



---

## Minutes of MAYOR AND COUNCIL Meeting

---

Approved by Mayor and Council  
on May 3, 2011.

Date of Meeting: July 7, 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 5:45 p.m., on Wednesday, July 7, 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
Paul Cunningham	Council Member Ward 2
Karin Uhlich	Council Member Ward 3
Shirley C. Scott	Vice Mayor, Council Member Ward 4
Richard G. Fimbres	Council Member Ward 5
Steve Kozachik	Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused:

None

Staff Members Present:

Mike Letcher	City Manager
Michael Rankin	City Attorney
Roger W. Randolph	City Clerk

\* City Clerk Note: The minutes of July 7, 2010, as approved by the Mayor and Council contained a clerical error on page six. Within the text of the document, added text is in **bold**. RWR:DR:yl 05/05/11

Mayor Walkup announced that Item 11 would be taken out of order and discussed after the Consent Agenda, Item 7.

## **2. INVOCATION AND PLEDGE OF ALLEGIANCE**

The invocation was given by Father Harry Ledwith, St. Pius Catholic Church, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

- a. Mayor Walkup, assisted by Council Member Uhlich, presented Certificates of Appreciation and Recognition to Erik and Jodi Lunsford and Gary and Jessie Menard for their commitment and dedication to helping low income citizens in Ward 3.

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

Mayor Walkup announced City Manager's communication number 332, dated July 7, 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 announced the Ward 1 office sponsored three free Homebuying Seminars. She also announced several events during the month of August; the cleaning of Tucson's birthplace at the base of A Mountain, the celebration of San Agustin Mission Gardens, and the celebration of the new Federal Bureau of Investigations (FBI) building in Ward 1.
- b. Council Member Cunningham announced the following events: sign-ups for the July activities at the Carol West Senior Center, a trip to Rose Canyon Lake sponsored by the Udall Center, vacancies in the KIDCO and Club Udall programs and the shred-a-thon at the Ward 2 office.
- c. Vice Mayor Scott announced that a traffic median island along Prudence Road, south of Golf Links Road won a First Place award in the Annual Xeriscape Contest 2010, for its design and implementation of public and private landscapes.
- d. Council Member Fimbres announced the Ward 5 office hosted a series of free financial workshops on Basic Banking, Understanding Money and Credit, Your Credit Report and Budgeting for Financial Success. He also announced the passing of Mike Pratt, Southwest Kiwanis Foundation and ambassador for the Pima Council on Aging.
- e. Council Member Kozachik announced three events; Twilight Thursdays hosted by the Botanical Gardens; the International Little League All Star Game at Hi Corbett Field; and the 2nd Saturdays event in Downtown Tucson.

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

Mayor Walkup announced City Manager’s communication number 333, dated July 7, 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 the report.

No report was given.

**5. LIQUOR LICENSE APPLICATIONS**

Mayor Walkup announced City Manager’s communication number 334, dated July 7, 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. Pizza Plus #1, Ward 6  
914 E. Speedway Blvd.  
Applicant: John Edwin Grother  
Series 12, City 28-10  
Action must be taken by: June 12, 2010

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

Public Opinion: Written Argument Opposed Filed

This item was considered separately.

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

c. Special Event(s)

1. Industria Studios, Inc., Ward 5  
1441 E. 17th St.  
Applicant: Marjory Rutherford Johnsen  
City T54-10  
Date of Event: July 31, 2010  
(Fundraising and promotion)

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

d. Agent Change/Acquisition of Control/Restructure

1. Wingstop

Applicant: Nicholas Carl Guttilla

Series 12

City AC3-10, 2500 N. Silverbell Rd. Ward 1

City AC4-10, 1710 W. Valencia Rd. Ward 1

City AC5-10, 7940 E. Broadway Blvd. Ward 2

City AC6-10, 3122 N. Campbell Ave. Ward 3

Action must be taken by: July 16, 2010

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

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

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

**5. LIQUOR LICENSE APPLICATIONS**

b. Liquor License Application(s)

New License(s)

1. Pizza Plus #1, Ward 6

914 E. Speedway Blvd.

Applicant: John Edwin Grother

Series 12, City 28-10

Action must be taken by: June 12, 2010

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

Public Opinion: Written Argument Opposed Filed

Roger W. Randolph, City Clerk, announced the item to be considered separately was Item 5b1, Pizza Plus #1, located in Ward 6.

Council Member Kozachik asked if the applicant was present and wanted to make any comments.

John Grother, Applicant, said he was a “mom and pop” business and needed the liquor license to survive against the thirty-three thousand Subways. He said it was a tough battle. There was no comparison in their advertising budgets and needed the beer

and wine license to survive. He stated with the license, he could employ nine to ten people.

Council Member Kozachik asked if a representative from Subway was present. There was no one.

It was moved by Council Member Kozachik, duly seconded, and passed by a roll call vote of 7 to 0, to forward liquor license application 5b1 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.

Mayor Walkup announced that pursuant to the Arizona Open Meeting Law, individual Council Members may ask the City Manager to review the matter, ask that the matter be placed on a future agenda, or respond to criticism made by speakers. However, the Mayor and Council may not discuss or take legal action on matters raised during “call to the audience.”

- a. Shannon Cain gave the third installment of her performance piece entitled, *“Tucson, the Novel: An Experiment in Literature and Civil Discourse.”*
- b. Charlotte Beecher, Institute for Better Education Executive Director and member of the Tucson Charter Change Coalition, spoke and urged the Mayor and Council to vote in favor of the proposed Tucson Charter changes.
- c. Dick Wilke spoke about the proposed convention center hotel.
- d. Andy Marshall, Teamsters Local 104, spoke in support of the transition of the transit services to the Regional Transportation Authority (RTA).
- e. Steve Mitchell, Sun Tran Teamsters, spoke in support of the Regional Transportation Authority (RTA) and the transition of transit services.
- f. Nicole Templeton, Sun Tran Teamsters, spoke in support of the Regional Transportation Authority (RTA) and the transition of transit services.
- g. Peter Likens, Tucson Charter Change Coalition, spoke in support of the recommended revisions to the Tucson City Charter.
- h. Calvin Dacus, Sun Tran Teamsters, spoke in support of the Regional Transportation Authority (RTA) and the transition of transit services.

- i. Judy Leone, Sun Tran Teamsters, spoke in support of the Regional Transportation Authority (RTA) and the transition of transit services.
- j. Erika Gonzalez, Sun Tran Teamsters, spoke in support of the Regional Transportation Authority (RTA) and the transition of transit services.
- k. Joe Sweeney spoke in support of funding for Access Tucson. He also spoke about illegal immigrants in Tucson and the boycotting of Mexico.
- l. Mark Heckeke, Legal Attorney representing Frank Konarski Sr., spoke about the discrimination and the stop order denial of constructing Section 8 housing by Mr. Konarski.
- m. Mitch Cocker, Tucson Audubon Society Board of Directors Vice President, spoke in support of the proposed Tucson Charter amendments.
- n. Frankie Konarski spoke about the poor administration of Section 8 housing.
- o. Bonita Baltazar spoke about her current living conditions provided under Section 8 housing.

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

\* **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. HUMAN RESOURCES: AMENDMENT AND RESTATEMENT OF THE CITY OF TUCSON’S SECTION 125 PLAN TO COMPLY WITH THE INTERNAL REVENUE CODE**

- 1. Report from City Manager JUL7-10-336 CITY-WIDE
- 2. Resolution No. 21584 relating to group insurance; providing for the amendment and restatement of the City of Tucson’s Section 125 Plan, to ensure Plan compliance with applicable revisions and amendments to Section 125 of the Internal Revenue Code of 1986; the adoption of the Family Medical Leave Act; the Health Insurance Portability and Accountability Act; and Section 1251 of the patient Protection Affordable Care Act; and declaring an emergency.

**B. INTERGOVERNMENTAL AGREEMENTS: WITH THE UNIVERSITY OF ARIZONA FOR “PROJECT WET” YOUTH EDUCATION PROGRAMS AND THE RINSESMART PROGRAM**

- 1. Report from City Manager JUL7-10-339 CITY-WIDE AND OUTSIDE CITY

2. Resolution No. 21585 relating to Intergovernmental Agreements; authorizing the execution of an Intergovernmental Agreement with the University of Arizona's Water Resources Research Center to continue Water Education for Teachers (Arizona Project WET); and declaring an emergency.
  3. Resolution No. 21586 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and the University of Arizona regarding "Project WET"; and declaring an emergency.
- C. TUCSON CODE: AMENDING (CHAPTER 10) RELATING TO SUPPLEMENTAL MILITARY PAY
1. Report from City Manager JUL7-10-341 CITY-WIDE
  2. Ordinance No. 10814 relating to compensation plan; Tucson Code Chapter 10, Civil Service—Human Resources, Article II, Compensation Plan, amending Section 10-48, Supplement to military pay; and declaring an emergency.
- D. APPROVAL OF MINUTES
1. Report from City Manager JUL7-10-342 CITY-WIDE
  2. Approval of minutes for the regular meetings of the Mayor and Council held on September 7, 2009, November 3, 2009, and January 5, 2010.
- E. GRANT APPLICATION: TO THE FEDERAL TRANSIT ADMINISTRATION FOR THE JOB ACCESS AND REVERSE COMMUTE PROGRAM
1. Report from City Manager JUL7-10-349 CITY-WIDE
  2. Resolution No. 21587 relating to Transportation; authorizing and approving the submission of a Federal Transit Administration (FTA) Section 5316 Job Access and Reverse Commute (JARC) Program Grant Application (Federal Fiscal Year 2008 Funds), Grant AZ-37-X016; and declaring an emergency.
- F. GRANT APPLICATION: TO THE FEDERAL TRANSIT ADMINISTRATION FOR THE NEW FREEDOM PROGRAM
1. Report from City Manager JUL7-10-348 CITY-WIDE
  2. Resolution No. 21588 relating to Transportation; authorizing and approving the submission of a Federal Transit Administration (FTA) Section 5317 New Freedom Program (NFP) Grant Application (Federal Fiscal Year 2008 Funds), Grant AZ-57-X011; and declaring an emergency.
- G. TRANSPORTATION: SUPPORT OF THE AMTRAK PASSENGER RAIL SYSTEM
1. Report from City Manager JUL7-10-345 CITY-WIDE

2. Resolution No. 21589 relating to transportation; resolving to support the expansion of current Amtrak Sunset Limited Service to daily service and improving the Sunset Limited Line as part of the Intercity Rail Network; and declaring an emergency.

H. TRANSPORTATION: TO SUBMIT FEDERAL TRANSPORTATION ENHANCEMENT PROJECT PROPOSALS

1. Report from City Manager JUL7-10-346 CITY-WIDE
2. Resolution No. 21590 relating to Transportation; authorizing the Director of the City of Tucson Department of Transportation to submit and sponsor nine (9) Federal SAFETEA-LU Transportation Enhancement Project Proposals to the Arizona Department of Transportation Review Committee, to expend local matching funds in the event of approval, to expend funding for project-related fees and services, to reimburse for Federal funds expended in the event of cancellation, to advertise approved projects within three (3) years; and declaring an emergency.

I. INTERGOVERNMENTAL AGREEMENT: WITH THE UNIVERSITY OF ARIZONA FOR THE SMARTSCAPE PROGRAM

1. Report from City Manager JUL7-10-343 CITY-WIDE AND OUTSIDE CITY
2. Resolution No. 21591 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement with the University of Arizona Board of Regents for the University of Arizona Pima County Cooperative Extension SmartScape Program; and declaring an emergency.

J. MEMORIAL: SUPPORTING THE FEDERAL PREDATORY LENDING SUNSET ACT

1. Report from City Manager JUL7-10-353 CITY-WIDE
2. A Memorial relating to Predatory Lending; declaring support for the Federal Predatory Lending Sunset Act.

K. INTERGOVERNMENTAL AGREEMENT: WITH THE MARICOPA COUNTY SHERIFF'S OFFICE FOR THE URBAN AREA SECURITY INITIATIVE GRANT PROGRAM

1. Report from City Manager JUL7-10-351 CITY-WIDE
2. Resolution No. 21592 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the Maricopa County Sheriff's Office, designated as the subgrantee agency, and the City of Tucson for the reimbursement of funds from the Urban Area Security Initiative (UASI) of the Arizona Department of Homeland Security (AZDOHS); and declaring an emergency.

L. INTERGOVERNMENTAL AGREEMENT: WITH THE MARICOPA COUNTY SHERIFF'S OFFICE FOR THE STATE HOMELAND SECURITY GRANT PROGRAM

1. Report from City Manager JUL7-10-352 CITY-WIDE
2. Resolution No. 21593 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the Maricopa County Sheriff's Office, designated as the subgrantee agency, and the City of Tucson for the reimbursement of funds from the State Homeland Security Grant Program (SHSGP) of the Arizona Department of Homeland Security (AZDOHS); and declaring an emergency.

M. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY FOR THE REGIONAL TRANSPORTATION DATA NETWORK TECHNICAL EXPANSION CONTRACT

1. Report from City Manager JUL7-10-344 CITY-WIDE AND OUTSIDE CITY
2. Resolution No. 21594 relating to Intergovernmental Agreements; authorizing and approving the execution of Amendment Number 1 to an Intergovernmental Agreement for Transportation Funding between the Regional Transportation Authority of Pima County (RTA) and the City of Tucson for the Regional Transportation Data Network (RTDN) Technical Expansion Contract; and declaring an emergency.

N. REAL PROPERTY: VACATION AND CONVEYANCE OF VAN BUREN AVENUE RIGHT OF WAY FROM ELVIRA ROAD TO INTERSTATE 10

1. Report from City Manager JUL7-10-354 WARD 5
2. Ordinance No. 10819 relating to real property; vacating and declaring the Van Buren Avenue Right of Way from Elvira Road to Interstate 10 to be surplus; authorizing the conveyance thereof to abutting owners Beaufort Company, L.L.C. and N.N.K., L.L.C. (western half), and to the abutting owners of record located in the Corazon Del Pueblo Subdivision (eastern half); and declaring an emergency.

(This item was continued at the request of staff.)

O. REAL PROPERTY: AUTHORIZATION TO ACQUIRE REAL PROPERTY FOR THE STONE AVENUE: DRACHMAN STREET TO SPEEDWAY BOULEVARD INTERSECTION AND ROADWAY IMPROVEMENTS PROJECT

1. Report from City Manager JUL7-10-355 WARD 3

2. Resolution No. 21595 relating to transportation; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, certain real property needed as right-of-way for the Stone Avenue: Drachman Street to Speedway Boulevard Intersection and Roadway Improvements Project; and declaring an emergency.

P. **PARKS AND RECREATION: NAMING THE LA ESTANCIA DE TUCSON, BLOCK 31, THE “ROBERT A. PRICE, SR. PARK”**

1. Report from City Manager JUL7-10-356 WARD 5
2. Resolution No. 21596 relating to parks and recreation; authorizing and approving naming the La Estancia de Tucson, block 31, parcel 141-09-0680 the “Robert A. Price, Sr. Park”; and declaring an emergency.

It was moved by Council Member Uhlich, duly seconded, and passed by a roll call vote of 7 to 0, that Consent Agenda Items A through P, with the exception of Item N, which was continued at the request of staff, be passed and adopted and the proper action taken.

**11. PUBLIC HEARING: REFERRAL OF CORE SERVICES TAX TO NOVEMBER 2010 BALLOT**

(Note: This item was taken out of order)

Mayor Walkup announced City Manager's communication number 357, dated July 7, 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 City of Tucson Charter that would include a temporary five year increase of a one-half percent to the current City's 2% sales tax rate to be dedicated to core services. He said the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations.

Ron Asta, spoke in opposition to the proposed one-half percent sales tax increase stating that there were many people that had to layoff more than half their staffs in order to keep their doors open, rolled back salaries at least forty percent or more and possibly did not take a paycheck for a month or two just to stay afloat. He asked the Mayor and Council to join the citizens in cutting more and taxing less and vote down the sales tax.

Paul Parisi, Tucson Metropolitan Chamber of Commerce (TMCC), spoke in opposition of the rush to refer the proposed sales tax increase to the November ballot, stating it was inappropriate and contrary to good public policy. He said he hoped everyone could work together to find solutions to the present budget shortfall.

Rick Grinnell, Smart United Business Strategies (SUBS), stated that out of over eight hundred emails he sent out regarding the proposed sales tax increase, he did not receive one back endorsing it. He said there was a psychological effect when taxes were

raised and that it was not about a half cent, but about the principal of doing business. He asked the Mayor and Council to use their wisdom, be patient, and to really get behind creating a revenue source called “business environment” that would stimulate opportunities to increase revenues.

J.D. Schechter spoke in opposition to the proposed sales tax increase. He commented about the overtaxed and underrepresented citizens in Tucson, City-owned buildings that were being rented or sold for a dollar a year, the use of City vehicles to and from work, and possible raises for the Mayor and Council.

It was moved by Vice Mayor Scott, duly seconded, and passed by a voice vote of 7 to 0, to close the Public Hearing.

Mayor Walkup asked the City Clerk to reading Ordinance 10820 by number and title only.

Ordinance No. 10820 relating to elections: calling a special election on November 2, 2010, to submit to the City’s qualified electors a question relating to amending Section 2 of Chapter IV of the Charter of the City of Tucson to increase the authorized upper limit of the City’s business privilege tax (“sales tax”) from 2% to 2.5% for a period of 5 years and dedicating the portion over 2% to maintaining and preserving staffing and programs for public safety services, maintenance of city streets, and parks and recreation facilities and programs; and declaring an emergency.

It was moved by Council Member Uhlich, duly seconded, to pass and adopt Ordinance 10820.

Mayor Walkup asked if there was any discussion.

Discussion was held and comments were made by Council Members Uhlich and Romero. Council Member Romero asked for the City Attorney’s advice as to whether the language in the Ordinance could be changed in regards to state, public safety and the Transportation Department and include a quarterly audit for accountability measures to inform the community how the money was being spent.

Michael Rankin, City Attorney, responded that the motion, as made, would move the Ordinance with the language as written in their packets without the amendment. He said what was discussed at Study Session was a couple of possible amendments that had not been incorporated into the motion as of yet.

Mr. Rankin stated that one of the issues discussed was broadening the category description under core services of “Maintenance of City Streets” to “Transportation Services” which included the maintenance of city streets. He said that change could be made at the dais. The second issue was with respect to the language already included in the Ordinance that required an annual accounting. He said an additional requirement in

the Charter amendment could be added to provide for quarterly reporting to an oversight committee.

Mr. Rankin said he had the language for that amendment that could be read from the dais. He stated that the change to the Charter could also be accomplished by a separate Ordinance by the Mayor and Council.

Council Member Romero asked Council Member Uhlich if she was agreeable to the amendment to the motion, which Council Member Uhlich answered affirmatively, and then asked the City Attorney to read the language for the changes.

Mr. Rankin stated that the proposed amendments to the Ordinance were as follows:

- 1) Page 5, modify the language under Section 2, Subsection B.1.b. to read, “Transportation Services including maintenance of city streets,” and
- 2) Subsection B.2 would read, “The finance director shall prepare an annual accounting of the core services tax and shall provide quarterly reports to an oversight committee for review. The collection and expenditure of the core services tax monies shall be included in the City’s annual independent financial audit.”

Mayor Walkup asked if there was any further discussion.

Council Member Kozachik stated the Ordinance, as written, did not actually increase the sales tax but gave the City the authority to increase it. He asked about the process going forward if the Mayor and Council chose to achieve that.

Mr. Rankin stated that Council Member Kozachik was correct; it would lift the “cap” noted in the Charter as the maximum level of the transaction privilege tax that could be assessed by the Mayor and Council in a given year. He stated currently, the City was at two percent, which was the Charter “cap” and if this issue was referred to the voters and approved, then the next step would be for the Mayor and Council to consider changing the transaction privilege tax rate in the City’s tax code by a separate ordinance. Again, he said, in that instance, it would be capped at 2.5 percent rather than two.

Council Member Kozachik asked why it was not already included in the Ordinance, if that was the goal.

Council Member Uhlich stated she felt it was appropriate, but depended on budget circumstances and it was her understanding, per the Commission’s recommendation, that it also included a five year sunset with regard to the authorization. She said the Mayor and Council, in one year, could choose to pursue that, but as part of the annual budget process or other circumstances, they could also, by virtue of the tax code, obviously reduce it if some exceptional circumstance occurred that would allow that.

Mr. Rankin responded that Council Member Kozachik's point was well taken, but it was an annual decision by the Mayor and Council just as the appropriation of the monies and allocation amongst the categories was an annual budget decision. He said the actual level of taxation assigned in a particular year was done on an annual basis.

Council Member Kozachik asked if it was not the intent to have the Ordinance in effect during the current fiscal year. He said he was just trying to get clarity on when it went into effect.

Council Member Uhlich said she thought the purpose was to offer the question to the voters to decide whether or not the "cap" could be lifted as one manner of balancing the budget given what budgets the Mayor and Council faced in forthcoming years. She said she believed the intention was to have it be part of the budget process that added specificity and clarity for the public on whether or not there was a need for revenue, from the increased sales tax, to be applied. She stated she believed the City had a balanced fiscal year budget that did not utilize revenues from the tax increase and asked the City Manager for verification.

Mike Letcher, City Manager, responded that the City had a balanced budget for the current fiscal year using temporary measures. He said there was not an assumption in the current budget, July 2010 through June 2011, which relied on the tax increase passing and the revenue generated by that tax. He said it was really the Mayor and Council's decision as to when to implement the tax if, in fact, the Ordinance was approved and the voters approved the increase.

Council Member Uhlich asked what the process was, for the Council's and public's benefit, regarding the City's budget. She said, for example, part of how the budget was balanced was by the sale of real estate and the potential of sale and lease back of properties. She said it was her understanding that there was a mid-year update and, at that point, if the voters authorized the "cap" to be lifted, part of the mid-year deliberations could include updates on the sale of real estate, lease-back opportunities, and revenues and expenses.

Mr. Letcher stated Council Member Uhlich was correct. He said he expected to have an update to the Mayor and Council in December that provided revenues and information on the properties the Mayor and Council directed be sold. He said he would also have a fairly decent idea, going into the following fiscal year, how much was needed to be used from lease buybacks. Quarterly updates, at minimum, and possibly monthly would also be provided.

Council Member Kozachik asked if there was an appraisal on the parcels of land that had been identified for sale, if particular pieces of property had been identified for sale/leaseback, and if by December, those parcels would be identified so they had an idea on whether or not those parcels were sold.

Mr. Letcher said staff had an appraisal from the City's Real Estate Department, but one of the first steps, with the I-10 parcel, was to get an outside appraisal, as well as, the other property identified. He stated the sale/leaseback properties had not yet been identified.

Mr. Letcher stated that by December, the City should have what the properties identified were sold for and an update on the revenues for the current fiscal year along with any monthly updates that were provided. He said, the City should have a fairly decent idea, going into January, how much was needed for lease buybacks. He said personally, he did not want to go with lease buybacks until after the first quarter of 2011 because revenues might be better and there would not be a need to lease out more than they had to. He said he expected to trigger the lease buybacks in the spring.

Council Member Kozachik commented that the estimated revenue generated from the increased sales tax was approximately \$40 million annually, and could yield approximately \$10 million for the current fiscal year. He said if the sale/leaseback was a last resort, it was his position to be more prudent to retain those assets and make \$10 million worth of cuts in what was remaining in the budget now and not wait until halfway through the fiscal year.

Council Member Kozachik asked if there was a Maintenance of Effort (MOE) clause in the Ordinance so that when and if the sales tax passed, it fed into the top and the operating budgets would be fixed to ensure monies did not flow out the bottom.

Mr. Rankin responded that there was not a mandatory MOE clause affixed to a particular number of employees or level of expenditure in a given fiscal year. However, he said, the purposes of the funds were restricted to those identified in the amendment, public safety (police, fire and court), transportation services (maintenance of city streets), and parks and recreation (programs and facilities). He said the funds would not be able to be expended for any other purposes.

Council Member Kozachik said while any delta was achieved by going from the 2% to 2.5% in sales tax could go into the top end of the budget was dedicated to those purposes, could those same budgets be cut from the bottom and allocated to other resources. He said he was only talking about the delta between the 2% to 2.5% that went into the top end.

Mr. Rankin stated that was correct, although the language also made it clear that the purpose of the increase, the delta if you will, was imposed for maintaining and preserving staffing and programs in those services.

Council Member Kozachik stated his primary concern was with the process being used and not taking advantage of the twelve-month timeframe to make budget cuts by \$10 million this fiscal year.

Mayor Walkup asked what happens, at the five-year point, with the sales tax increase, did it automatically sunset or did the Mayor and Council or the public have to take action.

Mr. Rankin responded that no subsequent action was required by either the voters or the Mayor and Council for the sunset to take effect. He said it was self-effectuating language. If the “raising of the cap” was approved by the voters, it was only good for five years from the date the Charter amendment was signed by the Governor, which was typically within thirty days once approved by the voters. He said upon expiration of the five years, the “cap” automatically drops back down to the current 2%.

Mayor Walkup commented that something discussed in Study Session was that cuts to the budget were not complete. He said there was a \$40 million deficit this year and was not sure what to expect for the coming year. He said the City was not out of the woods by a long shot and the Mayor and Council were continuing discussions from now until November to consider other opportunities in reducing the deficit.

Mayor Walkup stated one of the things pointed out earlier in the day, from a personnel standpoint, was that the City was operating at personnel levels from 1998. He said significant cuts had already been made. He commented that the core functions of the City; public safety, transportation and parks and recreation, represented seventy-eight percent of the general fund. Any reductions made now and through November would come from the remaining twenty-two percent of the general fund.

Mayor Walkup said tough times were coming and it was right and prudent to take this issue to the voters and let them participate in the process of what they wanted to do, how they wanted to run a government, and how they wanted to protect some of the core functions that were critical to the quality of life in place for the City. He stated that one of the problems with Proposition 200 was that a funding source was not provided for those critical services. He said although the increased sales tax did not cover all of that, it was, at least, an opportunity for the City to put some money into those critical services to ensure that roads were repaired, critical functions of the parks and recreation were not cut and prevented taking “boots” off the streets for as long as possible.

Mayor Walkup said, the sales tax increase would expire in five years and did not necessarily mean that the half cent was going to happen. The Council would monitor what was going on in the economy, and if it recovered, everyone sitting at the dais loathed to the notion of increasing taxes, but wanted the participation of the public.

Vice Mayor Scott stated she felt it was important for the voters to know that the statistics and numbers presented to the Mayor and Council had been presented to them on more than one occasion as budget discussions occurred. She said she thought it was possible for the public to review such information and asked staff to explain and verify where the public could find that information.

Marie Nemerguth, Budget and Internal Audit Program Director, responded that the information was on the City's website and all the reports given to the Core Tax and Permanent Override Committee, minutes of their meetings, staff presentations and responses to questions were currently available.

Vice Mayor Scott said she felt it was important for individuals to see the discussions that took place as they tried to grasp why the City was so bold as to implement a tax increase or even give it a thought. A Citizens Committee was appointed and charged with the task of looking at the issue, from an independent point of view, to see if there was something there that the Mayor and Council might have missed.

Vice Mayor Scott said the Committee, comprised of people who were in the business of understanding financial questions, came up with the recommendation that was presented in the Ordinance. She said it was not a joke or a mystery, looking at the statistics, that there would be some very serious cuts to the kinds of services that everyone wished to keep at the highest level. She said the Mayor and Council would abide by what the voters said regarding this issue if given the opportunity, and if not, dramatic action would take place.

Council Member Fimbres asked Ms. Nemerguth to reiterate the number of cuts the City had made within the last two years and if Proposition 100, recently passed by the State, had any affects on the City.

Ms. Nemerguth responded that Proposition 100 had no affect on the City; none of that revenue would trickle down to the City. She said any mention of the funds being used for public safety went to the Department of Public Safety (DPS) and not the City.

Ms. Nemerguth said the City began cutting pretty deeply approximately three years ago, in the middle of fiscal year 2009 and had continued to date:

- FY 2009 – Outside agency funding was cut by 10%.
- FY 2010 – Fifty-one active employees were laid off and nine furlough days were implemented resulting in a 3.5% cut from the employee's base salary and outside agency funding was cut by 20-60%.
- FY 2011 – Nine furlough days continued, higher medical premiums for employees were implemented, and outside agency funding remained at FY 2010 levels.
- The City's debt has been restructured for three years in a row, putting off payment of principal and interest on that debt, Back to Basics Infrastructure Program was suspended and youth funding allocated by the Mayor and Council was eliminated.
- Swimming pools were closed; three in FY 2010 and fourteen in FY 2011, teen programs and most adult sports programs were eliminated, leisure classes were reduced, vacant positions were eliminated, cut-backs on neighborhood recreation hours, and the Ormsby Recreation Center was closed.

- Prosecutions for graffiti, prostitution and criminal nuisance crimes were reduced.
- Infrastructure, replacement of infrastructure, vehicles, facilities, preventative maintenance and repairs of City property, buildings, equipment, streets, etc., were deferred.

Mr. Letcher added that one of the questions that had come up quite frequently was layoffs of police officers. He said what had been done, which was unprecedented, was that the City was currently carrying seventy-two vacancies in the police department. He said by the time the year ended, if no relief was received, that number would be well over one hundred positions. He stated there were fifty-one firefighters leaving the City in May and without any additional resources, he would not recommend that those positions be filled.

Mr. Letcher clarified the current number of vacancies in TPD was one hundred twenty five. He stated that this was not a “fear tactic;” it was a reality and people needed to take the time to really understand the budgetary situation of the City. He said everyone was in dire straits, but it was incumbent upon the community to decide what they wanted the City’s future to be.

Council Member Fimbres asked staff how much shared revenue had been lost from the State’s budget cuts.

Ms. Nemerguth responded that of the local transportation assistance funding, which the City used for the mass transit system, was lost and a full year’s loss of that going into FY 2011 was \$3 million. She said the State shared sales tax, made up of State sales tax; State income tax and auto lieu tax dropped 20% in the last four years. She said there was a two year lag in receiving State shared revenues, so going into FY 2011, \$16.8 million was lost from 2008 and it was anticipated to lose even more in 2009. She stated 21% of sales tax revenue was lost in the last four years. The City’s current funding was \$159 million, which was one-third of the General Fund budget, compared to \$202 million in 2007.

Council Members Kozachik and Cunningham expressed their concerns regarding the sales tax increase and stated they would not support the Ordinance.

Ordinance 10820, as amended, was passed by a roll call vote of 5 to 2 (Council Members Cunningham and Kozachik dissenting).

**8. PUBLIC HEARING: TUCSON CODE – AMENDING (CHAPTER 23) THE LAND USE CODE; RELATING TO RENEWABLE ENERGY GENERATION**

Mayor Walkup announced City Manager's communication number 347, dated July 7, 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 (LUC)* by adding a new definition,

performance criteria and specifics for each zone providing new regulations and review process for Renewable Energy Generation. He said before beginning the public hearing, staff wanted to make a brief statement.

Ernie Duarte, Planning and Development Services Department Director, comments included information regarding the land use criteria for the potential development of large scale commercial renewable energy generation in the City. He said the Ordinance addressed energy generation from sunlight, wind, rain, tides, geo-thermal heat, as well as, future energy generation methods which were renewable and naturally replenished. He commented that the criteria was established in conjunction with various stakeholders, and improved with the assistance of the Land Use Code Committee and the Planning Commission, who both supported the adoption of the proposed text amendment.

Mr. Duarte stated that the Ordinance created opportunities for redevelopment of large, previously undevelopable properties such as landfills, brown fields and possibly floodplains. The Ordinance took into account neighborhood input and compatibility with existing and future residential development through the special exception process and established performance criteria for commercial and industrial zones. He said the adoption of the text amendment would provide the basic groundwork and opportunity for Tucson to be a leader in the alternate energy generation field.

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

Bruce Plenk, General Services Department Solar Energy Coordinator, spoke in support of the Ordinance. He said adoption of the Ordinance would make it possible to use City owned land, such as closed landfills, for solar farm development. The Ordinance also fits with the basic plans of Tucson Electric Power to locate small and medium size solar developments closer to users.

It was moved by Vice Mayor Scott, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Walkup asked the City Clerk to read Ordinance 10818 by number and title only.

Ordinance No. 10818 relating to planning and zoning; amending certain portions of the Land Use Code to provide new regulations and review processes for Renewable Energy Generation; by amending, Chapter 23, Sections 2.2.1.3.F.2, 2.2.2.3.H.2, 2.2.2.4.3.D.2, 2.2.6.3.E.2, 2.3.2.3.C.2, 2.3.3.3.C.2, 2.3.4.3.C.2, 2.3.5.3.C.2, 2.3.7.3.C.2, 2.3.8.3.B.2, 2.4.1.3.C.2, 2.4.2.3.C.2, 2.4.3.3.C.2, 2.5.3.2.G, 2.5.3.3.C.2, 2.5.4.2.I.2, 2.5.4.3.F, 2.5.5.2.I.2, 2.5.5.3.F; amending Section 2.5.6.3 to provide for Special Exception Land Uses, and redesignating former Section 2.5.6.3 as Section 2.5.6.4; 2.6.1.2.H.2, 2.6.1.3.E, 2.6.2.2.H.2, 2.6.2.3.E, 2.6.4.2.F, 2.6.4.3.G.2., 2.7.1.2.F.2, 2.7.2.2.I.2, 2.7.3.2.E.2, 3.5.11.2; Amending Section 6.3.12, by replacing Section 6.3.12.3 “Generating System” with Section 6.3.12.3 Renewable Energy Generation; and

redesignating Sections 6.3.12.3 and 6.3.12.4 as Sections 6.3.12.4 and 6.3.12.5 respectively; and declaring an emergency.

Council Member Kozachik asked if the language on pages 17 and 18 of the Ordinance, letters B and E, needed to be clarified so that the ability to put residential rooftop arrays by individuals on their homes was not being impacted.

Craig Gross, Planning and Development Services Department Deputy Director, stated the Ordinance was for commercial development of solar and other types of renewable energy. Individual residential installations were not affected.

It was moved by Council Member Kozachik, duly seconded, and passed by a roll call vote of 7 to 0 to pass and adopt Ordinance 10818.

**9. PUBLIC HEARING: TUCSON CODE – AMENDING (CHAPTER 23) THE LAND USE CODE; RELATING TO ZONING COMPLIANCE FOR SITE IMPROVEMENTS IN EXISTENCE ON MAY 1, 2005**

Mayor Walkup announced City Manager's communication number 338, dated July 7, 2010, was received into and made part of the record. He also announced this was the time and place legally advertised on a proposed amendment to the *Land Use Code (LUC)* relating to zoning compliance for site improvements in existence on May 1, 2005. He said before beginning the public hearing, staff wanted to make a brief statement.

Ernie Duarte, Planning and Development Services Department (P&DSD) Director, said that the text amendment was in response to direction received from the Mayor and Council in February and March and built upon a number of processes and steps taken over the last three years to simplify the Certificate of Occupancy (C of O) for existing buildings. He said some of the previous administrative steps taken included a streamline of plan review submittal requirements, inspections focusing on life safety, partnership discussions with the Tucson Fire Department (TFD), allowance for the issuance of provisional C of O's with the understanding that certain items or deficiencies were cleared up within a prescribed timeframe.

Mr. Duarte stated that the results of the steps put in place were effective and had a 25% increase since 2008-2009 in C of O's issued and a decrease in the number of applications expired or withdrawn. He said the proposal has been vetted publically by both the Land Use Code Committee (LUCC) and the Planning Commission (PC). He commented that in addition, the P&DSD's stakeholders viewed and endorsed the proposal.

Mr. Duarte said this was not a waiver of zoning, did not apply to new construction or was not a tool to cure any existing, outstanding violations. It allowed for the reuse of existing buildings whose underlying zoning allowed for the proposed use. He stated, if passed, there were many customers awaiting the ability to take advantage of this opportunity. He said it was a key link in the chain of the overall process improvements made since 2008 and contained a sunset provision for January 2012. Also, the PC requested a review of the proposal in twelve months which would afford the P&DSD the

opportunity to review it and if effective, recommend renewal to the Mayor and Council; if not, it would sunset and go away.

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

Tom Warren spoke in support of the text amendment. He said he was one of the stakeholders in the process and gave a brief summary of the revitalization it would bring to the City.

Cathy Rex, Architect, spoke about her involvement and familiarity with the C of O process. Although the Ordinance might hurt her business, as a member of the PC, she made the motion to support it in hopes of receiving some guidance and leadership from the Mayor and Council as the PC reviewed future ordinances.

Michael Guymon, Metropolitan Pima Alliance (MPA) Executive Director, spoke about his experiences with obtaining a C of O and the process used to get to this point of the revised text amendment. He said he was in support of the Ordinance.

Jason Wong, a member of the Land Use Committee was in support of the Ordinance and spoke about his involvement in the original C of O Committee. He said he was also a part of the current streamlined process.

Lea Marquez-Peterson, Tucson Hispanic Chamber of Commerce (THCC) President, stated she was present representing the five hundred member businesses of the THCC and supported the amendment. She asked for the Mayor and Council's support.

Ruth Beeker spoke as a neighborhood representative and stated that the neighborhoods were not fully involved in the process and she was not in support of the amendment. She asked that the Mayor and Council appoint a balanced committee and not just MPA members or people who had vested interests to identify specific problems, consider alternative solutions, and bring the best solution back for consideration that represented the community's best interest and not just one special interest.

Steve Juhan, Grant Road Industrial Center Manager, spoke about the many roadblocks in the current process to obtain a C of O. He said he supported the Ordinance.

Karolyn Kendrick stated she served on the LUCC and was presented with the proposed text amendment but it was never discussed. She commented that neighborhoods wanted to see prosperous business in their neighborhoods. She said she was in favor of simplifying the process for obtaining a C of O, but the Ordinance overlooked a few issues. She said she was not opposed to the Ordinance, but thought it needed a more consideration and asked that the Mayor and Council delay approval.

Debra Griffith, Esq., Law Office of Jeffrey M. Neff, P.C., spoke on behalf of small businesses and urged the support of the Mayor and Council on passage of the Ordinance.

Rick Grinnell, Smart United Business Strategies (SUBS), stated the Ordinance was pretty streamline; cut and dry and they supported it.

Colette Altaffer spoke about the value of the Code and Ordinances. She stated reasons the proposed text amendment was not good for the community.

Brett DuMont, Millville Neighborhood Association (MNA) Vice President, stated the MNA was in support of the proposed amendments to the *LUC* and felt it was a win-win situation for both businesses and the adjoining neighborhoods to revitalize existing structures, encourage infill and encourage residential and commercial interest to extend their properties.

George Kalil, Kalil Bottling Company President and Millville Neighborhood Association President, spoke about the current C of O process. He said he supported the proposed text amendment.

Mark Mayer spoke in opposition to the Ordinance and stated his reasons why he differed with some of the comments that were made. He urged the Mayor and Council to not adopt the Ordinance, but to bring other sectors of the community together to form a consensus on how to bring properties into compliance.

George Larsen, Larsen Baker LLC, spoke about his friend's experience with the *LUC* in trying to obtain permits and a C of O for his business. He thanked the P&DSD staff for their efforts in making the process easier for businesses.

It was moved by Vice Mayor Scott, duly seconded, and passed by a voice of 7 to 0 to close the public hearing.

Mayor Walkup asked the City Clerk to read Ordinance 10815 by number and title only.

Ordinance No. 10815 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 5.3.12, Zoning Compliance For Site Improvements In Existence on May 1, 2005; and declaring an emergency.

It was moved by Council Member Fimbres, duly seconded, to pass and adopt Ordinance 10815.

Mayor Walkup asked if there was any discussion.

Council Member Uhlich stated before voting in favor of the Ordinance she had a few questions. She asked the City Attorney to address how the Ordinance would be affected by Proposition 207.

Michael Rankin, City Attorney, stated that one of the reasons, when changes were made to the *LUC*, it was recommended that a sunset provision be included because of Proposition 207. He said, once restrictions were loosened, the City did not have the ability to tighten them back up with a new ordinance down the road without potentially triggering Proposition 207 liability.

Mr. Rankin said that to address potential future exposure, staff recommends that sunset provisions be included in the Ordinance so that if it turned out not to achieve what the Mayor and Council or staff desired, it would expire on its own terms without a future legislative act.

Additional comments regarding the Ordinance were made by Council Member Uhlich, as well as, comments from Council Members Romero, Cunningham and Fimbres; Vice Mayor Scott and Mayor Walkup.

Council Member Kozachik asked staff to address some of the enforcement concerns and if the Ordinance needed a “use it” or “loose it” clause. He asked what would happen to a building that received their C of O at the time of sunset. He said he did not want to create a situation that encouraged people to buy, hold and flip properties.

Mr. Duarte responded that the C of O ran with the user or tenant of the space. He said if the C of O was issued under the provisions of the Ordinance, it was good until it was replaced by another tenant.

Council Member Kozachik said, taking into account comments made by some of the speakers, he encourage staff to return to the Mayor and Council sooner than one year, to ensure things were not out of control or missed.

Ordinance 10815 was passed and adopted by a roll call vote of 7 to 0.

**10. PUBLIC HEARING: TUCSON CODE – AMENDING (CHAPTER 23) THE IMPACT FEE PROJECTS PLAN**

Mayor Walkup announced City Manager's communication number 350, dated July 7, 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 Impact Fee Projects Plan, which would add two road projects; Downtown Links from I-10 to Broadway Boulevard, and Silverbell Road from Ina Road to Grant Road. He said before beginning the public hearing, staff wanted to make a brief statement.

Jim Glock, Transportation Department Director, stated that on June 1, the Regional Transportation Authority (RTA) issued a suspension of work for certain projects in order to conduct a three month review of their scope, funding, development process and adherence to RTA policy. He said five City projects were impacted, Grant Road, 22nd Street Corridor, Broadway Boulevard Corridor, Silverbell Road Corridor and

Downtown Links. The temporary suspension of the work negatively impacted project schedules and expectations of various stakeholder groups.

Mr. Glock said that on June 14th, a letter was sent to the RTA requesting that work be allowed to continue on the projects with the understanding that the City would use funds from its local matching requirements for work performed during the project review period. He said the RTA approved the City's request, however, two of the projects mentioned were not on the Mayor and Council's approved impact fee project list.

Mr. Glock stated that the Mayor and Council was being asked to add the Downtown Links project to the Central Benefit District Impact Fee project list with an allocation of one million dollars and the Silverbell Road Corridor project to the West Benefit District Impact Fee project list with an allocation five hundred thousand dollars.

Mr. Glock commented that on July 2nd, the City received a letter from the RTA allowing for the design to continue on the Downtown Links project, however, staff believed there might be additional project specific issues as the review continued. He said he was recommending that the funding for the Downtown Links project still be allocated with the understanding that it not be utilized unless issues arose.

Mayor Walkup announced the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations. He asked if there were any speakers. There were none.

It was moved by Council Member Romero, duly seconded, to close the public hearing and approve the amendments to the Impact Fee Projects Plan and direct staff to incorporate the amended projects into the upcoming Capital Improvement Program.

Mayor Walkup asked if there was any discussion.

Council Member Uhlich asked if any other projects in the Central District, such as the Grant Road Corridor and the Oracle Intersection, would be affected by the motion.

Mr. Glock responded that it depended on the RTA review, however, staff would continue with their development process utilizing the impact fees allocated from the Central Benefit District to those projects.

Council Member Kozachik asked, before any funds were spent on the Downtown Links project, that the Mayor and Council have the opportunity to weigh in on the project.

Motion to close the public hearing and approve the amendments to the Impact Fee Projects Plan and direct staff to incorporate the amended projects into the upcoming Capital Improvement Program was passed by a voice vote of 7 to 0.

**11. PUBLIC HEARING: REFERRAL OF CORE SERVICES TAX TO NOVEMBER 2010 BALLOT**

(Note: This item was taken out of order and discussed after item 7.)

**12. CITY CLERK: APPOINTMENT OF THE CITY CLERK**

Mayor Walkup announced City Manager's communication number 340, dated July 7, 2010, was received into and made part of the record. He asked the City Clerk to read Ordinance 10817 by number and title only.

Ordinance No. 10817 relating to the City Clerk; appointing the City Clerk; and declaring an emergency.

It was moved by Vice Mayor Scott, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance 10817.

**13. REFERRAL OF CHARTER AMENDMENTS TO THE CITY ELECTORS: MAYORAL PARITY; DESIGNATING CERTAIN OFFICERS AS OUTSIDE OF CIVIL SERVICE; INDEXING MAYOR AND COUNCIL SALARIES TO THAT OF THE PIMA COUNTY BOARD OF SUPERVISORS; MODIFYING THE MAYOR AND COUNCIL ELECTION CYCLE; AND ESTABLISHING A REVENUE SOURCE RULE**

Mayor Walkup announced City Manager's communication number 358, dated July 7, 2010, was received into and made part of the record. He asked the City Clerk to read Ordinances 10821 and 10822 by number and title only.

Ordinance No. 10821 relating to elections: calling a special election on November 2, 2010, to submit to the City's qualified electors a question relating to amending the charter of the City of Tucson to provide for mayoral parity; designate certain officers as outside of civil service; provide for full-time mayor and councilmembers with compensation indexed to the Board of Supervisors; and eliminate staggered elections of the mayor and council; and declaring an emergency.

Ordinance No. 10822 relating to elections: calling a special election on November 2, 2010, to submit to the City's qualified electors a question relating to amending Chapter XIX and Chapter XX of the Charter of the City of Tucson to establish a "Revenue Source Rule" providing that any City initiative or referendum that proposes a mandatory expenditure of City revenues must identify a source of new revenues sufficient to cover immediate and future costs of the mandatory expenditure; and declaring an emergency.

It was moved by Vice Mayor Scott, duly seconded, to refer the proposed City Charter amendments to the November 2010 ballot and to pass and adopt Ordinance 10821 with the following options: that deputy directors be included together with the directors in the amendments removing them from civil service and that appointment and

removal authority of appointed officers shall be as recommended by the Tucson Charter Change Coalition (TC<sup>3</sup>).

Mayor Walkup asked if there was any discussion.

Council Member Uhlich stated she wanted to note, for the record, several items she believed would strengthen the package. She said, in all of the materials she had reviewed, the salary adjustment was related to a full-time Mayor and Council, and if the adjustments were made, it would require that they serve full-time. She asked the City Attorney if there was language in the Ordinance that specified that the Mayor and Council serve full-time and fulfill only this position for compensation if passed.

Michael Rankin, City Attorney, stated there was no language that mandated full-time service or prohibited compensation through other employment. However, if that was the desire of the Mayor and Council, he was prepared to read into the record the appropriate language to that effect.

Council Member Uhlich stated she believed it was the will of the TC<sup>3</sup> because in everything she read, it stated full-time Mayor and Council. She asked if she was correct in her assumption.

Mayor Walkup asked if someone from the TC<sup>3</sup> could respond.

Si Schorr responded that the intent was to secure Council Members and the Mayor to put in a full load into the job. He said there were some people that could do two things at once, and that the term might be misleading. He stated if a person could do the job they were elected to do and another job at the same time, that was fine, but the TC<sup>3</sup> expected that whoever got the benefits of the changes was a person who could devote as many hours as necessary to do their job. He said more often than not, that would include more hours than the term full-time envisioned.

Council Member Uhlich stated she understood and respected the TC<sup>3</sup>'s suggestion that the language stand. She urged her colleagues, who held two jobs, and anyone considering standing for election again, that it was a fair question for voters to ask in the future. She also commented on the issue of department directors and said the manager should lead and secure the consent of the Mayor and Council. She said she wanted the questions posed to the voters to be the best they could be and wanted them to see an opportunity to improve their local government.

It was moved by Council Member Uhlich, duly seconded, to amend the matrix in instances where the City Manager was solely noted as having hiring and firing authority to include the consent of the Mayor and Council.

Mayor Walkup asked if there was any discussion.

Roger W. Randolph, City Clerk, asked, as a point of clarification, if the motion was a substitute motion, to which Council Member Uhlich replied it was.

Mayor Walkup asked if the substitute motion was for matrix only or the entire item, which Council Member Uhlich stated it was for the matrix.

Mr. Randolph asked for further clarification. He wanted to know if it was still to adopt Ordinance 10821 with the deputy directors removed from Civil Service.

Council Member Uhlich responded that the specific amendment only spoke to the hiring and firing authority, so it specifically amended the hiring and firing authority as noted.

Substitute motion to amend the matrix in instances where the City Manager was solely noted as having hiring and firing authority to include the consent of the Mayor and Council failed by a roll call vote of 3 to 4 (Council Members Cunningham and Kozachik; Vice Mayor Scott and Mayor Walkup dissenting).

Council Member Uhlich stated, given what she had heard regarding a full-time Mayor and Council, she did not think it would pass and said she was making a substitute motion. She said she thought it was proper and appropriate and after hearing from the County Recorder and confirming with the City Clerk, the indication was that voters would be far more likely to adopt at least some of the provisions if afforded the opportunity to vote on them separately. She said she understood that the TC<sup>3</sup> preferred to refer the items as a package, but she was simply offering her best judgment on what she thought could strengthen the effort.

A substitute motion was made by Council Member Uhlich, duly seconded, to refer the City Charter amendments to the November ballot as individual measures.

Mayor Walkup asked if there was any discussion.

Council Member Cunningham stated he had a Town Hall in Ward 2 and the overall consensus was that they were in favor of the package.

Mayor Walkup reiterated that the TC<sup>3</sup> was a large group of people representing all segments of the community and said he was personally yielding to the position that they were out there talking to a wide breadth of the community and the statement was that it should be a package. He asked everyone to keep in mind what the ballot would look like in November with the Charter changes and the Core Tax. He said supported TC<sup>3</sup>'s recommendation.

Council Member Romero stated that what she heard from the Town Hall meetings held in her Ward was that people had not heard about some of the Charter amendments. She said she was not completely comfortable with how they were being presented to the Mayor and Council. She said she had always kept the same perspective and was worried

about the matrix because of the potential to remove the voice of the community from the Council. She stated there was also concern about the Core Tax Committee's recommendation about full-time pay for the Mayor and Council.

Council Member Kozachik said, along with the four amendments proposed, there was another issue at hand: the revenue source rule. He asked for clarification from the City Attorney regarding the rule.

Mr. Rankin stated that if the revenue source rule was in effect prior to referring the Council's salary item to the ballot, then the salary increase mandating the new expenditure of funds required identifying a funding source for that. He said Council Member Kozachik was correct in that, the way it was presented, the revenue source rule did not go into effect until after the referral of the measures.

Council Member Kozachik wanted to know, from the TC<sup>3</sup>, if the proposal, instead of four amendments, was five. He asked if they were concerned that the package might possibly be turned down by having the Mayor and Council salaries included, and if concerned, perhaps a substitute motion could be made to pull the salaries and make it a separate item.

Mr. Rankin reminded the Council that the revenue source rule proposal was under a different ordinance and was being presented separately.

Mayor Walkup stated he wanted to make sure he understood the discussion. He stated the discussion was about putting something on the November ballot and assuming the voters approved the package, as presented, meant that the elections in 2011 were for the positions of Mayor and three Council Members. He asked if those Council Members now elected for a two-year term were entitled to the salary voted on by the voters in 2010.

Mr. Rankin said if the voters approved the package of four which included the modification of the election cycle, as well as, the salary increases, those changes would be fixed as of the time of approval and would go in to effect as provided for in the ballot question; they would go into effect with the commencement of the terms of the Mayor and Council Members elected in 2011.

Council Member Kozachik said he thought the package was about good governance, but was concerned about the jeopardizing the passage of the package by including what was questionably the most controversial item. He posed setting that item aside, vote on the other three, and put the revenue source rule to stand alone.

Pete Likins, Tucson Charter Change Coalition (TC<sup>3</sup>), said the TC<sup>3</sup> designed a tightly integrated package of four Charter amendments that collectively reduced expenditures in order to assure the voters that the decisions they made, in voting for the package, would reduce expenditures. He said it was true that the citizens in Ward 2 were almost overwhelmingly in support of the increase in compensation of the Mayor and

Council Members, but their caveat was that it should be paid for out of existing council district budgets and not out of the revenue or money saved from the restructuring of the election cycle.

Mr. Likins said, when the voters vote on the package in November, they can be assured that the net effect of passing the package of four was to reduce expenditures. Once that was done, it was his personal hope, and hoped it was the desire of the constituents, that the additional dollars for the council salaries come from existing budgets. He said it was not a decision that belonged in the Charter; it was a decision for the Mayor and Council to decide and was a political budget matter that should be resolved after passage of the package.

Council Member Kozachik stated he respected the TC<sup>3</sup>'s position but felt it was a tough sell in the current economic state.

Mr. Likins stated that the TC<sup>3</sup>, not just the City and the Mayor and Council, were going to have to do their very best to explain to the community what the package accomplished in fiscal terms. He said they had to make it clear that with these four changes, governmental expenses would go down, not up, even with the increased salaries. He stated that it was a challenge to sell it to the community.

Mayor Walkup asked how to present something, collectively to the voters, so that they clearly understood the issue. He said, from past history, if the voters did not understand the issue, they voted no. He said he thought what Mr. Likins was articulating was his best judgment; to leave it as a package because buried in that was the argument that it was revenue neutral as a package.

Mr. Likins said that Charter changes were inherently complex; that language and legal documents were incomprehensible to many voters. But he said he believed it was truly easier to explain the package rather than each of its four parts.

Council Member Kozachik stated he was not advocating that the amendments be considered individually; he was advocating that only one be pulled. He commented on how the RTA package was not successful because of this same situation.

Substitute motion to refer the City Charter amendments to the ballot as individual measures failed by a roll call vote of 3 to 4 (Council Members Cunningham and Kozachik; Vice Mayor Scott and Mayor Walkup dissenting).

Council Member Romero said that at the Town Hall meetings she attended the neighborhoods were concerned with the hiring and firing process and the matrix. To address those concerns she wanted to offer a substitute motion.

A substitute motion was made by Council Member Romero, duly seconded, to require the City Manager to seek advice and consent from the Mayor and Council

regarding the appointment and removal of the Superintendent of Water and all Core Services Department Directors.

Mayor Walkup asked if there was any discussion.

Vice Mayor Scott stated that in the history of the last thirty plus years, there had been no instances where the Mayor and Council exercised their prerogative to take on those powers already established in the system. She said, in recent history, the Mayor and Council had taken action on a manager position. She commented that, as a matter of theory, philosophy and idealism, it was an interesting debate, but, as a matter of practicality, she was not sure it measured up.

Mayor Walkup commented about previous discussions regarding the Charter changes and what the people understood about what the City was trying to accomplish. He said he thought it was to demonstrate the Council's interest to do things differently as they addressed the issues of an emerging 21<sup>st</sup> century city. One thing that stood out as being different was that the Council was willing to say that they were pulling back from the idea of the need to be involved with the hiring and firing of staff that worked for the City Manager. Most businesses or organization leaders were empowered to make those judgments. He said, personally, he thought the changes were a major movement that said the Mayor and Council were willing to change.

Substitute motion to require the Mayor and Council's consent regarding the appointment and removal of the Core Services Department Directors and the Superintendent of Water failed by a roll call vote of 3 to 4 (Council Members Cunningham and Kozachik, Vice Mayor Scott and Mayor Walkup dissenting).

Mayor Walkup asked if there were any other items that needed to be discussed.

Council Member Kozachik voiced his concern about removing Deputy Directors from a protected classification to an unprotected classification. He said including them had some potential unintended consequences.

A substitute motion was made by Council Member Kozachik, duly seconded, to grandfather in deputy directors over a three year period.

Mayor Walkup asked if there was any discussion.

Vice Mayor Scott stated she wanted to hear from a spokesperson of the TC<sup>3</sup>.

Jim Kiser, Tucson Charter Change Coalition (TC<sup>3</sup>), stated the TC<sup>3</sup> was okay with grandfathering in the deputy directors over a three year period.

The substitute motion to grandfather in deputy directors over a three year period was passed by a roll call vote of 7 to 0.

Mayor Walkup asked if there was anything else of a substitute nature that needed to come before the Council.

Council Member Romero commented that she understood a lot of work and conversation had been put into the Charter changes. She said she differed on a couple of issues that were brought forward and was uncomfortable with some of the questions the community had with regard to pay and sales tax increases.

Council Member Kozachik also commented he too was concerned about the salary increase because it could pull the entire package down, but was inclined to lend his support.

Mayor Walkup asked for a roll call vote.

Mr. Rankin stated that the Ordinance before the Mayor and Council had a lot of options, which based on the motion, did not apply. He said, before taking roll call, he needed to read through the Ordinance and identify which sections, by virtue of the motion, would go forward or come out. He said he would also integrate the amendment that was made based on the applicable timeframe for inclusion of Deputy Directors. Mr. Rankin said the changes were as follows:

- Page 4, Chapter V, Sec. 2.1 – the language that would be referred to the ballot was as in the first version of Section 2.1, with the following section added to subsection A: “This subsection shall apply to deputies on and after January 1, 2014.” He said that was the date three years after the effective date of the potential Ordinance.
- Page 4, at the bottom of the page, Option A of Section 2.1. subsection A would be removed, as well as, Subsection B at the top of page 5.
- Section 3 – relating to Appointment term, removable of city manager would go forward as written.
- Section 4 and Section 4.1 – would go forward as written.
- Section 6 would be modified to make the change that made the Water Director subject to consent on appointment, but the others were not and would be removable by the City Manager. The new language would read, “The city superintendent of streets and the city superintendent of the water department hereinafter in this Charter designated “superintendent of streets” and “superintendent of water department”, respectively, and such other officers as from time to time may have heretofore or may hereafter be provided for by subsection 14 of section 2 of this chapter, shall be appointed by the manager, with the appointment of the superintendent of water department also subject to the consent of the Mayor and Council, and these officers shall hold offices until removed by the city manager.
- Option B would be removed.
- Option B.1 on page 7 would be removed.
- Page 7, Section 7, the first version, would be removed. This is the version relating to the appointment of the police and fire chiefs. He said instead, it

would be Option C, which provided for the appointment of the police and fire chiefs by the city manager with the consent of the Mayor and Council and removal of those two positions subject to consent of the Mayor and Council.

- Page 8 and 9, Sections 8, 9 and 9.1, as written, would go forward.
- Page 10, Section 13, would go forward as written with the amendment as read in Page 4, Chapter V, Sec. 2.1, which related to the three year timeframe. The language would read, “This subsection shall to deputies on and after January 1, 2014.” Also, Option D of this Section would be removed.
- Page 11, Sections 5 and 8, as written, would go forward.
- Page 12, Chapter X, Section 7 would go forward, deleting Option E.
- Page 13, Section 9, as written, would go forward deleting Option F.
- Page 14, Chapter XVI, Section 4, as written, would go forward.
- Page 15, Chapter XXII, Sections 2 and 3, as written, would go forward.
- Page 16, Chapter XXIX, Section 4, the first version would not go forward, instead Option G would go forward, which provided for the appointment of the director of finance by the city manager subject to approval of the Mayor and Council and removed by the manager.
- Page 17, Option G.1 would be removed. Chapter XXX, Section 3, relating to the director of human resources, the first version would not go forward; instead Option H would go forward.
- Page 18, Option H.1 would not go forward. Chapter XXXI, Section 3, would be removed. He said he would read a modification to Option I, as per the motion, the director would be appointed and removed by the manager. The new language would read as follows, “The director of parks and recreation shall be appointed by the city manager and shall hold office until removed by the city manager.” The language, “subject to the approval of the mayor and council” would be removed and the remainder of the language from that point on remains. Option I.1 would be removed.

Vice Mayor Scott asked if members of the TC<sup>3</sup> followed the changes and were in accord with what had been written. The response was affirmative.

Council Member Uhlich commented on the attempt to bring forth the strongest package possible to the voters. She said between now and the election, there was time to offer further reflection on the strengths and merits of the proposal and their efforts to improve local governance and to address any lingering concerns.

Mayor Walkup asked if the item required an emergency clause based upon the timing.

Mr. Rankin responded affirmatively.

Vice Mayor Scott confirmed that the vote was on the original motion with the amendments.

Ordinance 10821, with amendments, was passed and adopted by a roll call vote of 4 to 3 (Council Members Romero, Uhlich and Fimbres dissenting).

Mayor Walkup asked for a roll call vote on the emergency clause.

The emergency clause for Ordinance 10821 was passed by a roll call vote of 7 to 0.

It was moved by Vice Mayor Scott, duly seconded, to pass and adopt Ordinance 10822, to establish a revenue source rule.

Mayor Walkup asked if there was any discussion.

Vice Mayor Scott commented that she thought this was the thing that offset the abhorrence about raising the salaries of the council members and made it revenue neutral. She said, for those who believed it was self-serving; this was in fact, an offset and was the most important piece that went along with the package that everyone should understand would help the public understand that this was a balanced package.

Mr. Rankin stated that Ordinance 10822 referred a revenue source rule amendment to the ballot as well and was presented as a separate question from the others. He said the revenue source rule required that, subsequent to January 1, 2011, any initiative or referendum matter that went to the voters, that mandated a new expenditure or allocated funding for a particular purpose, had to identify a funding source for that purpose.

Vice Mayor Scott asked if this was part of what the TC<sup>3</sup> came up with.

Mr. Rankin stated it was not. It was an item that was originally brought forward, by the Mayor and Council, in November 2009, prior to the other Charter amendments coming forward for consideration. He said the direction, from the Council at that time, was to bring it back at such time that a decision could be made for it to be placed on the 2010 ballot. He said it was separate and was to be presented as a separate question.

Council Member Kozachik asked, if at the time the Regional Transportation Authority (RTA) package came forward that included the Modern Street Car, if this revenue source rule was in effect would that have been a part of it, knowing that operations and maintenance (O&M) was a general fund obligation and did not have a separate dedicated funding source.

Mr. Rankin stated that the RTA issue was put out as a County-wide regional question. This question only related to City matters and would not apply.

Mayor Walkup asked if that was what the City did on Proposition 200.

Mr. Rankin said that this was in response, in large part, to an earlier proposition which could have required significant allocation of funding.

Council Member Kozachik stated his questions was that he was looking for potential unintended consequences and one of them could have been if a street car type of referendum had come forward without an identified funding source for O&M, it would not have passed.

Mr. Rankin responded that was a possibility. He said that the revenue source rule came forward on a separate track from the other amendments that were considered. He said he did not think anyone was indicating that there was a time of the essence issue with this.

Mayor Walkup asked if there were any other questions. He stated he was not sure everyone understood the implications of the Ordinance.

Vice Mayor Scott stated she thought what happened was that it was put in with the Charter changes. She said it was confusing when placed with another number/item in their materials, thus the confusion. She asked what the purpose was for putting the two Ordinances together rather than separately.

Mr. Rankin stated it was actually a separate ordinance number, and thought the Council was asking that it be a separate proposition. He said the two were brought together because of the timing in that this was the last opportunity to act to put items on the November ballot. He suggested that if the Council had any discomfort or confusion with the rule, there was no harm in not referring it to the ballot at this time. He said it could be referred to a future election.

Vice Mayor Scott withdrew her motion.

**14. ZONING: (C9-10-01) ROAD MACHINERY – 44TH STREET, R-1 TO I-2, CITY MANAGER’S REPORT, DIRECT ORDINANCE ADOPTION**

Mayor Walkup announced City Manager's communication number 337, dated July 7, 2010, and the report from the Zoning Examiner were received into and made part of the record. He said this was a request to rezone the property located at 44<sup>th</sup> Street east of Country Club Road. The Zoning Examiner and staff recommended approval subject to certain conditions. He asked if the applicant was present and agreeable to the proposed requirements.

Wayne Swan, Applicant, stated he was in agreement.

Mayor Walkup asked the City Clerk to read Ordinance 10816 by number and title only.

Ordinance No. 10816 relating to zoning: amending zoning district boundaries in the area located at the terminus of East 44<sup>th</sup> Street, approximately 1400 feet east of Country Club Road in Case C9-10-01, Road Machinery – 44<sup>th</sup> Street, R-1 to I-2; and setting an effective date.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 7 to 0, to approve the request as recommended by the Zoning Examiner and pass and adopt Ordinance 10816.

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

Mayor Walkup announced City Manager's communication number 335, dated July 7, 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 Vice Mary Scott, duly seconded, and passed by a voice vote of 7 to 0 to appoint Patricia Carnes to the Pima County-Tucson Commission on Addiction, Prevention and Treatment (CAPT) and Herb Stratford to the West University Historic Zone Advisory Board (WUHZAB).

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

Council Member Fimbres announced his personal appointment of Karen Falkenstrom to the Parkwise Commission (PWC).

Council Member Cunningham announced his personal appointments of Dante Archangeli to the Citizen Sign Code Committee (CSCC), Sami Hamed to the Citizens Transportation Advisory Committee (CTAC), John Hingle to the Environmental Services Advisory Committee (ESAC), Moon Joe Yee to the Human Relations Commission (HRC), Joseph Higgins to the Small, Minority, Women-Owned Business Commission (SMWBC), Shannon McBride-Olsen to the Planning Commission (PC), Sue Betanzos to the Public Art and Community Design Committee (PACDC), Les Krambeal to the Tucson Commission on Gay, Lesbian, Bisexual and Transgender Issues (GLBT), Gary Rasmussen to the Tucson Convention Center Committee (TCCC), Frank Salbego to the Tucson Greens Committee (TGC), Ian Johnson to the Tucson-Pima County Bicycle Advisory Committee (TPCBAC), and Eileen Warshaw to the Tucson-Pima County Historical Commission (TPCHC).

**16. ADJOURNMENT – 10:08 p.m.**

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Wednesday, August 4, 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 7th day of July 2010, and do hereby certify that it is an accurate transcription.

---

DEPUTY CITY CLERK

RWR:yl:lc