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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on June 14, 2011.

Date of Meeting: February 15, 2011

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, February 15, 2011, 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 (arrived at 5:40 p.m.)
Karin Uhlich	Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Richard G. Fimbres	Vice Mayor, 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 Pastor Roy Tullgren, Gospel Rescue Mission, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

- a. Ann Shook, EMC Corporation, sponsor of the Center for Digital Government's Digital Communities Program, presented the City of Tucson with the 2010 Digital Cities Award, for being one of the top ten cities for the tenth year in a row.

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

Mayor Walkup announced City Manager's communication number 65, dated February 15, 2011, 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 community to volunteer in monthly clean up projects along Mission Road, and to attend El Rio Neighborhood Center's Annual Health Fair.
- b. Council Member Cunningham reported on several Ward 2 events, which included a shredding event, La Reunion De La Fuerte - Old Fort Lowell Days, a western style lunch for seniors and income tax assistance program at Udall Center and Major League Soccer at Hi Corbett Field.
- c. Council Member Uhlich reported on several Ward 3 events, which included the Neighbors' Alliance Meeting on community volunteering, the kick-off for a graffiti clean up in the Keeling Neighborhood, a Chicane planting event in the Northwest Neighborhood and a water harvesting project at Salpointe High School.
- d. Council Member Scott announced a Budget Town Hall in Ward 4 and reminded the community about the furlough day for City employees. She thanked all City employees for their efforts in helping with the City's budget difficulties by taking furlough days.
- e. Vice Mayor Fimbres reported on a graffiti abatement event in Wards 3 and 5. He also reported on Black History Month events, the Manny Alvarado – Pima Community College Scholarship Benefit Dinner and Dance, and reminded the public about the Tucson Rodeo Parade.
- f. Council Member Kozachik reported on the "Tucson Has Heart" benefit at Hi Corbett Field and on the Reid Park Zoo expansion.
- g. Mayor Walkup reported on a letter of appreciation he sent to mayors of major cities in the United States, on the establishments of a Civility Accord. He also reported on positive comments he received regarding the Tucson Gem and Mineral Show.

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

Mayor Walkup announced City Manager’s communication number 66, dated February 15, 2011, 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.

Mike Letcher, City Manager, thanked the Mayor and Council for their direction and guidance during Study Session on the budget.

**5. LIQUOR LICENSE APPLICATIONS**

Mayor Walkup announced City Manager’s communication number 73, dated February 15, 2011, 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)

Note: There are no application(s) for new licenses scheduled for this meeting.

Person Transfer(s)

NOTE: There are no application(s) for person transfers scheduled for this meeting.

c. Special Event(s)

1. Fourth Avenue Merchants Association, Ward 6  
4th Ave. between University Blvd. and 9th St.  
Applicant: John A. Sedwick  
City T3-11  
Date of Event: April 1, 2011 - April 3, 2011  
(Fundraising)

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

This item was continued to the meeting of February 23, 2011 at the request of Council Member Kozachik.

2. Southern Arizona AIDS Foundation, Ward 6  
1303 E. University Blvd.  
Applicant: Kelly Wiehe  
City T5-11  
Date of Event: March 6, 2011  
(Fundraiser)

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

3. St. Patricks Day Parade & Festival, Ward 6  
220 S. 5th Ave.  
Applicant: Teresa Doyle Mellum  
City T6-11  
Date of Event: March 12, 2011  
(Celebration of Irish Heritage)

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

- d. Agent Change/Acquisition of Control

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

It was moved by Council Member Cunningham, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5c2 and 5c3 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. Roger Score spoke in opposition to the proposed twenty-dollar alarm tax.
- b. Michael Toney spoke about Rio Nuevo's budget and bond money.
- c. Shannon Cain gave the next installment of "*Tucson, the Novel: An Experiment in Literature and Civil Discourse.*"
- d. Mikki Niemi voiced his concerns about proposed budget cuts to City services.
- e. Jim Hannley, El Rio Neighborhood Association President, spoke in support of proposed revenue enhancements. He also spoke in opposition to closing swimming pools in City parks on the westside.

Council Member Romero asked the City Manager to direct the Parks and Recreation Department Director to follow up with Mr. Hannley on his concern.

- f. Ken Johnson spoke about attendance at American Legion events and asked the community to make donations to Access Tucson.
- g. Randy Casarez spoke about his concerns regarding the City's budget issues and about his plans for moving Tucson in a new direction.
- h. Joe Sweeney spoke about the problems with illegal aliens in the community, 287(g), and his suggestions to boycott Mexico.

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

Mayor Walkup announced the reports and recommendations from the City Manager on the Consent Agenda were received into and made part of the record. He asked the City Clerk to read the Consent Agenda.

**a. APPROVAL OF MINUTES**

1. Report from City Manager FEB15-11-70 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of October 19, 2010

**b. REAL PROPERTY: AUTHORIZATION TO ACQUIRE REAL PROPERTY AT 1221 EAST BROADWAY UNDER THE ADVANCED ACQUISITION PROGRAM**

1. Report from City Manager FEB15-11-67 WARD 6

(This item was continued to the meeting of March 8, 2011 at the request of staff.)

**c. ZONING: (S09-023) DESIGNATING THE TENTATIVE PLAT FOR TRIPLE CROWN VILLAS TOWNHOMES AS A PROTECTED DEVELOPMENT RIGHT PLAN**

1. Report from City Manager FEB15-11-68 WARD 2
2. Resolution No. 21689 relating to zoning: designation of the Tentative Plat/Development Plan for Triple Crown Villas Townhomes (S09-023) as a Protected Development Right Plan; 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 – c, with the exception of Consent Agenda Item b, which was continued, be passed and adopted and the proper action taken.

**8. ZONING: (SE-10-121) AT&T - SPEEDWAY BOULEVARD, C-2 (WIRELESS COMMUNICATION FACILITY), SPECIAL EXCEPTION LAND USE, CITY MANAGER'S REPORT, DIRECT ORDINANCE ADOPTION**

Mayor Walkup announced City Manager's communication number 69, dated February 15, 2011, was received into and made part of the record. He also announced this was a Special Exception Land Use request for property located south of Speedway Boulevard east of Richey Boulevard. He said the Zoning Examiner and staff recommended approval, subject to certain conditions. Mayor Walkup asked if the applicant or representative were present and if they wanted to make any comments.

No one spoke.

Mayor Walkup asked the City Clerk to read Ordinance 10877 by number and title only.

Ordinance No. 10877 relating to zoning; a special exception land use - wireless communication facility use - SE-10-121 AT&T - Speedway Boulevard - 150 feet east of Richey Boulevard; approving with conditions the construction of a 65 foot tall wireless communication facility concealed within an artificial palm tree in the C-2 zone and setting an effective date.

Council Member Kozachik stated there was no written opposition to the zoning, yet at the last Miramonte Neighborhood Association meeting there was reference made to a five thousand-dollar donation to the neighborhood association. He added there was nothing acknowledging that in the written material, and asked if that was correct if the Ordinance was adopted.

Unidentified speaker confirmed that was correct.

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 10877.

**9. WATER: AGREEMENTS WITH THE PASCUA YAQUI TRIBE FOR POTABLE WATER SERVICE, CAP WATER STORAGE, AND LONG-TERM STORAGE CREDITS**

Mayor Walkup announced City Manager's communication number 72, dated February 15, 2011, was received into and made part of the record. He asked the City Clerk to read Resolution 21691 by number and title only.

Resolution No. 21691 relating to Tucson Water; approving and authorizing agreements between Tucson Water and the Pascua Yaqui Tribe for Potable Water Service, CAP Water Storage, and Long-Term Storage Credits; and declaring an emergency.

Vice Mayor Fimbres acknowledged the Chairman of the Pascua Yaqui Tribe, and asked if he had any comments to make, prior to making a motion.

Robert Gillon, Assistant Attorney General for Pascua Yaqui Tribe, said he was asked by Chairman Yucupucio to comment on the negotiations that had taken place. He said they worked for approximately three years on negotiating the agreement. The agreement had significant benefits both for the City of Tucson and the Tribe, and explained the benefits. Mr. Gillon thanked Chris Avery, Chief Water Counsel, and City staff for their part in the negotiations.

Peter Yucupucio, Pascua Yaqui Tribe Chairman, thanked the City of Tucson and Pima County for their work on the agreements. He said he looked forward to continue working with the City on water issues, as well as, other issues.

It was moved by Vice Mayor Fimbres, duly seconded, to pass and adopt Resolution 21691.

Council Members Romero and Uhlich thanked Chairman. Yucupicio and spoke about the partnerships and intergovernmental agreements between the City of Tucson and the Pascua Yaqui Tribe.

Council Member Kozachik pointed out that on the agreement it stated the agreement generally protected the City from water rights claims filed on behalf of the Tribe, yet on the Resolution it stated the Tucson 2011 Water Service Agreements were neither intended to be a settlement of the claims, nor should be construed as a further relinquishment. He asked for clarification from staff, stating it seemed inconsistent.

Chris Avery, Chief Water Counsel, said one of the issues the City tried to negotiate in the agreement was the issue of Tribal sovereignty. He said he met with Mr. Gillon a few years ago, when he called him to let him know the City did not have the right to put water lines on Tribal lands, which was the case. Mr. Avery said it was because the Tribe was in many ways considered a sovereign nation, independent of the regular jurisdiction in the region. He added that one of the most important things for the Tribe was to maintain that sovereignty and ability to protect themselves from unexpected harm. He added the Tribe clearly would not negotiate an agreement that would put them in a position where they would give that away.

Mr. Avery added that the City negotiated a term in the agreement that provided the conditions under which the Tribe could sue for damage to water rights without actually waiving that claim. He explained the Tribe agreed not to sue the City for water rights damages, unless it could show that water being delivered to the Tribe by the City was causing more damage than would be caused if the Tribe was serving itself from wells located on the reservation.

Mr. Avery said the City did not waive Tribal sovereignty, but they did put in a condition that meant if the City operated their water system the way they intended, and they continued their partnership with the Tribe, the City would never be in a position where factual acclaim could be made.

Chairman Yucupicio reassured the City that they spent many hours in an attempt to protect the City and the Tribe, and the proposed agreements protected both sides in terms of water service. He also said they would continue to work on other issues with the City of Tucson.

Resolution 21691 was declared passed and adopted by a roll call vote of 7 to 0.

**10. HOUSING: SUBSTANTIAL PLAN AMENDMENT FOR NEIGHBORHOOD STABILIZATION PROGRAM 3 FUNDING ALLOCATION TO THE CITY OF TUCSON**

Mayor Walkup announced City Manager's communication number 71, dated February 15, 2011, was received into and made part of the record. He asked the City Clerk to read Resolution 21690 by number and title only.

Resolution No. 21690 relating to Housing and Community Development; approving an amendment to the 2011 Annual Action Plan to include use of Neighborhood Stabilization Program (NSP) 3 Funds; authorizing and directing submittal of the amendment to the United States Department of Housing and Urban Development (HUD); and declaring an emergency.

Council Members Uhlich and Romero spoke about the importance of the substantial plan amendment for neighborhood stabilization in Wards 1 and 3.

It was moved by Council Member Uhlich, duly seconded, to pass and adopt Resolution 21690.

Vice Mayor Fimbres asked staff if the funding for the proposal had been set or if it was subject to budgetary action that might be taken for the current fiscal year.

Albert Elias, Housing and Community Development Services Director, explained they were neighborhood stabilization program funds that had already been allocated for the current fiscal year. In fact, he said they were funds that were not expended in the first part of the program. The funding was available for the current fiscal year.

Vice Mayor Fimbres asked if there was a match requirement under the proposal.

Mr. Elias said there was no match requirement. The only requirement was that the City report the expenditures of the funds to Housing and Urban Development (HUD) and that program requirements be followed.

Vice Mayor Fimbres referred to page seventeen, under acquisition/relocation, and asked if there were any potential Proposition 207 situations that could arise.

Mr. Elias said he did not believe there were. He added that the way the program operated, they could only acquire foreclosed properties, so they were dealing primarily with financial institutions that were willing sellers in the situation and were eager to dispose of the assets, allowing the City to rehabilitate those assets and then offer them back out to low income people. He did not anticipate any Prop 207 challenges.

Resolution 21690 was declared passed and adopted by a roll call vote of 7 to 0.

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

Mayor Walkup announced City Manager's communication number 74, dated February 15, 2011, was received into and made part of the record. He asked if there were any personal appointments to be made.

There were none.

**12. ADJOURNMENT:** 6:43 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Wednesday, February 23, 2011, at 5:30 p.m., in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

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MAYOR

ATTEST:

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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 15th day of February 2011 and do hereby certify that it is an accurate transcription.

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DEPUTY CITY CLERK

RWR:sac:ds