



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on May 11, 2010

Date of Meeting: November 24, 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 24, 2009, all members having been notified of the time and place thereof.

1. ROLL CALL

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

Present:

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

Absent/Excused:

Staff Members Present:

| | |
|-------------------|---------------------|
| Richard Miranda | Deputy City Manager |
| Michael Rankin | City Attorney |
| Roger W. Randolph | City Clerk |

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Dr. Lester L. Potts, Veterans of Foreign Wars Post 549, after which the Pledge of Allegiance was led by the entire assembly.

Presentations:

- a. Mayor Walkup proclaimed November 27 through December 26, 2009 to be “Buy Local Month.” Each Council Member shared a favorite locally produced item.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager’s communication number 594, dated November 24, 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. Council Member Scott announced that Davis-Monthan Air Force Base (DMAFB) installed a solar voltaic array in their housing community; the Soaring Heights Community. She noted this which would be Arizona’s largest solar-powered neighborhood and was one of the first solar powered communities on an Air Force base in the United States. Upon its completion; it would be one of the largest in the country.
- b. Vice Mayor Romero announced the Sunnyside Unified School District was holding a town hall at Sunnyside High School on December 7, 2009, titled “Increase the Peace: Take a Stand Against Violence.”

She also announced that on December 10, 2009, the Ward 1 office was hosting their Holiday Event and would include a tamale contest for neighborhoods and a preview of the Tucson Museum of Art’s retrospective of the artwork of David Tineo.

- c. Council Member Glassman announced that on December 11, 2009, the Ward 2 “Good Neighbor Awards” reception was being hosted by The Art Institute.

He also invited citizens to join him on December 12, 2009, for the dedication of the “Lazlo Veres Amphitheatre” at Udall Park. He said Santa would be present at the event and a mini concert by the Arizona Symphonic Winds Orchestra was featured.

- d. Council Member Trasoff announced the Ward 6 office on December 3, 2009, was hosting a reception for the opening of the Drawing Studio’s encaustic art show “Waxing Poetic.”

- e. Mayor Walkup commended everyone for the successful El Tour de Tucson. He said he personally participated in the eight-mile fun ride through downtown and encouraged others to bike this route which went through all the new things happening in the downtown area.

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

Mayor Walkup announced City Manager's communication number 595 dated November 24, 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.

Richard Miranda, Deputy City Manager, reported that when some City pools were closed last year due to the budget crisis, the YMCA offered to honor City pool passes at their locations. Since then, the YMCA has closed two of their facilities for repairs and in the spirit of cooperation and reciprocation, the City's Parks and Recreation Department offered to honor YMCA pool passes.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 592 dated November 24, 2009, was received into and made part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. Liquor License Application(s)

Person/Location Transfer(s)

- 1. Auld Dubliner, Ward 6
Applicant: Kevin Arnold Kramber
Series 6, City 79-09
Action must be taken by: December 6, 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. Sacred Heart Catholic Parish Tucson Inc., Ward 3
601 E. Fort Lowell Rd.
Applicant: Melanie Loraine Nelson
City T100-09
Date of Event: December 12, 2009
(Sacred Heart Fiesta Virgin de Guadalupe)

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 Uhlich, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b1 and 5c1 to the Arizona State Liquor Board with a recommendation for approval.

6. CALL TO THE AUDIENCE

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

- a. Geoff Gonzales spoke on behalf of the Southern Arizona Network for Down Syndrome and thanked Council Member Trasoff and Council Member Leal for the support they provided to the organization.
- b. Richard DeBernardis thanked everyone involved in the El Tour de Tucson event. He noted this event was the most successful one ever with over nine thousand cyclists and stated he hoped the new ‘fun’ route would become the City’s cultural tour any time of the year.
- c. Jerry Kinard asked for a copy of the outcome of the Mayor and Council’s study session discussion on the Coronado Hotel.
- d. Joe Sweeney discussed illegal immigration policies and issues.

7. CONSENT AGENDA – ITEMS A THROUGH C

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. PARKS AND RECREATION: NAMING THE LOT AT 18TH STREET AND CONVENT THE “PARQUE DE ORLANDO Y DIEGO MENDOZA”
 - 1. Report from City Manager NOV24-09-596 WARD 6
 - 2. Resolution No. 21444 relating to parks and recreation; authorizing and approving naming the Lot at 18th Street and Convent the “Parque de Orlando y Diego Mendoza”; and declaring an emergency.

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

B. TUCSON CODE: AMENDING (CHAPTER 11) RELATING TO THE RETAIL SALE OF NITROUS OXIDE

1. Report from City Manager NOV24-09-597 CITY-WIDE
2. Ordinance No. 10735 relating to crimes and offenses; regulating the manner of sale of products containing nitrous oxide; providing for the seizure and disposal of improperly displayed products; and providing for the refusal to sell nitrous oxide products under suspicious circumstances; by amending Chapter 11, Article VII, of the Tucson Code, by adding Sections 11-130 through 11-132; establishing an effective date; and declaring an emergency.

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

C. TRANSPORTATION: NAMING THE 22ND STREET OVERPASS THE “JAMES N. CORBETT, JR. OVERPASS”

1. Report from City Manager NOV24-09-598 CITY-WIDE
2. Resolution No. 21445 relating to transportation – authorizing and approving the naming of the Twenty-Second Street Overpass located at the Union Pacific Railroad and 22nd Street as the “James N. Corbett, Jr. Overpass”; and declaring an emergency.

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

7. CONSENT AGENDA – ITEM A

A. PARKS AND RECREATION: NAMING THE LOT AT 18TH STREET AND CONVENT THE “PARQUE DE ORLANDO Y DIEGO MENDOZA”

1. Report from City Manager NOV24-09-596 WARD 6
2. Resolution No. 21444 relating to parks and recreation; authorizing and approving naming the Lot at 18th Street and Convent the “Parque de Orlando y Diego Mendoza”; and declaring an emergency.

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

Council Member Trasoff said the lot at Eighteenth Street and Convent was in the process of being transformed into a park to commemorate two young boys who were killed by a drunk driver several years ago. She said the construction should get underway in December 2009 with completion expected by the end of January 2010. Council Member Trasoff added the people of Barrio Viejo and nearby neighborhoods would now have a lovely gathering space. The residents of these areas had a lot of input

into the design and what the park would look like. She stated there was currently a shrine to the two young boys at the site, but this park would be a fitting memorial to the two boys who died much too soon.

It was moved by Council Member Trasoff, duly seconded, that Consent Agenda Item A, 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 Item A was declared passed and adopted by a roll call vote of 7 to 0.

7. CONSENT AGENDA – ITEM B

B. TUCSON CODE: AMENDING (CHAPTER 11) RELATING TO THE RETAIL SALE OF NITROUS OXIDE

1. Report from City Manager NOV24-09-597 CITY-WIDE
2. Ordinance No. 10735 relating to crimes and offenses; regulating the manner of sale of products containing nitrous oxide; providing for the seizure and disposal of improperly displayed products; and providing for the refusal to sell nitrous oxide products under suspicious circumstances; by amending Chapter 11, Article VII, of the Tucson Code, by adding Sections 11-130 through 11-132; establishing an effective date; and declaring an emergency.

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

Council Member Trasoff said this item related to amending a chapter of the Retail Sale Code so that nitrous oxide canisters would now be placed behind store counters and clerks would be required to seek identification from individuals under eighteen years of age. She said these canisters could not be sold to minors any longer, and was similar to action taken a few years ago regarding placing pseudoephedrine products behind the counters. Council Member Trasoff stated the problem of children as young as nine or ten year old sniffing nitrous oxide canisters was a real problem in the community so she was pleased with this legislation which gave the police department the tools it needed to address this problem.

It was moved by Council Member Trasoff, duly seconded, that Consent Agenda Item B, 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 Item B was declared passed and adopted by a roll call vote of 7 to 0.

7. CONSENT AGENDA – ITEM C

C. TRANSPORTATION: NAMING THE 22ND STREET OVERPASS THE “JAMES N. CORBETT, JR. OVERPASS”

1. Report from City Manager NOV24-09-598(2) CITY-WIDE
2. Resolution No. 21445 relating to transportation – authorizing and approving the naming of the Twenty-Second Street Overpass located at the Union Pacific Railroad and 22nd Street as the “James N. Corbett, Jr. Overpass”; and declaring an emergency.

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

Council Member Leal said a letter had been received requesting the Mayor and Council to name the Twenty-Second Street Overpass after a man who was an elected official in almost every position that existed in the Tucson community and the State of Arizona. He said William Sheldon, one of the originators of this petition, was present to speak on behalf of carrying this resolution forward.

William Sheldon said he was honored to make a few brief remarks. He began by thanking Council Member Leal for his leadership and for sponsoring the resolution and urging the endorsement of the Mayor and Council for this resolution. He said the naming of this overpass was well deserved since as a former Council Member, James Corbett, was instrumental in securing federal and state funding for the Twenty-Second Street Overpass and negotiated with Southern Pacific Railroad Corporation, at that time, on the proper right-of-way particulars. As Mayor of Tucson, Mr. Corbett’s first official item of business in January of 1968 was the dedication of the overpass.

Mr. Sheldon commented he spoke on behalf of many individuals in the community with this request. He noted that the overpass was now scheduled for reconstruction, it was very appropriate to rename it after James N. Corbett, Jr.

Council Member Leal thanked the community for sponsoring this item. He said Mr. Corbett was an individual personally known to many people and all by legend or story. He said this was a small, but good thing to do out of respect and memory of Mr. Corbett.

(Note: Council Member Trasoff departed at 6:24 p.m.)

It was moved by Council Member Leal, duly seconded, that Consent Agenda Item C, 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, and Leal;
Vice Mayor Romero and Mayor Walkup

Nay: None

Absent/Excused: Council Member Trasoff

Consent Agenda Item C was declared passed and adopted by a roll call vote of 6 to 0.

(Note: Council Member Trasoff returned at 6:27 p.m.)

9. ZONING: (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 11/17/09)

(Note: This item was taken out of order.)

Mayor Walkup announced City Manager's communication number 599, dated November 24, 2009, was received into and made a part of the record. He asked the City Clerk to read Ordinance No. 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 a three-fourths majority vote was necessary to approve the rezoning ordinance. He added that the Planning and Development Services Department Director wanted to begin with a few comments.

Ernie Duarte, Planning and Development Services Department Director, stated that the meeting of November 17, 2009, direction was given to return with a draft policy to allow potential rezonings along the arterials and collectors, specifically Speedway, Park and Euclid, of the Feldman's Neighborhood to be considered through the use of covenants and a transfer of development rights. Mr. Duarte said they were directed to meet with residents and property owners in the Feldman's Neighborhood to answer questions about the draft policy that was under consideration. The proposed rezoning policy allowed for a transfer of development rights concept and a covenant that preserved a historic structure while allowing the potential demolition of a similar structure on an arterial. He said the policy allowed for proposals to include the preservations of interior historic buildings, as well as, potentially restricting interior property densities in exchange for an acceptable infill plan.

Mr. Duarte said the purpose of the policy was to allow the property to be in compliance with the *University Area Plan*, which had both preservation and compatible infill policies. He said all rezonings must comply with the *Area Plan* and any intensification along an arterial would first need to be in compliance with the *Area Plan*. The draft rezoning policy allowed that. The basic savings for a developer was a streamlined process removing about four to six months needed to acquire an area plan amendment. Mr. Duarte said this policy did not guarantee a rezoning's approval, but allowed the applicant to have a preservation component as part of a rationale for a rezoning request.

Mr. Duarte stated on November 19, 2009, staff met with members of the Feldman's Neighborhood Design Manual Committee and other interested parties to explain the draft rezoning policy and answer any questions. Minutes of the meeting were contained in the Mayor and Council materials. Mr. Duarte said Neighborhood representatives had concerns about the demolition of significant buildings on these arterials; the one developer at the meeting felt the policy was well intentioned but might not have a real impact.

Mr. Duarte stated if the Mayor and Council decided to make a motion to approve this request, this policy should be included in the design manual. With regard to approving the rezoning map, Mr. Duarte said the Beacon Foundation at 42, 44 and 50 East Adams Street had asked to be excluded from the rezoning. Staff and the Feldman's Neighborhood Association had no objection to this exclusion.

Michael Rankin, City Attorney, said he wanted to highlight a couple of provisions of the ordinance as it had evolved over the course of the continuing public hearing and to the evening's meeting as well. He said included within the Mayor and Council's material on the ordinance, on page two were two legislative findings; if the ordinance was adopted, these legislative findings would be included as part of the Council's action.

Mr. Rankin said the first legislative finding had to do with the affect these regulations had on property values; specifically, it cited the studies in Arizona and other states. There was also a local study, included in the packet and made part of the record, which would be summarized later by Jonathan Mabry, Housing and Community Services Department Historic Preservation Officer. The study specifically showed that these types of overlay regulations that served to protect historic districts and contributing historic properties resulted in higher property values and rates of appreciation rather than diminished property values.

Dr. Jonathan Mabry, Housing and Community Services Department Historic Preservation Officer, said his 2007 study, attached as part of the Mayor and Council agenda materials, cited data which showed in the Feldman's National Register Historic District during the twenty-year period between 1987 and 2007, the average assessed value of homes in this district appreciated fifteen percent higher than the average in a nearby neighborhood with housing stock of similar age, construction and design. He said data from twenty-two other cities across the country showed most historic districts saw property values increase between five and thirty-five percent per decade over the values in similar undesignated neighborhoods.

Dr. Mabry said a 2004 study of thirteen National Register Historic Districts in Tucson had similar findings. That study looked at participation in the state historic property tax reclassification program as an additional factor and found those properties participating in the state historic tax program saw an extra thirteen percent increase in assessment value. In summary, Dr. Mabry stated an owner occupant of a contributing property in a National Register Historic District in Tucson, participating in the State Historic Property Tax Reclassification Program was assessed an average of 18.7 percent higher value than a similar property in an undesignated neighborhood. Dr. Mabry added that an owner occupant participating in that tax credit program in a historic district in Tucson, with both the national and the local historic designation was assessed at an average of 25.6 percent higher value than if the same property were located in a non-designated similar neighborhood.

Mr. Rankin said the second legislative finding had to do with the public health and safety impacts that were presented and had resulted from incompatible residential developments within the proposed overlay zone. During the two public hearings numerous folks testified about the impacts of these developments within the neighborhood. Mr. Rankin read the legislative finding which stated "Incompatible residential developments within the zoning district boundaries of the Feldman's Neighborhood Preservation Zone have had a negative impact upon public health and safety as evidenced by calls for police response and the occurrence of offenses recognized as public nuisances under law. Accordingly, the provisions of this ordinance and the Feldman's Neighborhood Design Manual served to protect the public health and safety and to limit or prohibit the use or division of real property recognized as a public nuisance under common law."

Mr. Rankin stated if the Mayor and Council chose to proceed with the overlay district, it would include this legislative finding. With respect to that specific legislative finding, Mr. Rankin said he would turn this issue over to Richard Miranda, Deputy City Manager, for some additional information.

Richard Miranda, Deputy City Manager, said the Police Chief was going to be at the evening's meeting but was called away on a family emergency. He said the information provided to him was a Uniform Crime Reporting (UCR) run from October 2008 to October 2009 of forty-three residents in the area. Mr. Miranda said he found there were probably four residents in the area that received an extraordinary amount of police service. One house at 425 East Adams Street had ten calls, five of which were for disturbing the peace; the residents at 422 East Adams Street had eight calls for service, four of which were for disturbing the peace. Mr. Miranda stated another resident at 510 East Lee Street had five calls for service while another resident at 1530 N. Fourth Avenue had six calls for service. He said in terms of balance, he wanted to also note that there were twenty-nine residents within this reporting period that had no calls for service from the Police Department.

Mr. Rankin said the last thing he wanted to point out, as referenced by Mr. Duarte, included as Attachment Exhibit B in the ordinance to be voted on, was the policy direction given by the Mayor and Council at the previous meeting.

Mayor Walkup asked if there was any discussion.

Council Member Uhlich said she wanted to offer a motion and brief comment.

It was moved by Council Member Uhlich, duly seconded, that Ordinance 10727 be passed and adopted, with the notation that the map should follow staff's recommendation with regard to the Beacon Foundation and not include that particular property in the parameters.

Mr. Rankin stated he wanted to phrase the motion to be specific on the properties. He said that the motion included direction that the proposed boundaries of the overlay zone be modified to exclude the R-2 zoned properties located at 42, 44 and 50 East Adams Street.

Council Member Uhlich commented that the residents of Feldman's Neighborhood deserved incredible credit and thanks for hours and hours of hard work and service, which was an agonizing process at times. She said the ordinance was a significant piece of legislation being advanced and she thanked everyone who was involved in the process.

Council Member Uhlich added she was still receiving very specific good feedback and guidance on this matter, which included some particular properties along the arterials that individuals wanted preserved. She said that what was done was to not allow for any type of development along the arterials to proceed without due process. It

was enough to simply say to people in the development community that if they wanted to seek a rezoning and put forward a good proposal for redevelopment, significant time had been cut from the process; and it would still go through the rezoning process and the Zoning Examiner, as well as, through some degree of a public hearing. Council Member Uhlich said the door to quality proposals had been opened and they would receive due diligence. She said she thought a good balance had been found in the matter and was proud of where it ended and hoped to receive the support of her colleagues on the motion.

Council Member Trasoff said she was asked to read a letter from the Feldman's Neighborhood Association president, expressing their concerns. She read:

"We are concerned that the amendment lacks a clearly stated mechanism for the enforcement of the proposed private covenants by property owners to restrict future development and preserve the historic character of structures in our neighborhood. We are concerned the City of Tucson may not be able to compel the deed restrictions that are said to be an essential component of the above mentioned private covenants because the recording of deeds is a function of Pima County Government."

"We support the Beacon Foundation request that their R-2 zoned properties at 42, 44 and 50 East Adams Street be excluded from the NPZ overlay which has been done."

"We recommend subtracting any parcel abutting Euclid from the area to be incentivized for increased density due to the historicity and residential nature of Euclid in our neighborhood, in particular, 1127 North Euclid and 721 East Adams are architecturally unique structures associated with tuberculosis which was a driving force in the development of Feldman's Neighborhood, and in fact, the entire City of Tucson."

"We recommend subtracting four specific parcels on Speedway from the area to be incentivized for increased density again due to historicity: 301 East Speedway is attributed to famed architect Josiah Joesler; 445 East Speedway is the original 1939 classical revival building of the First Southern Baptist Church; 543 East Speedway is an impressive mansion attributed to famed architect Henry C. Trost; 645 East Speedway is the oldest house on Speedway."

"Finally, and most strongly, we advocate subtracting the twelve hundred block of North Park Avenue from the area to be incentivized for increased density. As a practical matter, this block will not be redeveloped. The entire block has already been densified by the construction of a ninety-nine unit apartment complex. The apartments are attached to the University Heights school in a sensitive manner that does not compromise the school's status as a national historic landmark in its own right, separate from its status as a contributing structure in Feldman's historic district. As both a national historic landmark and a premiere example of historicity sensitive redevelopment, the twelve hundred block of North Park Avenue encapsulates in a single site the balance between incentivization of development and historic preservation this Council is seeking."

Council Member Trasoff thanked the Neighborhood Association for the time and thought put into the letter. She said it was an honor and privilege to work with them on all these issues and to address these problems. She also thanked all of the staff, especially Jim Mazzocco, Planning and Development Services Planning Administrator, who had been brilliant, patient and caring beyond words, Adam Smith, Planning and Development Services Principal Planner, who was an essential part in the process, staff from Council Member Uhlich's Office, as well as her own staff, who had worked on this for years in various capacities.

Council Member Trasoff said many of the questions raised in the letter were valid and of concern. She said it was important to remember that in any rezoning or demolition, in order to do the rezoning, the neighborhoods could work to protect any house; this was not a done deal. The rezoning process still had a lot of neighborhood input. She said she hoped the community continued to take advantage of that.

Council Member Trasoff stated something of importance to her in how this was done was the privacy mitigation feature which was part of this in all future development. She said if one looked at some of the atrocities which were along Adams Street, one of the major problems was the balconies facing balconies and kids yelling to each other and throwing things. Council Member Trasoff stated by preventing the development of future balconies facing balconies and protecting existing homes, she thought a lot could be done to prevent the excessive noise and cross balcony conversations, fights, etc., that went down to street level.

Council Member Trasoff said she hoped that, at some point in the future, the Mayor and Council would choose to look at things that Council Member Leal mentioned during study session, what Mr. Rankin had mentioned regarding public nuisance; and Mr. Miranda's reference with regard to a high number of police calls to certain units. Council Member Trasoff commented she hoped in the future, this Mayor and Council found ways to seek court orders which addressed those things mentioned because these buildings were public nuisances and in addressing the future the fact could not be addressed, but perhaps the behavior could.

Council Member Leal said, typically when there were conversations about noise pollution, they tried to figure out how to protect people inside a building from noise coming from the outside going in. There was potentially a reverse kind of dilemma, in the future, that needed to be figured out and dealt with; which was noise coming from inside the building not going to outside the building to other neighbors. He said the three-story apartment complex on Stone Avenue was mentioned where all the balconies were built facing west into the neighborhood. That was one way noise got into the neighborhood, but that could be fixed with design.

Council Member Leal stated higher insulation values on a building that had nothing to do with heat but with sound should be anticipated. Instead of having just a double pane glass, there was now triple pane glass that insulated sound so that adjacent neighbors could be protected by having higher quality windows installed throughout the

building. He noted higher insulation values could be required not just for heat but to keep music inside from getting out and going into the neighborhood. Council Member Leal said as this issue evolved, everyone needed to start thinking differently and that maybe some of these ideas might be helpful and there could truly be a win-win situation.

Mayor Walkup asked if there was any further 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; and Vice Mayor Romero

Nay: Mayor Walkup

Mayor Walkup said he wanted to explain his reasoning for voting “no”. He said he was pleased with the progress in the Feldman’s Neighborhood to provide some protection for preservation which was important on a city-wide basis. He stated he was concerned with the issue of densification. As a community, there must be a strong policy that incentivizes, and not makes it so difficult that we turn away people who are ready to develop projects.

Mayor Walkup stated this happened to him that day; on a project located on Euclid Avenue, a little south of University Boulevard. He said he reviewed with the land owner, the project, which was to be a structure of several hundred units. The land was properly zoned and could protect one hundred fifty single family units for preservations within the development area, but the owner did not seem to be able to move the project forward; there was one impediment after another. The owner was struggling with issues regarding the height of the buildings.

Mayor Walkup said the owner’s investors were ready to build and kept asking how long it took to put a project like this together in the City of Tucson. He commented if there was a strong densification policy that worked and did not take a year or year and a half to complete a single project, maybe projects could get underway and possibly eliminate mini-dorms altogether. He said, if he were doing it, he would never build a mini-dorm if he had an opportunity to build with some ease a development with high density in prescribed areas which were predominately along selected arterials close to the modern streetcar and the University.

Mayor Walkup added he thought the problem was that they had been invaded by an opportunity, which was unblocked, as there was no effective alternative for densification. He added work needed to continue on strengthening densification throughout the City so that the next neighborhood did not take a year and half which the City could ill afford. Mayor Walkup commented he would continue to vote ‘no’ from the standpoint of not having met the total requirement of preservation and densification at the same level.

Ordinance 10727 was declared passed and adopted by a roll call vote of 6 to 1.

8. PUBLIC HEARING: AMENDING THE NEIGHBORHOOD PRESERVATION ZONE (CONTINUED FROM THE MEETING OF NOVEMBER 17, 2009)

(Note: This item was taken out of order.)

Mayor Walkup announced City Manager's communication number 600, dated November 24, 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 proposed amendments to the Neighborhood Preservation Ordinance. The public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations.

Mayor Walkup announced he had received some speaker cards, and called on the first speaker.

Paul Steward said he was present at the last meeting when Council Member Uhlich made a statement, and there was an outburst from the audience. He stated the outburst was not disrespect; but frustration after many years of working on these projects.

Martha Seidel Bond said she wanted to thank Mayor and Council for all their hard work.

Diana Lett said she understood the fee schedule had been revised to accommodate lower fees for very small additions to the very small homes in Feldman's Neighborhood. She stated she appreciated the effort on the part of Mayor and Council and staff and felt it was appropriate. She stated the four hundred square foot level of the lowest fee level was a fifty percent increase in the floor area of her house by no means did she have the smallest house in the Feldman's Neighborhood. She thanked the Mayor and Council again for their consideration of the revised fee schedule.

Mayor Walkup asked if there was anyone else wishing to speak on this issue.

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

It was moved by Council Member Trasoff, duly seconded, that Ordinance 10726 be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any discussion.

Council Member Trasoff said she wanted to acknowledge the writers of the letter she read during the last agenda item and the fact that Feldman's Neighborhood had put so much work into this. She said the letter was from Monika Ashe, President of the Feldman's Neighborhood Association, Diana Lett, Vice President; Sarah Harris, Secretary; Lisa Romero, Treasurer; Phyllis Webster, Historian; and Carolyn Kendrick,

Co-Chair of Feldman's Neighborhood Preservation Committee. Council Member Trasoff thanked all the extraordinary individuals for the work they put into this item.

Vice Mayor Romero thanked the neighborhood residents who put in thousands of hours of work in commitment and caring for their community to bring a better quality of life not only to the neighbors and themselves but the entire City. She also thanked everyone for hanging on an extra week, as well as staff for guiding Mayor and Council through this process and for putting their commitment and time into this project.

Vice Mayor Romero said she understood this was not the cure all; but was part of conversation that would continue and was one small part of what would lead the City in the proper direction. She said the issues of densification, a better quality of life for the community and advocating for historic preservation in the community would continue to be raised. She said it was needed not only to make sure balance would be brought to the conversation, but to recognize the intense problems these issues brought to the community. She added she looked forward to looking into the future, on how neighborhoods and others would be helped to find solutions for the issues and the problems that were brought to the Mayor and Council's attention. She congratulated the neighbors for sticking with this item and for helping the Mayor and Council come to their conclusion.

Penelope Netz said she was sad to see Council Members Leal and Trasoff leave. She stated she stood before the Mayor and Council on October 24, 2001, on an appeal and had the privilege of rezoning in her neighborhood's historical section to have a business. She stated this measure would affect them, as well with Feldman's, as she was worried about encroaching, mini-dorms, etc.

Ms. Netz noted she had to go through many hoops and legal stipulations in order to start her business. She said people were worried that no one would ever know she conducted her business despite people putting mini-dorms up and behaving in a certain manner. She said she did not understand why everyone did not have to go through the same codes of conduct. Ms. Netz stated it took her a year to get her business passed and proven and she thought it was important that they had the same stipulations with respect to neighbors and such and everyone would be affected.

Council Member Leal said he did not see the time this had taken as a statement about it being new, or about Mayor Walkup being tedious, detailed or niggling. He said it was just inherently difficult as each case would be. He said there was no way to make it simple and this was okay, this idea just needed to be embraced. Council Member Leal said it was as complicated as an organ transplant; if done incorrectly, the body rejected it. He said something could not, arbitrarily, be set up with a two-month process because the developer needed certainty.

Council Member Leal said the first neighborhood affected by this would cause other neighborhoods to think they too would be treated in the same manner. He said the playing field would be gone forever, so the only real way to make it work was just the

way it has happened. He said the inherent complexities should be understood, embraced, and everyone work together. Otherwise the City would be its own worst enemy and it would not be a win-win situation. He noted what did not need to become denser was this; densification could be figured out but the Mayor and Council should not become insensitive and stupid just to push things through in the name of progress.

Mayor Walkup asked the City Clerk to read Ordinance No. 10726 by number and title only.

Ordinance No. 10726 relating to Development Compliance Code; clarifying the process for appeal of decisions by the Director and Design Review Board concerning Neighborhood Preservation Zone applications by amending Tucson Code Chapter 23A Article II Sections 23A-32.1 and 23A-61 to clarify parties having a right to appeal decisions of the Director; and providing Board of Adjustment appeals process; adding a new Section 23A-64 providing appeal process to the Design Review Board from decisions of the Director; amending fees charged by the Planning and Development Services Department to add fees for compatibility review by the Design Professional and appeal to the Design Review Board; and declaring an emergency.

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

Upon roll call, the results were:

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

Nay: None

Ordinance 10726 was declared passed and adopted by a roll call vote of 7 to 0.

10. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 593, dated November 24, 2009, was received into and made part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 7 to 0, to appoint Nicholas Nieto to the Board of Appeals in the Trade category; and to the West University Historic Zone Advisory Board, appoint Jefferson W. Thomas in the Special Qualifications category; and reappoint Barbara Macri in the Special Qualifications category and Lori Boston and James F. Bly in the Resident category.

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

No personal appointments were made.

11. ADJOURNMENT: 7:03 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Monday, December 7, 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 24th day of November 2009, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:tl:sac