

concerned had invested a tremendous amount of time and energy into this, and it was a good plan.

Council Member Trasoff said she wanted to be part of that passage, having been part of the work for the last three years, but said she would rather see this item deferred for another several weeks or months so that the neighbors had the opportunity to actually learn more about what Council Member Uhlich was proposing as a compromise to get this passed, rather than just saying they would act on this item by next week.

Council Member Trasoff commented she honestly did not know what the answer was. She said there was one word that was not in Council Member Uhlich's motion that they had discussed, which was that if it was going to pass, they should be properties which were immediately along the arterials. She said one of the proposals was that it go back one block from the arterials, and another was back to the alleys off of the arterials, which she said would be obscene. She said it would be bad enough to have it one house, but she wanted to listen to what her colleagues had to say before she decided how she would vote. She said she could not support anything that did not have a limitation that it was only one house back, off the arterials. Even with that, she said she needed to think about it, and wanted to hear what her colleagues had to say before she made any kind of final decision.

Mayor Walkup said before going on, he wanted those in attendance to know that the Mayor and Council listened to one hour of speakers presenting their position to the Council. He said those in the audience must listen and give the Mayor and Council respect on what their opinions were, and what their outcome was going to be. Mayor Walkup said they could not tolerate abusive behavior. He wanted to make sure everyone understood that. He said the Council now had to talk about what they were going to do, and what they thought was right. He commended Council Member Uhlich, stating he felt she saved the Feldman's *Neighborhood Preservation Zone* with her motion.

Mayor Walkup said that Council Member Uhlich knew he could not support the Feldman's *Neighborhood Overlay Zone* as presented, and wanted to explain why he could not do that. He wanted to be sure that everyone understood that members of the Mayor and Council were elected by everyone in the City of Tucson. Their job was not just a single neighborhood. They had to consider the implications on the entire City.

Mayor Walkup asked that they now take a look at what had just happened to the economy in this region. He said the economy had changed how the Mayor and Council dealt with the City forever. He commented that one of the things said was that they would no longer tolerate sprawl in the desert, because right behind that was the burning up of all of the available water. He said one of the things the City was struggling with was how to be sure that they had sufficient resources to be able to support life in the City of Tucson for the next one hundred years. He said that meant the alternative was the elimination of sprawl through incentives for infill within the City.

Mayor Walkup said, as a Council, they must and needed the help of the community at figuring out how they were going to do that, how they were going to present a city that allowed them to infill, but protect the valuable neighborhoods that had been established from the very beginning and were really the heart of the City. He said Council Member Uhlich spoke about how to do this approximately three years ago, and the answer to that was the trade-off between preservation and densification. He commented that Feldman's Neighborhood happened to be the first neighborhood in front of the gun.

Mayor Walkup continued that one of the things that had not been answered, and why he could not vote for the overlay as it stands, was that they had zero tie-down of the whole issue of densification. He said the neighborhood had to participate in this because it was an open switch. He commented that if they thought it was an open switch, there were some individuals asking what the University's plan for growth was and how they were going to manage parking. He said the reason they had what was going on in the neighborhood was that the University had not come clean on what their plan was for the future. Mayor Walkup said they planned to add ten thousand people to the University, and if they did not have a plan for where they were going to live and park, they were approaching their neighborhoods.

Mayor Walkup said what was now emerging because of the conversations they had now and over the past year was finally, the recognition of the light rail; the modern streetcar was going to happen. Tucson would have a developed downtown, and had space downtown for a new campus in the downtown area. He said the solution was working with the University to make it clear that they no longer could arbitrarily just expand into any of the pristine neighborhoods in the community.

Mayor Walkup said he knew the people that were developing the lots within these neighborhoods. He said if they knew what the route was for the modern streetcar, knew that they had areas for densification, knew that there was going to be a new campus downtown, they would turn to where they could maximize their rate of return. He said he did not think it would be building within the neighborhoods. He complimented Council Member Uhlich on the deal they made a couple of years ago, that this had to be a balanced approach.

Mayor Walkup said they had to be sure they were preserving the neighborhoods, and they were doing that by ensuring the neighborhood that they made sure they watched out for their homes and their vacant lots; but they had to be sure that they locked up densification. He said they also had to make sure that they encouraged the City Manager to be able to continue the ongoing negotiations with the University of Arizona that were going on at that very moment. He stated that would allow the Mayor and Council to do something in the final form as far as where they were going to resolve the issue with the University.

Mayor Walkup said what Council Member Uhlich was asking for, allowed him to vote favorably for the added week to work with the neighbors, work with the City

Manager, and work with everyone on seeing what could be done to make the plan work. He said if it was not balanced, it was not going to work. He appreciated what Council Member Uhlich had done. He said he was the one that caused it, and thought they were going to come out of this with something that was going to work better for everyone to begin to tie-down what the University was really going to do, which was the heart of this whole issue.

Council Member Scott asked if next week was the best time to vote on this, because she understood there had been some concerns expressed at the meeting from the neighborhood that this was a bit of a shock after so long a time. She questioned if the neighbors and all those interested would have a chance to get a good, clear understanding as to what the amendment was.

Council Member Uhlich said what she heard clearly from the neighbors was that they wanted it to move and move now, and get it done. She said they would make themselves available and very aggressively make sure that the information got out to the folks who wanted more information and even the folks who did not want more information would also receive the information. It was important that they had to move on this and get it done. She said she wanted to retain next week as the date.

Council Member Trasoff asked that if they were going to go in that direction, by the following day, Wednesday or Thursday, they find a day where they could have a meeting with key people from Feldman's who were on the steering committee and invested all their time in this and also that they sit down with City staff, representation from the Ward 6 and Ward 3 Council Offices, any other office that wanted to participate, and really talk through what this was, to come up with a language that hopefully everybody could live with. Then, when they came back to this the following week, they might not be singing Kumbaya, but would be a lot closer to it than she thought they currently were by just throwing out a concept .

Council Member Trasoff stated for her to support this, it was absolutely essential that there be a neighborhood meeting held with the right people who could answer the questions and listen to what the neighbors had to say. On the neighbors' side, she asked that it would be their steering committee, and the steering committee take responsibility for getting input from the neighbors, because the Mayor and Council could not have another meeting like this public hearing. She said they needed a core group that understood all of the issues, sat down with the experts and the political side of this, and within the next few days, see if they could come up with a resolution. By next Tuesday, they could return and all feel good about the action that they would take on behalf of the neighborhood as a pilot for other neighborhoods and for the community as a whole.

Mayor Walkup asked Council Member Uhlich to work through the details.

Vice Mayor Romero thanked the neighborhood and staff for the thousands of hours of invested work and time on the issue. She said she understood where the neighborhoods were coming from, in terms of lack of respect that had been shown by the

developer, the impact of several developers in the neighborhood, the threats, intimidation, how their lives really changed in their neighborhood and their community. She said she hesitated with Council Member Uhlich's motion, because of that. She wanted the stakeholders to have the opportunity to feel comfortable with the motion made, because of the thousands of hours of work invested in this particular issue. She said she thought the extra week would give the neighborhood the opportunity to give their input, provide feedback to the Council, and feel as comfortable as they possibly could.

Vice Mayor Romero added that the Design Manual would not prevent mini-dorms, and said everybody should understand that. She said it would not prevent a developer from doing a mini-dorm in the Feldman's Neighborhood. It would help that developer be much more respectful of how he does his business in a neighborhood. She said she had been told by a lot of business owners who were interested in this topic that the Mayor and Council were only listening to the neighborhoods. She invited these business interests and representatives to go to Feldman's Neighborhood on a Saturday night, leave their gated communities, and see what really happens in one night in an unsupervised student environment.

Vice Mayor Romero said they had similar problems in Ward 1 on Anklam Road and Greasewood Road, with the addition of apartment complexes in the area. She said it was amazing to see how much City resources, in terms of time, money, and public safety, officials showed up to that area every single weekend. She said it diminished the quality of life for the neighbors in the area and it spent a lot of money. She said, in these harsh economic times, they did not want to do that. They wanted to make sure they were investing their resources in a smart way. She said they needed the business community, and the development community to go with them, see the other side of the issue, and see how the people that lived in those neighborhoods had to live with all the action. She added, when they saw the rapes, murders, and drive-bys, that would be when attention would be given to those issues.

Vice Mayor Romero said it was those types of respectful situations, where the City of Tucson had to come in and say they were not preventing them from doing business; the City and the neighborhood was asking them for consideration of the lifestyle they wanted to live. This was when they needed to come together, try to compromise, and work together to move things forward. She said she did not want to see their thousands of hours worth of work go down because they did not talking to each other. She was in support of coming back, and continuing the conversation. However, she did not want to move this motion forward if it was not going to bring the same people to the table that had been working on this issue for three years. She said changing things on the dais, or changing things after the thousands of hours worth of staff time and neighborhood time, would not fly. She wanted to bring up the point that it was good that they had one week, and she hoped that they would get good feedback from all sides of the table on this issue.

Mayor Walkup said Council Member Uhlich would schedule the meeting and all parties involved would be there. He then asked for a roll vote on the motion.

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Leal

Council Member Scott commented she hoped to get a chance to see the document, with the amendment by next week. She said since she did not have a copy of it, she had no clue as to the exact wording, until it was read that evening and perhaps that was also the Council's experience. She said she would be supporting this and hoped that they would all have a copy of the document next time.

The motion to direct staff to bring back the amended Ordinance and Design Manual for consideration and adoption by the Mayor and Council at the next regularly scheduled meeting on November 24, 2009, was passed by a roll call vote of 6 to 0 (Council Member Leal absent/excused).

11. PUBLIC HEARING: AMENDING THE NEIGHBORHOOD PRESERVATION ZONE (CONTINUED FROM THE MEETING OF NOVEMBER 9, 2009)

Council Member Trasoff asked if this item was moot since Item 10 was not passed.

Mayor Walkup asked staff if they could act on this item.

Ernie Duarte, Planning and Development Services Department Director, replied this was really a companion item to the *Neighborhood Preservation Zone*, much like it was the previous week. He said if the Mayor and Council desired, they could continue the item to next week's meeting as well. He added that since it was a continued open public hearing, they needed a motion to continue the public hearing.

It was moved by Council Member Trasoff, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Leal absent/excused), to continue the public hearing to the November 24, 2009, Mayor and Council meeting.

Roger W. Randolph, City Clerk, announced for the record, that this item would be continued to the meeting of November 24, 2009, in the Mayor and Council Chambers, 255 West Alameda, at or after 5:30 P.M.

Michael Rankin, City Attorney, said with respect to this particular item, he did not know if any cards were submitted to speak during the public hearing, but said they would be carried forward to the next week.

12. ELECTIONS: CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE CITY GENERAL AND SPECIAL ELECTIONS HELD NOVEMBER 3, 2009 (CONTINUED FROM THE MEETING OF NOVEMBER 9, 2009)

Mayor Walkup announced City Manager's communication number 589, dated November 17, 2009, was received into and made part of the record. He asked the City Clerk to read Resolutions 21435, 21436, and 21437 by number and title only.

Resolution No. 21435 relating to elections; canvassing the returns and declaring the results of the General Election held in the City of Tucson, Arizona on November 3, 2009.

Resolution No. 21436 relating to elections; canvassing the returns and declaring the results of the Special Election on Proposition 200 held in the City of Tucson, Arizona on November 3, 2009.

Resolution No. 21437 relating to elections; canvassing the returns and declaring the results of the Special Election on Proposition 400 held in the City of Tucson, Arizona on November 3, 2009.

Council Member Scott said she wanted to verify that there were no lingering questions that would prohibit the Mayor and Council from moving forward.

Roger W. Randolph, City Clerk, replied that was correct. He also advised the Mayor and Council that as they left for the evening, he would be handing them the full version of the canvass, which included the Ward breakdown and the voting area breakdown, as well.

It was moved by Council Member Scott, duly seconded, to pass and adopt Resolution 21435.

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, and Trasoff;
Vice Mayor Romero and Mayor Walkup

Nay: None

Absent/Excused: Council Member Leal

Resolution 21435 was declared passed and adopted by a roll call vote of 6 to 0.

It was moved by Council Member Scott, duly seconded, to pass and adopt Resolution 21436.

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, and Trasoff;
Vice Mayor Romero and Mayor Walkup

Nay: None

Absent/Excused: Council Member Leal

Resolution 21436 was declared passed and adopted by a roll call vote of 6 to 0.

It was moved by Council Member Scott, duly seconded, to pass and adopt Resolution 21437.

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, and Trasoff;
Vice Mayor Romero and Mayor Walkup

Nay: None

Absent/Excused: Council Member Leal

Resolution 21437 was declared passed and adopted by a roll call vote of 6 to 0.

13. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 580, dated November 17, 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 Vice Mayor Romero, duly seconded and carried by a voice vote of 6 to 0 (Council Member Leal absent/excused), to approve the appointments of Vern J. Pall, representing the Military Officers Association of America and Ferdinando Leon Jr., representing the Marine Corp League, to the Veterans' Affairs Committee.

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

Council Member Scott announced her personal appointment of Dr. Joseph L. Scott to the Tucson Convention Center Commission.

14. ADJOURNMENT: 9:34 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, November 24, 2009, 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 17th day of November 2009, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:sac:ccs