



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on March 8, 2011.

Date of Meeting: November 16, 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 5:36 p.m., on Tuesday, November 16, 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 (departed at 6:47 p.m.)
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

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 presented by the entire assembly.

Presentations:

- a. Mayor Walkup, assisted by all of the Council Members, presented a Lifetime Achievement Award to Bill Buckmaster in recognition of his commitment and dedication to serving the community.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 502, dated November 16, 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 Ward 1's 2nd Annual Tamale Contest. She also invited neighborhood leaders to apply and participate in the Neighborhood Leaders Program to learn to design, develop and install green infrastructure practices in their neighborhoods.
- b. Council Member Cunningham invited the public to an Open House on the proposed Grant Road improvements and announced the passing of former City Council Member, Roger M. Sedlmayr.
- c. Council Member Uhlich announced the passing of Roger Sliker, founder and owner of the Raging Sage Coffee Roasters.
- d. Vice Mayor Scott acknowledged the passing of former City Council Member Roger Sedlmayr and gave a brief outline of his accomplishments in life.
- e. Council Member Fimbres thanked Tucsonans who attended the Veteran's Day Parade and all those involved in making the parade happen. He announced the University of Arizona's Athletic Director was hosting a "sports rally" to learn more about the Arizona Wildcats.
- f. Council Member Kozachik announced Imagine Greater Tucson was hosting a workshop at the Ward 6 Council office.
- g. Mayor Walkup reminded the community about the El Tour de Tucson and asked everyone to be mindful of all the bicyclists on the streets.

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

Mayor Walkup announced City Manager’s communication number 503, dated November 16, 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.

No Report was given.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager’s communication number 504, dated November 16, 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. Elle Wine Bistro, Ward 3
2970 N. Campbell Ave.
Applicant: Jeffrey Arthur Fuld
Series 12, City 92-10
Action must be taken by: November 28, 2010

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

2. Athens on 4th Avenue, Ward 6
500 N. 4th Ave. #6
Applicant: Georgios Varnasidis
Series 12, City 93-10
Action must be taken by: November 26, 2010

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

3. Shish Kebab House, Ward 6
5855 E. Broadway Blvd. #118
Applicant: Tania Xiomara Wer
Series 12, City 94-10
Action must be taken by: November 28, 2010

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

4. Jimmy’s on Grant, Ward 1
1570 W. Grant Rd.
Applicant: James Vincent Lamendola
Series 10, City 95-10
Action must be taken by: November 29, 2010

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

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

Person Transfer(s)

5. Villa Hermosa, Ward 2
6300 E. Speedway Blvd.
Applicant: Timothy Larter Cowen
Series 6, City 89-10
Action must be taken by: November 27, 2010

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

6. Whiskey Tango Bar, Ward 2
140 S. Kolb Rd.
Applicant: Richard Joseph Fortuno
Series 6, City 90-10
Action must be taken by: November 27, 2010

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

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

Person/Location Transfer(s)

7. Staybridge Suites, Ward 5
2705 E. Executive Dr.
Applicant: Diane C. Nichols
Series 7, City 97-10
Action must be taken by: December 6, 2010

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

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

Location Transfer(s)

8. Food City #136, Ward 1
1225 W. Saint Mary's Rd.
Applicant: Michael Joseph Basha
Series 9, City 96-10
Action must be taken by: December 3, 2010

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

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

c. Special Event(s)

1. Tucson Young Professionals, Inc., Ward 1
140 N. Main Ave.
Applicant: Rachel L. Neil
City T108-10
Date of Event: December 3, 2010
(Promote Community Activity Downtown)

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

2. Congregation Anshei Israel, Ward 6
5550 E. 5th St.
Applicant: Robert Vee Dietz
City T110-10
Date of Event: December 11, 2010
(Fun)

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

Public Opinion: Written Argument in Favor Filed

d. Agent Change/Acquisition of Control

1. College Place, Ward 3
1601 N. Oracle Rd.
Applicant: H. J. Lewkowitz
Series 11, City AC14-10
Action must be taken by: November 26, 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 Uhlich, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b1 through 5b8, 5c1 through 5c2, and 5d1, 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. Mikki Niemi spoke regarding the City’s budget and suggested other areas to cut besides police and fire.
- b. Robert Black spoke in regards to the audit of Rio Nuevo, cuts to police and fire, and inappropriate City spending.
- c. Robert Reus spoke regarding the failure of Proposition 400 and City Charter changes.
- d. Enrique Vega spoke in opposition to HB 2281 prohibiting schools from including, in its instruction, any classes on ethnic studies.
- e. Phillip Gaillard, Copper Country Antique, spoke in opposition to the Pawn Shop Ordinance and asked the Mayor and Council to repeal it.
- f. Ari Shapiro spoke in opposition to the relocation of the Greyhound Bus Station to 6th Avenue and Toole.
- g. Ally Miller spoke regarding the Rio Nuevo audit and stated she was looking for some accountability by the City.
- h. Shaun McClusky spoke on the effectiveness of the Pawn Shop Ordinance, why Proposition 400 failed, and cuts to police and fire.
- i. Terri Etherton, Etherton Gallery, spoke in opposition to the relocation of the Greyhound Bus Station.
- j. Janos Wilder, Downtown Kitchen & Cocktails, spoke in opposition to the relocation of the Greyhound Bus Station.
- k. Ken Johnson spoke about the success of the Veteran’s Day Parade.

Vice Mayor Scott asked the City Manager to post the Rio Nuevo financial statement on the City’s website for public access.

7. CONSENT AGENDA – ITEMS A THROUGH H

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. APPROVAL OF MINUTES
 - 1. Report from City Manager NOV16-10-514 CITY WIDE
 - 2. Mayor and Council Regular Meeting Minutes of June 8, 2010

- b. FINAL PLAT: (S10-034) PLAZA CENTRO GARAGE, UNITS 1 TO 10 AND COMMON ELEMENT "1"
 - 1. Report from City Manager NOV16-10-511 WARD 6
 - 2. Staff recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

- c. BUDGET AND INTERNAL AUDIT: APPROVING THE INTERNAL AUDIT PLAN FOR FISCAL YEAR 2011
 - 1. Report from City Manager NOV16-10-507 CITY WIDE
 - 2. Resolution No. 21649 relating to Budget and Internal Audit; approving the Internal Audit Plan for Fiscal Year 2011; and declaring an emergency.

- d. AGREEMENT: WITH THE UNITED STATES GEOLOGICAL SURVEY TO MONITOR LAND SUBSIDENCE AND CHANGES IN AQUIFER STORAGE
 - 1. Report from City Manager NOV16-10-506 CITY WIDE AND OUTSIDE CITY
 - 2. Resolution No. 21650 relating to Water; authorizing a three year continuation of an Agreement between the United States Geological Survey (USGS) and the City of Tucson to monitor subsidence and change in aquifer storage; and declaring an emergency.

- e. INTERGOVERNMENTAL AGREEMENT: WITH THE ARIZONA BOARD OF REGENTS FOR CONSTRUCTION AND MAINTENANCE OF NOBEL WAY FOR THE BIOSCIENCE PARK
 - 1. Report from City Manager NOV16-10-513 WARD 5
 - 2. Resolution No. 21653 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and the Arizona Board of Regents for Construction and Maintenance of Nobel Way for the University of Arizona Bioscience Park; and declaring an emergency.

- f. FINAL PLAT: (S10-031) ARTISAN RANCH REPLAT LOTS 1 AND 2
 - 1. Report from City Manager NOV16-10-510 WARD 3
 - 2. Staff recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at time of actual application.

- g. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY FOR THE IMPROVEMENTS AT MORRIS K. UDALL PARK
 - 1. Report from City Manager NOV16-10-508 WARD 2
 - 2. Resolution No. 21651 relating to Parks and Recreation; authorizing and approving Amendment Number One to the Intergovernmental Agreement between Pima County and the City of Tucson - Morris K. Udall Park - Sports Field Improvements to authorize a decrease in County bond funding to the Udall Park - Sports Field Improvements by transferring \$220,000.00 from Morris K. Udall Park - Sports Field Improvements Projects to the Lincoln Park Softball Field Improvements Projects; and declaring an emergency.

- h. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY FOR IMPROVEMENTS TO THE SOFTBALL COMPLEX AT LINCOLN PARK
 - 1. Report from City Manager NOV16-10-509 WARD 4
 - 2. Resolution No. 21652 relating to Parks and Recreation; authorizing and approving Amendment Number One to the Intergovernmental Agreement between Pima County and the City of Tucson - Lincoln Park - Softball Field Improvements to authorize an increase in County bond funding to the Lincoln Park - Softball Field Improvements by transferring \$220,000.00 from Morris K. Udall Park - Sports Field Improvements Project to the Lincoln Park Softball Field Improvements Project; and declaring an emergency.

It was moved by Vice Mayor Scott, duly seconded, and passed by a roll call vote of 7 to 0, that Consent Agenda Items a – h be passed and adopted and the proper action taken.

8. PUBLIC HEARING: TUCSON CODE (CHAPTER 19) AMENDING THE BUSINESS LICENSE FEE

Mayor Walkup announced City Manager's communication number 516, dated November 16, 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 relating to an increase in the Business License annual fee. He said the public hearing was scheduled to last for no more than one hour and

speakers were limited to five minute presentations. He stated staff wanted to make a brief statement before beginning the public hearing.

Kelly Gottschalk, Finance Director, stated the reason this item was before the Mayor and Council was because staff was getting ready to print and send out renewal notices and if the fee increase was approved at the evening's meeting, they wanted to include that in their notice. She said the Mayor and Council directed staff to meet with the Small, Minority and Women-Owned Business Commission (SMWBC) to obtain their input. The recommendation before the Mayor and Council was endorsed by the SMWBC.

Rich Rodgers spoke in opposition to the business license fee increase stating this was not the right time for such an increase.

David Godlewski, Southern Arizona Home Builders Association (SAHBA) Government Liaison, spoke in opposition to the business license fee increase and how it affects the many small, locally owned businesses.

Rick Grinnell, Smart United Business Systems, spoke in opposition to the business license fee increase. He asked the Mayor and Council to look at the "big" picture, be realistic, and not consider the increase.

Mike Addis, Addisigns Inc., spoke in opposition to the tax increase for small business owners and stated his reasons why. He urged the Mayor and Council not to consider the fee increase.

Robert Medler, Tucson Chamber of Commerce Director of Governmental Relations, spoke in opposition to the fee increase for business owners and asked the Mayor and Council to reconsider their thoughts.

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 10851 by number and title only.

Ordinance No. 10851 relating to the Business Occupational License Fees; amending Tucson Code § 19-39 increase the business licensing fee; setting an effective date and declaring an emergency.

Roger W. Randolph, City Clerk, announced that the City Attorney wanted to read a correction to the Ordinance for the record.

Michael Rankin, City Attorney, said, as explained in Study Session, there was another cross-reference within the *Code* that would need to be amended as part of the Ordinance, so that the *Code* remained consistent throughout. He said if the Ordinance

was adopted at the evening's meeting, a second Section 2 would be added that amends Tucson City Code §19-310(b), to remove the reference to the licensing fee of forty-five dollars and include a cross-reference to §19-39, so that both sections were consistent and effective on and after January 1, 2011.

Council Member Cunningham asked that the proposal be brought forward as an option, but after receiving input from his constituents, he did not think it was a good idea, at this point, to assess the business owners with the new fee.

It was moved by Council Member Uhlich, duly seconded, to defer a decision on the item and make the decision as part of the broader budget decision.

A substitute motion was made by Council Member Kozachik, duly seconded, and failed by a roll call vote of 3 to 4 (Council Members Romero, Uhlich, Fimbres and Mayor Walkup dissenting), to retain the current business license fee of forty-five dollars and not adopt the twelve dollar increase.

The original motion to defer a decision on the item and make the decision as part of the broader budget decision was passed by a roll call vote of 4 to 3 (Council Members Cunningham and Kozachik and Vice Mayor Scott dissenting).

(NOTE: Council Member Romero departed at 6:47 p.m.)

9. PUBLIC HEARING: ZONING (C9-10-03) - ST. AUGUSTINE - 22ND STREET, RX-1 TO O-3 AND C-1, CITY MANAGER'S REPORT

Mayor Walkup announced City Manager's communication number 512, dated November 16, 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 request to rezone property located on the south side of 22nd Street, east of Camino Seco. Mayor Walkup asked if the applicant was present and if they were agreeable to the proposed requirements.

Mike Marks, MJM Consulting, representing St. Augustine Catholic High School, stated they were in agreement with all of the recommendations. He asked for the Mayor and Council's support on the rezoning.

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

R.B. "Buck" O'Rielly, member of the St. Augustine Board of Directors and Finance Committee Chair, stated he had been involved with the school since its inception. He continued stating his reasons why he was in support of the rezoning.

Sherree Mongelli, Rolling Hills Villas Association Treasurer, said they supported the rezoning request but had requested a public hearing because they were

concerned that St. Augustine Catholic High School (SACHS) was not agreeable with the conditions and said they wanted the opportunity to speak.

Jamie Moore stated she was present at the evening's meeting to have the chance to speak if it turned out that SACHS was not in agreement with the conditions as set by the Zoning Examiner.

Stephen Austin stated he supported the zoning request as long as the conditions set by the Zoning Examiner were met. He said the only thing he was not in agreement with was SACHS' request to have unrestricted use of their property.

Kevin Kiefer, St. Augustine Catholic High School Principal, thanked the Mayor and Council for the opportunity to speak and said he echoed some of the comments made earlier by Mr. O'Rielly. He spoke about the students at SACHS, how the school operated and prepared their students to be successful after high school. He asked the Mayor and Council to support the rezoning request.

Jeffrey Cesare, member of the St. Augustine Catholic High School Board of Directors, spoke in support of the rezoning request.

Cheryl Gomez spoke in opposition to the rezoning request and stated her concerns and reasons why.

Jack Gomez commended SACHS for its accomplishments, but stated he was concerned with their request for a waiver on the lights and the public address system which impacted the surrounding homeowners.

Michael Sasindek stated he was a SACHS parent and loved the Rolling Hills Neighborhood, but as with any other neighborhood, they too had their share of problems. He spoke about the students that attended SACHS, liked what he saw, and said there was change in a positive way.

Patricia Bradshaw, resident of the Rolling Hills Neighborhood and teacher at SACHS, said she was familiar with both sides. She said she knew about the noise that came from not only the school, but also from within the neighborhood and how people chose which one to pick on. She shared some stories regarding accomplishments by the students at SACHS which might have caused some of that noise.

Christine Austin stated she did not have a problem with a child's education or with SACHS wanting to extend their school. She said she was talking about people wanting to keep their homes. She said she wanted to see the school's hours of operation kept to a neighborhood ruling.

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

Council Member Cunningham asked for clarification from the Zoning Examiner on the hours for the outdoor lighting facility and public address system at SACHS.

Peter Gavin, Zoning Examiner, replied that Condition #7 addressed the concerns; and the lighting system and public address system would be required to be turned off at eleven o'clock in the evening. He said it was at the Mayor and Council's discretion if they wanted to add anything to the condition.

Mr. Austin commented he was concerned that the unrestricted use of the property waiver that SACHS was requesting was separate from sports nights, and other events held late at night and on weekends.

Mr. Gavin gave the example that if there was a performance inside SACHS Performance Arts building, where rehearsals might go beyond 11:00 p.m., that would be part of the existing restriction in the zoning.

It was moved by Council Member Cunningham, duly seconded, to authorize the rezoning request as recommended by the Zoning Examiner.

Mayor Walkup commented about his association with SACHS via ribbon cutting ceremonies, fundraisers, graduation and sporting events. He said he was extraordinarily impressed with the administration, teachers and parents, and the request was a project worth supporting.

Michael Rankin, City Attorney, said, before the vote, he wanted to explain that there was one "wrinkle" with regards to the request as described in the background information in the Mayor and Council's Communication. Mr. Rankin said that in addition to the rezoning, the property needed special exception approval. If the rezoning was authorized, staff would also take that as direction for the Zoning Examiner to decide on the special exception request related to the rezoning. He stated that under the *Code*, the Zoning Examiner had exclusive decision making authority on the special exception request.

The motion to authorize the rezoning request as recommended by the Zoning Examiner was passed by a roll call vote of 6 to 0, (Council Member Romero absent/excused).

10. ELECTIONS: CANVASS OF THE RETURNS AND DECLARATION OF THE RESULTS OF THE SPECIAL ELECTION HELD ON NOVEMBER 2, 2010 (CONTINUED FROM THE MEETING OF NOVEMBER 9, 2010)

Mayor Walkup announced City Manager's communication number 515 dated November 16, 2010, was received into and made part of the record. He asked the City Clerk to read Resolution 21647, by number and title only.

Resolution No. 21647 relating to elections; canvassing the returns and declaring the results of the Special Election on Proposition 400 held in the City of Tucson, Arizona on November 2, 2010.

Roger W. Randolph, City Clerk, stated the results of the Special Election on Proposition 400 were: 51,117 'Yes' votes and 80,350 'No' votes.

It was moved by Vice Mayor Scott, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Romero absent/excused), to pass and adopt Resolution 21647.

Mayor Walkup asked the City Clerk to read Resolution 21648 by number and title only.

Resolution No. 21648 relating to elections; canvassing the returns and declaring the results of the Special Election on Proposition 401 held in the City of Tucson, Arizona on November 2, 2010.

Mr. Randolph stated the results of the Special Election on Proposition 401 were: 56,149 'Yes' votes and 71,700 'No' votes.

It was moved by Vice Mayor Scott, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Romero absent/excused), to pass and adopt Resolution 21648.

11. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 505, dated November 16, 2010, was received into and made part of the record. He asked if there were any personal appointments to be made.

Vice Mayor Scott announced her personal appointment of Paul Olesniewicz to the Public Art and Community Design Committee.

12. ADJOURNMENT: 7:23 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, November 23, 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 16th day of November 2010, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:yl:sac