



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on September 28, 2010.

Date of Meeting: April 13, 2010

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 5:31 p.m., on Tuesday, April 13, 2010, all members having been notified of the time and place thereof.

1. ROLL CALL

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

Present:

Regina Romero	Council Member Ward 1
Karin Uhlich	Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Richard G. Fimbres	Council Member Ward 5
Steve Kozachik	Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused:

Vacant	Council Member Ward 2
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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 Earl Cantos, St. Demetrios Greek Orthodox Church, after which the Pledge of Allegiance was led by the entire assembly.

PRESENTATIONS:

- a. Mayor Walkup presented a Copper Plaque to the family members of the late former City Council Member Hector Morales.
- b. Certificates of Appreciation were presented to the members of the Santa Rita High School Boy's Basketball Team, 4A-II State Champions.
- c. Certificates of Appreciation were presented to the United Way Volunteers for their efforts in the "Catch the Cash Bus."
- d. Mayor Walkup proclaimed April 12 to April 18, 2010 to be "Cyclovia Tucson Week."
- e. Mayor Walkup proclaimed April 2010 to be "Sexual Assault Awareness Month."

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 143, dated April 13, 2010, 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 Romero invited the public to participate in "Victims' Rights Week" and "Child Abuse Prevention Month." She also invited the public to participate in "Dine Out for Safety" on April 21, 2010, and the 16th Annual Earth Day Festival on April 17, 2010.
- b. Council Member Fimbres announced the successful grand opening of the second QuikTrip Store in Ward 5 was held on April 8, 2010, creating up to thirty new jobs and on April 11, 2010, more than six dozen people from Team Tucson joined the more than twelve thousand walkers for the Susan G. Koman Race for the Cure. He announced the passing of Ray Figueroa, a dear friend and AFSCME Union Leader. He also urged everyone who had not already done so to fill out and return the 2010 U. S. Census Survey.
- c. Council Member Kozachik announced that Graffiti Protective Coatings teamed up with the Palo Verde and Garden District Neighborhood Associations to clean up the neighborhoods on April 10, 2010; and invited everyone to attend the Arizona Film Festival from April 15 to April 25, 2010, at the Screening Room on Congress Street and the "Second Saturdays" event beginning on May 8, 2010, and running through the end of the year.

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

Mayor Walkup announced City Manager’s communication number 144, dated April 13, 2010, 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, stated the Planning and Development Services Department was hosting a “Certificate of Occupancy Night” beginning on April 29, 2010, and every last Thursday of the month thereafter, for nighttime services for new and existing businesses.

Mayor Walkup congratulated the Planning and Development Services Department for offering this program.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager’s communication number 145, dated April 13, 2010, 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)

New License(s)

- 1. Mariscos Chihuahua #8, Ward 5
435 W. Irvington Rd.
Applicant: Elena Sotelo
Series 12, City 12-10
Action must be taken by: April 26, 2010

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

Public Opinion: Written Arguments Opposed Filed
 Written Arguments in Favor Filed

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)

This item was considered separately.

Person/Location Transfer(s)

- 2. Sonora Market, Ward 5

3050 E. 36th St.
Applicant: Thomas Robert Aguilera
Series 9, City 11-10
Action must be taken by: April 22, 2010

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

Public Opinion: Written Arguments Opposed Filed
 Written Arguments in Favor Filed

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)

This item was considered separately.

c. Special Event(s)

NOTE: There are no special event(s) scheduled for this meeting.

d. Agent Change/Acquisition of Control/Restructure

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

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Application(s)

New License(s)

1. Mariscos Chihuahua #8, Ward 5
 435 W. Irvington Rd.
 Applicant: Elena Sotelo
 Series 12, City 12-10
 Action must be taken by: April 26, 2010

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

Public Opinion: Written Arguments Opposed Filed
 Written Arguments in Favor Filed

Roger W. Randolph, City Clerk, announced the first item to be considered separately was Item 5b1, Mariscos Chihuahua #8, located in Ward 5.

people from the neighborhood had rallied behind the applicant, because of his past conduct. He said it was an excellent market, and the applicant was struggling through this great recession; but was making it. He said this would be the last thing he had to say, but noted there were a number of people who drove to the meeting in support of the application. He asked those in the audience in support of the application to stand, and thanked them for their support. He said the neighborhood had come together behind the business and were present to ask the Mayor and Council to support a recommendation of approval for the location transfer.

Charlotte Cruz, Las Vistas Neighborhood Association (LVNA), said she became very acquainted with Sonora Market over fifteen years ago, when they first started. She said she has known them to be one hundred percent in support of anything they did in the neighborhood, whether it was supplying backpacks for the poor, doing something with the Boys and Girls Club, or helping the elderly in the neighborhood. She said she supported them one hundred percent. She said, for them to be able to compete in today's market on what the LVNA was requesting, what they had asked them to do and all they were trying to do, was simply complying with the LVNA's needs. She said it was more like a family market. There was not anything they did not have that the neighborhood needed, and if they did not have it, they would get it.

Willie Blake, Jr. said he was from the Western Hills area, and was the Chairperson for the Kino Coalition, consisting of four neighborhoods. Mr. Blake said sometime around 2005, they tested the area to see who would sell liquor to underage drinkers. He said everyone in the area passed the test, except for one business. Sonora Market was one of the businesses that passed the test. Mr. Blake said not only did they pass the test, but when the Boys and Girls Club was having a hard time surviving, Sonora Market helped them with food for the after-school program. He said they did a good job with that, and each year that went by, they had a cookout for the community. Mr. Blake commented that one of the individuals who had the cookout in the neighborhood was at the evening's meeting.

Mr. Blake said the main reason he wanted to support the applicant was because they asked the applicant to circulate a petition to find out who in the neighborhood supported their liquor license application. The business circulated a petition and obtained many signatures in support of the liquor license. Mr. Blake said he had no choice but to say "yes" to the application, as they obtained about one thousand signatures and commented that many were in attendance. He urged the Mayor and Council to support the application and give the neighborhood a one-stop store.

Council Member Fimbres stated there were three letters of support and petitions with over nine hundred signatures in support of the license. He commented that the most important thing was that the LVNA, where the license was located, was in favor of the license. He also added there were an additional seventy-eight letters of support which were not turned into the City Clerk, as the deadline had passed, but would be forwarded to the State Liquor Board.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Ward 2 Vacant), to forward liquor license application 5b2 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. Jean-Paul Bierny, retired physician, spoke in opposition to the noise from F-35 aircraft flying over Tucson.
- b. Robert Reus spoke about his experiences with photo-radar cameras and made suggestions to make them more equitable and fair.
- c. Kent Solberg spoke about his concerns with the F-35 aircraft. He also commented in opposition to the proposed changes to the pawn shop ordinance, and the proposed closure of the parking area on the east overlook of Sentinel Peak.

Council Member Romero directed the City Manager to give Mr. Solberg the timeline of public informational meetings on Sentinel Peak, and that the Parks and Recreation Department give Mr. Solberg information on the proposed *Sentinel Peak Master Plan*.

- d. Beryl Baker spoke in opposition to prohibiting parking at the base of A-Mountain at Sentinel Peak Road.
- e. Joe Sweeney spoke about the problems regarding illegal immigrants.
- f. Dick Basye spoke in opposition to the parking lot closure at A-Mountain.
- g. Jamie Schremmer spoke in opposition to the possibility of the F-35 aircraft coming to Tucson.
- h. Ellen Rauch, representing Pima Independent Voters (PIV), spoke in support of Non-Partisan and Ward only elections.
- i. Sara Smith spoke in opposition to the F-35 aircraft flying over Tucson.
- j. Bob Oldfather, Bookmans, spoke in opposition to the proposed pawn shop ordinance.
- k. Greg Goile, Super Pawn owner and President of the Arizona Pawn Association, spoke about the proposed pawn shop ordinance, supporting the licensing option.

Council Member Kozachik asked the City Manager to follow up on the feedback they were given by the second hand and pawn industry, and asked that they craft an ordinance that would get the Police Chief what he needed in terms of cost recovery. He also asked that they forget about the transaction fee, stating the Mayor and Council just took a position several weeks ago with respect to the payday loan industry. He said his sense was that it was the same clientele being impacted. He commented that if they could get to the same point the Police Chief needed from a cost standpoint without impacting those customers and decreasing the administrative burden, he would encourage that.

- l. Robert Shomenta spoke about the fairness problem with red light cameras, in particular, with the left turn lanes.
- m. Devi W. Day, representing Independent Producers of Public Access, spoke in opposition to changes in the contract for Public Access.
- n. Ron Spark, El Encanto Estates Homeowners Association President, spoke about his concerns of potential erosion of the Broadway Corridor, due to the widening of the Corridor.
- o. Becky Miller, Keeling Neighborhood resident, spoke about her concerns with the F-35's flying over Tucson.
- p. Mark Spear spoke about his technical experience with red light cameras. He said he supported extending the yellow time and other measures to improve fairness to the public and the operation of red light cameras.

7. CONSENT AGENDA – ITEMS A THROUGH D

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. REAL PROPERTY: AUTHORIZATION TO ACQUIRE REAL PROPERTY AT 2419 EAST BROADWAY UNDER THE ADVANCED ACQUISITION PROGRAM
 1. Report from City Manager APR13-10-147 WARD 6
 2. Resolution No. 21507 relating to real estate; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, certain real property located at 2419 East Broadway needed for widening of East Broadway Boulevard from Euclid Avenue to Campbell Avenue; and declaring an emergency.

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

B. BOARDS, COMMITTEES AND COMMISSIONS: CREATING THE BROADWAY BOULEVARD CITIZENS PLANNING TASK FORCE

1. Report from City Manager APR13-10-148 WARDS 5 AND 6
2. Resolution No. 21508 relating to Boards and Commissions; creating the Broadway Boulevard Citizens Planning Task Force; and declaring an emergency.

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

C. REAL PROPERTY: AUTHORIZATION TO ACQUIRE RIGHT-OF-WAY FOR THE DOWNTOWN LINKS PROJECT BETWEEN INTERSTATE 10 AND BROADWAY BOULEVARD

1. Report from City Manager APR13-10-149 WARDS 1, 5 AND 6
2. Resolution No. 21509 relating to transportation; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, certain real property needed for construction of the Regional Transportation Authority (RTA) Downtown Links Project between Interstate 10 and Broadway Boulevard; and declaring an emergency.

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

D. PARKS AND RECREATION: APPROVING THE VALENCIA CORRIDOR LONG-RANGE PLAN

1. Report from City Manager APR13-10-153 WARDS 4 AND 5
2. Resolution No. 21510 relating to Parks and Recreation; authorizing and approving the Valencia Corridor Long-Range Plan; and declaring an emergency.

It was moved by Council Member Kozachik, duly seconded, that Consent Agenda Item D 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 Romero, Uhlich, Scott, Fimbres, and Kozachik; and Mayor Walkup

Nay: None

Absent/Excused: Council Member Ward 2 (Vacant)

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

7. CONSENT AGENDA – ITEM B

B. BOARDS, COMMITTEES AND COMMISSIONS: CREATING THE BROADWAY BOULEVARD CITIZENS PLANNING TASK FORCE

1. Report from City Manager APR13-10-148 WARDS 5 AND 6
2. Resolution No. 21508 relating to Boards and Commissions; creating the Broadway Boulevard Citizens Planning Task Force; and declaring an emergency.

Roger W. Randolph, City Clerk, announced the first item to be considered separately was Consent Agenda Item B, at the request of Council Member Kozachik.

Council Member Kozachik stated the first two items on the Consent Agenda concerned him for several reasons. The first reason was that the Mayor and Council had been talking about committees and commissions, and whether or not they were asking citizens to participate in a process in which they were just given lip service. Council Member Kozachik stated that Consent Agenda Item B related to the formation of the Citizens Task Force that was to provide input to the Broadway Boulevard expansion. He said the Task Force had not yet been formed. The role of the Task Force was to guide the process for the planning and design of the project; yet as one of the speakers earlier noted, this project was being designed on the basis of a 1987 study which was approved in 1989 by the Mayor and Council.

Council Member Kozachik said he was concerned that they were moving forward with the design that was a couple of decades old. He commented that all of the economics, all the transit modes, and the entire landscape had changed since then. He asked to hear from the Department of Transportation (TDOT) Director. He said there were thirteen members of this committee, and four of them represented neighborhoods along the Broadway Corridor. Four were from the business community in the same area, one from the Citizens Transportation Advisory Committee (CTAC), one from Alternative Modes, one from Special Needs regional interest, and also the Planning Commission.

Council Member Kozachik said the language before him said that the eight members of the Task Force, from the neighborhood and business community, were supposed to provide “input” and that “input” would be received from Wards 5 and 6. He asked staff what type of input they were looking for, when they should start providing that to staff, and the process they were looking for from Wards 5 and 6.

Jim Glock, Department of Transportation Director, replied that as with the Grant Road Corridor, they were modeling the assembly of the committee in a very similar fashion. They planned to hold a public open house to present the ADA Plan and data collected to date to the public at large. At that particular time and location, as well as online and a select mailing to the neighborhood associations, there would be an application for candidates to fill out and provide information for the Mayor and Council to then sit down with him and his staff to make the selection to the Committee. He stated

it would essentially be a consensus selection process. He said he would be following Council Members Fimbres' and Kozachik's direction on which individuals they wanted to see fill those particular positions.

Mr. Glock said that having himself as the appointing authority was a vehicle by which to streamline the selection process, so that based upon Council Members Fimbres' and Kozachik's approval, he did not have to go through the procedure of scheduling and returning the item to the Mayor and Council for full Council approval. He said that was the process staff intended to follow with respect to filling those particular positions, and said they looked forward to working directly with Wards 5 and 6 on that activity.

Council Member Kozachik asked when those names were needed.

Mr. Glock stated they anticipated not having the applications due until a couple weeks after the open house, so possibly later in May or early June. He added that they would certainly work with Wards 5 and 6 with respect to the time frames they wanted to avail their constituents to provide applications for their consideration.

Council Member Kozachik said he fully supported the process, and it was what they envisioned when they asked for citizen input.

It was moved by Council Member Kozachik, 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 Romero, Uhlich, Scott, Fimbres, and Kozachik; and Mayor Walkup

Nay: None

Absent/Excused: Council Member Ward 2 (Vacant)

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

7. CONSENT AGENDA – ITEM A

A. REAL PROPERTY: AUTHORIZATION TO ACQUIRE REAL PROPERTY AT 2419 EAST BROADWAY UNDER THE ADVANCED ACQUISITION PROGRAM

1. Report from City Manager APR13-10-147 WARD 6

2. Resolution No. 21507 relating to real estate; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, certain real property located at 2419 East Broadway needed for widening of East Broadway Boulevard from Euclid Avenue to Campbell Avenue; and declaring an emergency.

Roger W. Randolph, City Clerk, announced the next item to be considered separately was Consent Agenda Item A, at the request of Council Member Kozachik.

Council Member Kozachik said the reason he wanted to discuss Consent Agenda Items A and B in reverse order was because Item A spoke to the advanced acquisition of property along the Broadway Corridor. He said unless and until a Citizens Task Force was formed, he was concerned they were purchasing property that assumed the design and the planning process that had not even begun, as far as citizens input was concerned.

Council Member Kozachik said he understood that this was just one piece of property at the far west end of the corridor, and was asking for clarity that if by authorizing this advanced acquisition, were they assuming a design going forward towards the east, that the citizens did not have an opportunity to provide input for, as of yet, and as the Task Force was being formed.

Jim Glock, Department of Transportation (TDOT) Director, said there was some irony with respect to having this particular item before the Mayor and Council at this time. He stated that when the Mayor and Council adopted the alignment for Broadway in 1989, they also established an advanced land acquisition program, recognizing that the establishment of an alignment might cause hardship for property owners along the particular corridor. He said over the years the City had purchased a couple dozen properties in accordance with that alignment recommendation in 1989. He stated there were three general conditions upon which advanced land acquisition requests would be considered.

First, Mr. Glock said, was a medical hardship. If a property owner actually fell within the alignment, and for medical reasons could no longer afford to keep their home, the sale of the home, given the call that the alignment placed over that particular property, the City would entertain the purchase for that particular individual. He said the second condition, and this particular property had somewhat to do with that, was financial hardship. For whatever reason, if the property owner had a financial hardship, and again if the establishment of an alignment that impacted the property would impact the ability for the individual to sell the property, the advanced land acquisition program could be used.

Mr. Glock continued saying that about ten years into the program, the Mayor and Council then realized that there was also perhaps an advantage to purchasing property to defer a development that would then cause a higher cost to the taxpayers associated with allowing the property to remain on the market. He said this fell in the latter two conditions; the property was currently vacant, the property owner approached the City

because they had not been getting any particular interest in the current real estate market and requested the City to consider its purchase under the advanced land acquisition program. He said that was why this item was before the Mayor and Council.

Mr. Glock noted that this was property essentially west of Tucson Boulevard on the north side of the roadway. The City owned the property at the northwest corner of Tucson Boulevard and Broadway Boulevard. He said at the northeast corner of Broadway Boulevard and Tucson Boulevard was the DeConcini Law Office, and said that office was set back considerably. The setback of that particular structure was in accordance with the 1989 plan. He stated that while the City was certainly not going to close the door to the Citizen Advisory Committee (CAC) to reaffirm and/or request modifications to the alignment that the Mayor and Council adopted in 1989, in this particular location, the City had already made investments in accordance with that alignment, thus, the recommendation of the City Manager for the Mayor and Council to consider the purchase at this time, given that the City had the funds and given that there had already been investments made for a land acquisition directly to the east of this location. He added that, from TDOT's perspective, they had no problem with respecting the wishes of the Mayor and Council to allow the planning process to mature far enough along to affirm or reaffirm the alignment; but said that could take well over twelve months.

Mr. Glock noted that the building was currently vacant, and if it became occupied and the City had to acquire it, the relocation benefits would probably equal the value of the cost of the property. He also noted that he participated in the 1989 alignment work and while some of the new approaches to planning roadways where one employed what was known as contact sensitive design solutions, which were used on Grant Road, would also be employed and considered in this project. He said he thought that, in looking at properties to the south of this particular location there were viable, long term businesses, and he could only imagine the City would want to do what they could to bolster and help them thrive.

Mr. Glock said the premise of the alignment for the 1989 plan was to actually shift the center line of the roadway where the southern right-of-way of the roadway was to the north, recognizing that his predecessor had already widened Broadway Boulevard to the doorsteps and another inch of width needed would essentially impact structures and buildings. He said the planning process of twenty years ago that had hundreds of meetings associated with it, before the recommendations came before the Mayor and Council, was to move the southern right-of-way aligned to the northern extent possible, to actually give an opportunity for rights of existing rights-of-ways to be vacated and/or sold to the southern businesses to allow them to restore their viability. Over the years, he said, that was what had been the basis for the City's investment to date.

Mr. Glock said this put the Mayor and Council in an awkward situation given Dr. Spark's comments with respect to the fact that the City's planning premises had changed over twenty years. He said the eight lane cross section that established the alignment then, and while they were still required to have three travel lanes in each

direction and two transit lanes, how those would be work out, could be reconsidered. He said he would also be talking to the CAC about boulevard concepts where maybe up to two, if not four, of the lanes on the outside were actually local access business lanes; and then the through lanes to deal with the regional mobility needs would be addressed there.

Mr. Glock cautioned the Mayor and Council that this was a Regional Transportation Authority (RTA) funded project. The only criteria or parameters within which the RTA was going to hold the City to was the ballot language, which was three lanes each direction and the transit lanes. Beyond that, he thought the CAC and the Mayor and Council had discretion with how they placed those lanes on the ground.

Council Member Kozachik said he appreciated Mr. Glock's comments, and said from what he heard; the purchase of this piece of property did not assume any decisions regarding the eventual Broadway Boulevard realignment. He said he understood the economics of it as well, and had gone over that with the Real Estate Department earlier. He said his concern was that it was 'ironic' that this item was before the Mayor and Council and commented it was at least that, and they also had coming back, if not the next week, the week after, staff's write up on the Safe Harbor Ordinance discussed earlier. He said he was concerned that they were not incorporating all of those into Item C as well. He was also concerned that they were not advising landowners and residents of the relocation rights they had available to them.

Council Member Kozachik added that even more to the point on this issue was that the Citizen's Task Force needed to get their oar in the water. He said with all of that having been said, he would authorize the advanced acquisition of this particular piece of property with the understanding that they were asking the TDOT to engage the Citizen's Task Force and receive their input, with respect to the eventual design of the Broadway Boulevard Corridor.

It was moved by Council Member Kozachik, 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 Romero, Uhlich, Scott, Fimbres, and Kozachik; and Mayor Walkup

Nay: None

Absent/Excused: Council Member Ward 2 (Vacant)

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

7. CONSENT AGENDA – ITEM C

C. REAL PROPERTY: AUTHORIZATION TO ACQUIRE RIGHT-OF-WAY FOR THE DOWNTOWN LINKS PROJECT BETWEEN INTERSTATE 10 AND BROADWAY BOULEVARD

1. Report from City Manager APR13-10-149 WARDS 1, 5 AND 6
2. Resolution No. 21509 relating to transportation; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, certain real property needed for construction of the Regional Transportation Authority (RTA) Downtown Links Project between Interstate 10 and Broadway Boulevard; and declaring an emergency.

Roger W. Randolph, City Clerk, announced the final item to be considered separately was Consent Agenda Item C, at the request of Council Member Kozachik.

Council Member Kozachik stated that very similar to Consent Agenda Item A, they had an alignment. He asked if the residents and businesses affected by that alignment had been notified of the status of the negotiations. He commented that the words “eminent domain” always made him cringe, yet he understood that the Safe Harbor Ordinance or staff’s recommendation was coming. He said those structures affected by the alignment had to be kept intact, inhabited, businesses up and running, and the residences functional until demolition forced their removal. He said that was his concern about this item, and asked the Transportation Director to comment on the subject.

Jim Glock, Department of Transportation (TDOT) Director, said they wanted to move forward to begin negotiations, make some selected acquisitions, and accommodate relocation requests along the corridor. To do so, he said they needed the Mayor and Council’s authority. In this particular case, he said they would leave structures standing as long as possible to keep the area and the corridor as active as they could overall. All the property owners occupying property along the corridor had been contacted. The only property owner the City had been unable to contact was the property owner of a parking lot at the northeast corner of Seventh Avenue and Sixth Street, where they nicked a portion of the property as they winged Sixth Street north to its new alignment.

Mr. Glock said as the Mayor and Council were briefed by Corky Poster a few months ago with respect to this particular area and corridor being one of the first candidates of an Urban Infill Development Zone designation, they were well poised to leap frog that safe harbor needs associated with the project and get right down to finalizing the alignments and the developed property they had along the corridor, so that they could jump start development interests and support the types of visions that the Mayor and Council supported with the Warehouse District Arts Master Plan, and the Urban Infill Development Zone as well.

It was moved by Council Member Kozachik, 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 Romero, Uhlich, Scott, Fimbres, and Kozachik; and Mayor Walkup

Nay: None

Absent/Excused: Council Member Ward 2 (Vacant)

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

8. PUBLIC HEARING: TUCSON CODE – AMENDING (CHAPTER 23) THE LAND USE CODE; RELATING TO ARCHITECTURAL DOCUMENTATION PRIOR TO DEMOLITION OF HISTORIC BUILDINGS

Mayor Walkup announced City Manager’s communication number 151, dated April 13, 2010, 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 a proposed amendment to the *Tucson Code*, Chapter 23, the *Land Use Code* that would require architectural documentation of historic structures prior to demolition. Mayor Walkup said staff would be making a brief statement prior to beginning the public hearing.

Ernie Duarte, Planning and Development Services Department Director, stated that as mentioned, this was a public hearing on a proposed *Land Use Code (LUC)* text amendment, pursuant to the Mayor and Council’s direction. At the Study Session held March 9, 2010, the Mayor and Council heard an update from staff on the proposed architectural documentation text amendment. He said the proposed amendment was pursuant to direction given by the Mayor and Council in January 2009. The amendment, if adopted, required documentation of structures fifty years old or more prior to their demolition. He said the documentation was typically in the form of photographs and in some cases, drafted floor plans. Mr. Duarte said this architectural documentation was common in several cities throughout the United States. The requirements did not prevent demolition, nor did they mandate preservation or cause significant delays in the demolition process. Mr. Duarte said staff was available to answer any questions of the Mayor and Council after the public hearing.

Mayor Walkup announced the public hearing was scheduled to last for no more than one hour, and speakers were limited to five-minute presentations.

Demion Clinco, Tucson Historic Preservation Foundation President, said he was also an appointed member of the Tucson-Pima County Historical Commission. He stated this change was significant for future historians and scholars to reflect back on how the community continued to evolve. He commented that so many historic buildings were lost

without a trace, and this would, at the very least, provide a base for a future scholarship. He asked for the Mayor and Council's support of the proposed amendment.

Teresita Majewski, Tucson-Pima County Historical Commission Chair, reiterated the Commission's support for the proposal. She said they appreciated how the City Manager's Office worked with the City's Historic Preservation Officer, and did research to bring the City in-line with what other communities were doing. She said it was not an onerous process and would help, as Mr. Clinco said, to move forward with development, being equitable with everyone, but keeping that record, because in many cases there was no other way to retain documentation. She urged the Mayor and Council to support the proposed amendment.

John O'Dowd, Sam Hughes Neighborhood Association (SHNA) President, said he supported the amendment, and hoped there were stronger efforts to preserve historic structures. He said the SHNA had a building demolished on First Street about a year ago by the Post Office, which now occupied the entire lot. He said it was unfortunate that it was R-2, as were many of the properties in the neighborhood that had single family residences with the kind of setbacks and yard separations typical of the neighborhoods targeted for infill with the mini-dorms. He asked if there was some way they could incentivize people to protect and preserve those structures. He said that would go further than just memorializing them and making history. However, he said that was a step forward, and he commended the Mayor and Council for it. He said he hoped the amendment passed to at least have some documentation of what historic structures were and what their little bungalows were, before they got destroyed and replaced with mini-dorms.

It was moved by Council Member Romero, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Ward 2 Vacant), to close the public hearing.

Mayor Walkup asked the City Clerk to read Ordinance 10776 by number and title only.

Ordinance No. 10776 relating to planning and zoning; amending certain portions of the Land Use Code, Chapter 23, Article V, Administration, Division 3, Special Development Applications, adding Section 5.3.11, Architectural Documentation Prior to Demolition of Historic Buildings; and declaring an emergency.

Council Member Uhlich thanked the members of the public who took the time to come forward and speak at the evening's meeting. She said it was an important step the City was taking. She added that what the City was trying to do was hold in balance the pressures of infill, with the real desire and need to preserve historic structures and, at a minimum, appropriately document them for the record.

It was moved by Council Member Uhlich, duly seconded, to pass and adopt Ordinance 10776.

Council Member Kozachik said he was not sure who to address his question to, but said he was concerned about drafting ordinances that had nebulous or perhaps objective language in them. He asked what constituted a contributing property and was the City opening itself up to question litigation by using that type of language.

Jonathan Mabry, Historic Preservation Officer, said he worked with the City Attorney's Office on the Ordinance at the Mayor and Council's direction. The documentation required by the Ordinance was based on national standards of what a historic building was. He said that was the same criteria used to comply with federal regulations for a number of City programs. He said to answer Council Member Kozachik's question directly, the documentation would be required for buildings already listed on the National Register of Historic Places, which had to meet the national criteria to get that designation. He added that almost on a daily basis, the Historic Preservation Office, had to apply those criteria to comply with federal regulations. He said it was the same criteria that the Tucson-Pima County Historical Commission used in their reviews. Whenever a new historic district or a building, in the City, was nominated to the National Register those were the same consistent criteria used; and were the criteria that other communities used. He said the City was leaning on the National Standards.

Council Member Kozachik clarified then that those criteria helped to further define what the City was calling contributing properties.

Mr. Mabry replied that contributing properties were the historic buildings within districts. There were also a number of historic buildings in the City that were individually listed on the National Register of Historic Places, and it was the same criteria that applied to both the individually listed ones and the ones that were contributors to the district.

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 Romero, Uhlich, Scott, Fimbres, and Kozachik; and Mayor Walkup

Nay: None

Absent/Excused: Council Member Ward 2 (Vacant)

Ordinance 10776 was declared passed and adopted by a roll call vote of 6 to 0.

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

Mayor Walkup announced City Manager's communication number 150, dated April 13, 2010, was received into and made part of the record. He also announced this was time and place legally advertised for a public hearing on a proposed amendment to the *Tucson Sign Code* addressing the regulation of banners. Mayor Walkup said staff would make a brief statement prior to beginning the public hearing.

Ernie Duarte, Planning and Development Services Department (PDS) Director, stated this was a continued public hearing from November 2009. The recommendation at that time was to revise the City's *Sign Code* specific to temporary banners. He said in essence, the Mayor and Council were being asked to consider amending the *Sign Code* to reduce the allowable size and time allowed to be displayed. The Mayor and Council at that time heard testimony from the community regarding the hardships that businesses were facing at the time, and how temporary banners were a key to business operations. He said the Mayor and Council directed staff to return to the Citizen Sign Code Committee (CSCC) and small business stakeholders to revisit the proposed *Sign Code* amendment. Staff held two study sessions with stakeholders and the CSCC and one public hearing on the matter. The CSCC took no action on the original proposed amendment. However, they did pass a motion requesting the Mayor and Council to direct staff to increase enforcement of illegal temporary banners. Mr. Duarte stated that at the evening's meeting, staff recommended no changes to the *Sign Code* with respect to banners. He said staff was available answer any questions after the public hearing.

Mayor Walkup said the public hearing was scheduled to last for no more than one hour, and speakers were limited to five-minute presentations.

Robert Medler, Tucson Metropolitan Chamber of Commerce (TMCC), and retained speaker on the Manager Government Affairs thanked the Mayor and Council for postponing the item from the November 17, 2009, meeting and continuing it to the evening's meeting. He said the TMCC had strong concerns that such an important issue was not very well advertised, and many people, as well as, their members, other organizations, and members of the public had not heard of it. However, they had the opportunity to come back in January, February, and March to give their input.

Mr. Medler said banners and signs were important to every business. Banners and signs drove customers to stores and stores would get more sales. Therefore, as a community they received more revenue. He said it was very basic and thought everyone understood that. He added that in the current economic climate, it could not be stressed enough how important that currently was. Mr. Medler said he completely agreed with the complaints people had about the banners. Some of the banners and signs were atrocious. He said, however, those complaints were for people who were not following the current code, because the current code was not being enforced. He said the City did not have the resources to enforce it; it was not a priority right now.

Mr. Medler said in working with Ernie Duarte and Glenn Moyer from PDSO, both did a great job in giving them the chance to come back, look at this issue, listen to their arguments, and put this forward in front of the CSCC, and again before the Mayor and Council. He urged the Mayor and Council to follow staff's recommendation and not change the current *Code*. He asked why would the Mayor and Council want to consider making the *Code* stricter and punish businesses that were doing things right, to try to catch the ones who were doing things wrong. Mr. Medler said the answer to that was through proper enforcement, whether it be through the PDSO, Department of Neighborhood Resources (DNR), or the Tucson Police Department (TPD). He said he believed the TPD was identified back in November as being a possible solution to the original complaint, which were signs that involved liquor stores and the safety issues associated with that.

Mr. Medler said, on behalf of the TMCC, he wanted to thank the Mayor and Council for postponing the item to allow additional public input, and asked them to follow staff's recommendation.

Matt Somers stated he signed a letter addressed to the CSCC to literally get rid of banners. He said he knew that was not going to happen, but said he did so because he had lived in the community for a long time, and every year there seemed to be more and more banners out there. He commented there was one sign in the area of One Thousand East Broadway Boulevard on the south side of the road. The company had a sign that said "Open Saturdays", which had been up for about three years. He said, in the area of Two Thousand East Broadway Boulevard, there was a sign that said "For Rent", which had been in front of the building for at least six months, if not a year and made the building look bad. He stated there was another sign on the northwest corner of Wetmore Road and First Avenue, regarding a fabric store that had a clearance sale. He was not aware of how long the sale had been going on, but it had been going on a long time.

Mr. Somers said contrary to what the representative of the TMCC said, every time he went to look for a business, he looked in the Yellow Pages and by word of mouth type of advertisement. He said he never went into those businesses he mentioned for any of their products. It was not the fact that the banners worked. What the banners did was make everything look worse. Mr. Somers said he was recently in Scottsdale, and they hardly had any banners at all, and it looked nice. He commented that hopefully, Ultimate's banner on Wetmore Road and Oracle Road would not be up for another couple of years saying "Grand Opening." He urged the Mayor and Council to restrict banners as much as possible.

Ron Spark, stated he was a local physician and a concerned citizen. He said he had lived in the area for thirty-five years and said it was a beautiful community. The banners, he said, were like seeing somebody's stockings falling down. They were ugly and tawdry; and diminished everyone. He said the City was allowing a situation to become normalized, just like smoking used to be twenty years ago. It was normal behavior, it was accepted, but it was abnormal. The banners were ugly things that degraded the community. Dr. Spark said he would like to see a forty-five day limit on

the signs, and if there was a frontage of less than ninety feet, to limit them to forty-five square feet. The key was to set a norm; and by enforcing that, everyone would know what the rules were and would become compliant. He said most people, including businesses that were responsible, became compliant. He said Tucson had become an ugly town because of the banners. Many banners and signs were tattered, not maintained, and were plastered all over. He commented that Tucson was such a beautiful community, and urged the Mayor and Council to step forward and make it an aesthetically attractive place to live.

John O'Dowd stated he was a member of the CSCC. He said he made the motion on the issue at the CSCC meeting, but unfortunately, it lacked one vote to make it a recommendation. However, the majority of the CSCC moved to forward the item to the Mayor and Council for reconsideration. He commented it was almost exactly the same Ordinance that they had earlier. He said he felt they had given the industry a fair chance to make their case about it, hindering their bottom line. They did not hear much from them until it came before the Mayor and Council and it was referred back to the CSCC. Mr. O'Dowd said the majority of the Committee voted to send it forward without a recommendation.

Mr. O'Dowd commented it was a very important restriction. The banners had become out of control, and the time limits were not reasonable. He said it should be a temporary advertising tool, and used on that basis. He said that was why the *Code* needed to be tightened, to get it back to that intent. As far as enforcement, he said, the Mayor and Council would notice from his motion and the discussion of the enforcement issue that the CSCC thought there was a problem, wanted to have that addressed, and wanted to meet with staff and the City Manager's Office to see what could be done. He said, if they read the Ordinance carefully, CSCC was supposed to also have a role in deciding what strength the *Code* needed to be properly enforced. However, he said, that was a separate matter from what was currently before the Mayor and Council. In making the Ordinance work as a temporary measure and reducing the size, accomplished the original purpose and at least put some teeth in the codification. The CSCC wanted to work on the enforcement matter separately, if they could, with staff.

Lee Oler said she was on the CSCC, as well as, Mr. O'Dowd and several other people. She said she was present to see what was going to happen at the evening's meeting. She stated she had a chance to visit with a couple of the Council aides to discuss the problem with the banner discussion. She said she understood that small businesses needed to advertise, but she also understood that they had to make the City look good. She spoke about a trip to San Diego a few weeks ago and said she was now in the habit of counting signs and banners and looking at everything that was posted above a store along the road. She said banners in San Diego were not nearly as prolific as they were in Tucson, and commented they covered a lot of spots in town because they were lost a lot of the time.

Ms. Oler said she was also a fan of Woody Guthrie, and quoted him by saying, "I'm gonna teach you something you already know." Ms. Oler said, when banners are

used in excess and profligate, they did not improve the looks of the City. They also did not keep the attention of the passersby, which was the purpose of banners. They just blend into the scenery after a while, lose their color, and were ugly. She urged the Mayor and Council to follow through with the CSCC's recommendation.

Ms. Oler emphasized that the City needed to work with small businesses. She was a proponent of Buy Local, Local First. She said she did not think that banners were the make or break for a business going ahead. She encouraged small businesses to first look into the Micro Business Association to help them form their business, so they would know what they were getting into before starting a business. She also encouraged small businesses to look into Score, a non-profit volunteer association that helped local small businesses. She added the Small Business Association helped steer people in the right direction. A lot of times, people had small businesses or had a great idea about opening a shop, but the City had not allowed or encouraged them to go with the correct tools when they go into their shop.

Ms. Oler said, she thought that a banner that was appropriate for the business and was displayed the minimum number of days, so it was noticed when driving by, was fine. However, to have something hanging up forever and ever looked like old laundry on the line. She added they did not want to have two Tucsons where one part of town did not have banners and the other had banners galore. She agreed that enforcement was a big problem and that was staff's problem. Staff had to figure out what to do about enforcement, as would the Mayor and Council.

Ms. Oler reiterated that they really had to clean up the City of these signs. She said she lived near Grant Road and Stone Avenue and recently had to report someone that had five tattoo signs hanging on his new tattoo parlor. She never saw any cars parked there, so the signs did not do a lot of good. City staff was finally able to get him to take a couple of them down and it looked slightly better. Ms. Oler concluded her comments by urging the Mayor and Council to help small businesses get to work, getting them profitable, but not depend on banners to do it. She also urged the Mayor Council to follow the CSCC's recommendation to make Tucson look like the great town that it was.

Mark Mayer said he was present on behalf of the Twenty Ninth Street Corridor Communities, and also speaking on behalf of Lupe and Gilbert Rodriguez stating Ms. Rodriguez was the former President and Governmental Liaison for the Fairgrounds Neighborhood Association (FNA), but her voice had gone out due to allergies. He said the FNA was in support of the Ordinance that was before the Mayor and Council on November 17, 2009.

Mr. Mayer read a letter to the Mayor and Council from the Twenty Ninth Street Corridor Communities.

"The Twenty Ninth Street Corridor Communities supports the original banner amendment that was before you in a public hearing on November 17, 2009, to limit banner use to ninety days a year and size to forty-five square feet for the smaller

buildings. We are not opposed to a phase-in period or allowing more than two permits a year, as you had discussed on the dais at your November meeting. The Twenty Ninth Street Corridor neighborhoods have complained for years about the banners that are draped all over stores in our area, particularly those that promote and expose youth to alcohol, tobacco, and other negative products. Banners were always supposed to be temporary displays for occasional specials, not permanent fixtures for never ending so called sales events. The original standards that existed, prior to 2001, need to be re-established in addition to more systematic code enforcement. The Twenty Ninth Street Corridor Communities strongly urges you to adopt the Ordinance that was before you on November 17, 2009 with any of the necessary adjustments just noted.”

Mr. Mayer said he also wanted to elaborate on a few of the points, as well. As a few of the other speakers mentioned, banners were a form of blight, because they sagged, faded, and even tore and blew in the wind as they aged. What they were starting to see were more banners being used, not just for some of the junk he talked about, but for permanent signage. He said there were stores where the businesses were not buying the permanent signs that the regular sign industry sold; and were just using banners. If the goal was to make it easier for start up businesses, there was actually a separate provision in the *Code* that allowed banners to be used temporarily for that purpose, three months. He said that could be extended to six months or so, in these times. But instead, he said they had the provision they were talking about, to say they could have any banner all the time.

Mr. Mayer said, as noted before, banners have always been intended to be a temporary type of signage. The issue was that a lot of banners out there were legal now, but the message that was sent, in 2001, when banners were allowed in a very stout Ordinance to be allowed all the time, sent the message was that this was not important. He stated that if the Mayor and Council adopted the Ordinance at the evening’s meeting, or with further study, whatever was appropriate, it would send the message that those banners were really temporary signs which were supposed to be treated in a certain way. They were not to be permanent or never-ending signs.

Mr. Mayer said he wanted to again touch on the issue of alcohol. He said Tucson was designated, in a survey a couple of months ago, as the ninth drunkest city in the Country. He commented he did not think that was something to be proud of and since a good part of the banner problem related to that, he said it was just one more reason to tighten up the *Code*.

Mr. Mayer continued that earlier that afternoon, the Mayor and Council discussed the Clean City Initiative. As neighborhoods, he said he thought they were seeing a dual standard. What the Mayor and Council was saying to neighborhoods was that it was okay for everybody to point the finger at everybody else, clean up your weeds, clean up your cars, do all kinds of stuff in the neighborhoods; but if they were out on the frontage street and had banners out all over the place, it was fine, and the Mayor and Council were not going to touch that. Mr. Mayer said he thought they needed an equal standard.

Neighborhoods needed to be cleaned up, but the businesses needed to clean up their act as well.

Mr. Mayer concluded that his last comment related to economic development. He said if there were people that wanted to relocate to Tucson from Silicon Valley or the Research Triangle in North Carolina, looking to invest in high tech or optics industry kind of facilities, did the Mayor and Council really think that Tucson would be a place they would want to relocate to if they drove through any of the major streets and saw banners all over the place, which made Tucson look like a two-horse town that was a little more than a glorified swap meet. He said he did not think so; a good sign regulation on this temporary signage actually promoted good economic development, and that was really the reality of it.

Mr. Mayer said the main role of government was to keep a level playing field, commenting that eighty percent of the banners was not because someone wanted to put up a banner, but because if their competitor down the street started putting temporary signs up, everyone felt compelled to do it too, as they did not want to lose market share. He said that was a lot of it. It was evidenced by the fact that for a year and a half, he was involved in the issue. He said not one single business that was a banner user, other than the sign companies themselves, came to articulate why banners were important for their business, not even any of the 'mom and pop' businesses that were alluded to at the November 17, 2009, meeting. Mr. Mayer urged the Mayor and Council to clean up the City, adopt the Ordinance, and keep an even playing field for businesses in the community.

Brent Davis stated he appreciated the opportunity to share his feelings on the proposed change regarding banners. He said he wanted to give them some brief history on the issue. In 1980, the basis for the current *Sign Code* was passed, and he said he was privileged to cast the fourth vote as a member of the Council at that time, to put the current *Sign Code* into law in Tucson. He said it was controversial at the time, but thought it had cleaned up the City quite a bit. He asked if anyone remembered what the banner situation was with the original *Sign Code*, commenting it was for grand openings only. He said it had crept over the last twenty to thirty years. Now the issue had become were the banners permanent signs or temporary signs. He said he defied anyone to look at him in the eyes and say they believed banners were permanent signs, commenting they were not. He said not one person from a sign company could say that, in good conscience, they were permanent signs; they were temporary signs. He said the question was how one defined temporary signs. He said he was a business owner, adding he was probably the first business owner that could use banners to testify in front of the Mayor and Council. He said he did not, and did not feel they were necessary.

Mr. Davis encouraged the Mayor and Council to move this to a more restrictive state. He said he did not think ninety days was enough. He thought it should be forty-five days, and felt they should go back to the original Ordinance of "Grand Openings" only.

Mr. Davis stated that the City, when considering billboards, A-frames, banners, and the weeds in the medians, was starting to look awfully shabby, which was something he did not think needed to be pointed out to a lot of folks. He said it was not a place that gave a sense of streetscape, which the community could be proud of; a streetscape where visitors and people wanted to come to the community as tourists and where people wanted to locate their businesses. He said he did not think they were sending the right message. He added he might be wrong, and they might not have four votes to change this at the evening's meeting, but said if there was one thing he really abhorred was how the beautiful City of Tucson was crumbling because of issues such as this. It was just one baby step at a time; banners, A-frames, and billboards, and in all fairness, he said the Mayor and Council did something about billboards and applauded them for that. There was half the number of billboards in the City today than when they started eliminating billboards back in 1980. But those things were very important to the City.

Mr. Davis said he had to do one aside and added that some friends of his owned a business on Speedway Boulevard in Ward 6. They were distressed at the amount of weeds and sent their landscaping company out to pull them. The police came and told them to quit or they were going to arrest them. He said, back to the banners, the City had to make the change, even though it did not go far enough for him. He said he would accept that and asked the Mayor and Council to remember where they started, "Grand Openings" only and now there was a proliferation of banners. He stated it needed to stop and should stop at the meeting that evening, at least with a step in the right direction.

Rick Grinnell, Smart United Business Strategies, commented that unfortunately, they were confusing issues. He said he felt the issue at hand was more about enforcement, which was where the frustration lied with everyone. Aesthetically, he said, some of the banners were pathetic. He said he would not want one in his back yard, let alone, out in the middle of a business, trying to promote a good quality business. He added that many of those things were about enforcement of the policies. They were dealing with a strange economic environment that did not allow them to do a whole lot of things. He said if they kept saying 'no', they were sending the wrong message. He said the issue probably would not be resolved in totality and probably needed a much more comprehensive review of not only just the banners, but maybe the entire *Sign Code*.

Mr. Grinnell commented that he remembered what the *Sign Code* situation was in the early 1980's, and was living in Tucson long before that. He stated that Tucson was evolving into a community with a lot of transient population that did not have a historical perspective of where things started. He asked the Mayor and Council to find a way to reintroduce the issue, and also look at the enforcement process. Maybe there should be some costs associated with putting up new banners, or set up some kind of simplified version of following up with the time frames on expirations. He said that could probably just be ten dollars more to continue the process, and then finding a way to follow up. He suggested that the issue could be suspended or tabled for now, but to outwardly turn down the recommendation for the sake of more restrictive opportunities was not the solution to a bigger problem, but only a solution to the symptom. The disease was much bigger than that when it came to the ugliness of the banners.

Mr. Grinnell concluded his comments by stating that if people were judged on aesthetics, everyone would have different opinions on who should or should not be on the streets. He said aesthetics was only a small part of the issue, and there was an economic package involved, whether they agreed with it or not. He said some business owners were struggling to keep their doors open, and that banner might be the only way of letting people know they were there.

It was moved by Council Member Scott, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Ward 2 Vacant), to close the public hearing.

Mayor Walkup asked Mr. Duarte to elaborate on the position that no further action was required by the Mayor and Council at the evening's meeting.

Mr. Duarte explained that in November 2009, staff brought forward some recommendations for proposed changes to the *Sign Code*. He said it was clear from the meeting that the Mayor and Council wanted to discuss the matter further publicly, along with the CSCC and members of the business community. As a result of those discussions, staff, at this point, had changed its recommendation and was suggesting to the Mayor and Council that no action be taken on revising the *Sign Code*. Therefore, they recommended leaving the *Sign Code* as it currently existed.

Council Member Romero stated that former Council Member Leal had concerns about *Sign Code* violations, especially in businesses where liquor and tobacco products were sold. She said it was a big issue in Ward 1, when there were banners or signs placed in clear view for officers and the public to be able to see inside of those stores. One of the major issues was the enforcement of the *Sign Code* at the time. She said, for her, it was important that they continue the dialogue about how the *Sign Code* should be enforced because the current *Code* was not being enforced. She asked how the Ordinance could be changed to something that was stricter if the current Ordinance was not being enforced. She said it was very important to her that the current *Sign Code* be enforced as it was, because it could be potentially dangerous for residents in the City.

Council Member Romero suggested that they not close the conversation at the evening's meeting, but continue the dialogue in the CSCC. She stated she liked the City Manager's recommendation that no changes be made at this time, but also liked the recommendations of the Twenty Ninth Street Corridor Community, which said that they were not opposed to a phase-in period and not opposed to more than two permits a year. She said she did not think they had come to a conclusion on either side of the issue, but suggested that they not close the doors on this dialogue and that the CSCC continue to communicate and talk about how they could make the *Sign Code* change something that could be a win-win for everyone.

Council Member Romero also commented that a second motion was made back in November, which was that the CSCC recommended that the Mayor and Council direct the Housing and Community Development (HCD) staff to prepare a plan for increased enforcement of the *Sign Code* for presentation to the CSCC. She asked that that be done

and continue the conversation at the evening's meeting. She suggested that they come back and have a phase-in period, and an extension of the instances that "mom and pop" stores could put up a sign to say that they were having an Easter sale, or Labor Day weekend sale.

It was moved by Council Member Romero, duly seconded, not to change the *Sign Code* at this time, continue the dialogue at the Citizen Sign Code Committee, and direct the Housing and Community Development to prepare an enforcement plan of the *Sign Code* for presentation to the Citizen Sign Code Committee.

Mayor Walkup asked if there was any discussion.

Council Member Scott asked for clarification regarding Council Member Romero's motion asking that the same topic go back to the CSCC and in addition, to see increased enforcement by the HCD. Council Member Scott asked if that was because the CSCC, which dealt with the issue and brought a recommendation to the Mayor and Council, had some other suggestions that did not have enough of a majority vote to bring those suggestions forward as recommendations.

Council Member Romero explained she thought there was an either or mentality happening and wanted to see that the City Manager's recommendation was followed to not make changes to the *Sign Code* at the present time, but that the dialogue continue at the CSCC level. She said she thought there was some progress that can be accomplished with the conversation. She said she did not think the dialogue was complete, and as commented by Mr. Grinnell, there was more conversation to be had on the topic.

Council Member Kozachik commented there was nothing that prevented the CSCC from continuing their conversation, even if the Mayor and Council adopted the recommendation by staff. He said he was inclined to accept the recommendation of staff and encourage the HCD to look into enforcement mechanisms. He said he did not think a motion was needed to allow the CSCC to continue to do what they were in place to do already.

Council Member Romero explained that basically that was what she was saying, and by moving the City Manager's recommendation did not prevent the CSCC to continue the dialogue and potentially come back with a win-win result.

Council Member Kozachik replied the CSCC was in place to continue the dialogue and that was what they were there for.

Mayor Walkup said, as he understood it, the item was to return to the Mayor and Council with recommendations about enforcement. Enforcement seemed to be recognized by everybody. He said Council Member Kozachik was correct in that the CSCC would continue to do what it was chartered to do. He said Council Member Romero's motion had value by virtue of addressing the issue of enforcement, and what they recommended to the Mayor and Council as far as expanding enforcement.

The motion to not change the *Sign Code* at this time, but to continue the dialogue at the Citizen Sign Code Committee, and to direct the Housing and Community Development to prepare an enforcement plan of the *Sign Code* for presentation to the Citizen Sign Code Committee was carried by a voice vote of 6 to 0 (Council Member Ward 2 vacant).

10. TUCSON CODE: AMENDING (CHAPTER 7) RELATING TO THE CURRENT PAWN SHOP ORDINANCE (CONTINUED FROM THE MEETING OF MARCH 23, 2010)

This item was continued to the meeting of April 27, 2010.

11. RIO NUEVO: CONSENTING TO THE AMENDMENT TO ADMINISTRATIVE RULES OF THE RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT

Mayor Walkup announced City Manager's communication number 154, dated April 13, 2010, was received into and made a part of the record. He asked the City Clerk to read Resolution 21511 by number and title only.

Resolution No. 21511 relating to Rio Nuevo Multipurpose Facilities District; consenting to the amendment of the Administrative Rules of the District to repeal weighted voting; and declaring an emergency.

Council Member Kozachik said he had a question for the City Attorney with respect to the issue. He said the Rio Nuevo Board passed the change to their Administrative Rules that rescinded the weighted voting. He said as he read through the change in the Ordinance, he did not see where they replaced it with any specific language that would indicate how they were going to go forward. He asked if the City was assuming that it was just a one person, one vote, even though it was not specified in the language.

Michael Rankin, City Attorney, stated that was correct and that in fact, in the absence of affirmatively adopting weighted voting, then the default would be one member, one vote.

It was moved by Council Member Kozachik, duly seconded, to pass and adopt Resolution 21511.

Council Member Uhlich asked the City Attorney if the City had been in dialogue with the City of South Tucson. She said it was important to her and her office to try to reach out to the Mayor's Office to recognize that this was something that the State Legislature was changing and to make sure the City was retaining good relationships with the leadership in South Tucson.

Mr. Rankin said he had not reached out to the City of South Tucson, but would so that they knew that this was on their horizon for consideration as well.

Council Member Kozachik said that was an important point. It was his understanding of the Administrative Rules and the Intergovernmental Agreement that all three jurisdictions had to agree to the changes, not just the City and Rio Nuevo.

Mr. Rankin said that was correct and that he spoke with the council for the Rio Nuevo District, because he was preparing a draft resolution for South Tucson's consideration as well. He said he was assuming that the District was reaching out to the City of South Tucson, just as they had reached out to the City of Tucson. He said he would follow up to make sure that occurred.

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 Romero, Uhlich, Scott, Fimbres, and Kozachik; and Mayor Walkup

Nay: None

Absent/Excused: Council Member Ward 2 (Vacant)

Resolution 21511 was declared passed and adopted by a roll call vote of 6 to 0.

12. MAYOR AND COUNCIL: SELECTION OF VICE-MAYOR

Mayor Walkup announced City Manager's communication number 155, dated April 13, 2010, was received into and made part of the record. He asked the City Clerk to read Resolution 21512 by number and title only.

Resolution No. 21512 relating to the Vice Mayor of the Mayor and Council; selecting a Vice Mayor.

It was moved by Council Member Uhlich, duly seconded, to pass and adopt Resolution 21512, selecting Council Member Shirley Scott as the Vice Mayor to fill the remainder of the unexpired term previously held by Council Member Glassman.

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 Romero, Uhlich, Scott, Fimbres, and Kozachik; and Mayor Walkup

Nay: None

Absent/Excused: Council Member Ward 2 (Vacant)

Resolution 21512 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 146, dated April 13, 2010, 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 Romero, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Ward 2 vacant), to approve the appointment of Kristina Simpson to the Pima County – Tucson Commission on Addiction, Prevention, and Treatment (CAPT); the reappointments of Gordon V. Brown, David Eisenberg, Jonathan Fenton, Hyman Kaplan, Edwin Morgan, Alan Nichols, Wayne Swan and Brent Woods to the Joint City/County Building Code Committee (UBCC); and the reappointment of Buell T. Jannuzi to the Joint City/County Outdoor Lighting Code Committee (OLCC).

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

Council Member Fimbres announced his personal appointments of Kathleen McLaughlin to the Citizen Sign Code Committee and Vickie Mesimer to the Tucson Parks and Recreation Commission.

14. ADJOURNMENT: 8:19 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, April 20, 2010, 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 13th day of April 2010, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:sac:ccs