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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on June 21, 2011

Date of Meeting: February 23, 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 5:37 p.m., on Wednesday, February 23, 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
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:

Michael Rankin	City Attorney
Deborah Rainone	Chief Deputy City Clerk
Sean McBride	Assistant City Manager

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

The invocation was given by Minister Marie Rutan, Gideon Missionary Baptist Church, after which the Pledge of Allegiance was presented by the entire assembly.

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

Mayor Walkup announced City Manager's communication number 75, dated February 23, 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 attend the "Tucson Means Business" Forum to find out how to start a business. She also announced the El Rio Neighborhood Center Health Fair.
- b. Council Member Cunningham announced the following: the beginning of the little league season at Ft. Lowell Park; income tax filing assistance program provided by AARP at Udall Park, the Rodeo Parade, the Urban League Gala and the Major League Soccer Event at Hi Corbett Field.
- c. Council Member Uhlich thanked Sharon Johnson, Public Housing Authority Board Commissioner for her efforts, dedication and service. She also announced that United Way was sponsoring free tax preparation services in the Ward 3 Council Office on Tuesdays, Thursdays and Saturdays, and the 29th Annual Peace Fair at Reid Park.
- d. Council Member Scott thanked City staff who participated in Ward 4's 3rd Annual Budget Town Hall.
- e. Vice Mayor Fimbres thanked the organizers and those who attended the 3rd Annual Black History Month celebration. He also thanked Pima Community College and Graffiti Protection Abatement Inc., for sponsoring a graffiti abatement event in the Las Vistas Neighborhood and encouraged everyone to attend the Rodeo Parade.
- f. Council Member Kozachik joined Council Member Scott in thanking City staff for participating and attending the Ward 6 Town Halls on the budget. He also announced the Southwest Artist Show downtown and the Festival of Books at the University of Arizona.
- g. Mayor Walkup announced the Rodeo Parade and Accenture Match Play Golf Tournament were taking place in Tucson. He also noted that work had begun, at the end of Cushing Street, for the Cushing Street Bridge crossing the Santa Cruz River in preparation for the Modern Streetcar.

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

Mayor Walkup announced City Manager’s communication number 76, dated February 23, 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.

There was no report from the City Manager.

Michael Rankin, City Attorney, announced that both of his Deputy City Attorneys, were moving on to other pursuits. Laura Brynwood, Chief Criminal Deputy and City Prosecutor, was retiring after 26 years of service; and Martha Durkin, Chief Deputy and Civil Attorney accepted a position with the Tucson Unified School District as their lead counsel.

**5. LIQUOR LICENSE APPLICATIONS**

Mayor Walkup announced City Manager’s communication number 77, dated February 23, 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)

1. Sparkroot, Ward 6  
245 E. Congress St.  
Applicant: Ari Shapiro  
Series 12, City 3-11  
Action must be taken by: March 14, 2011

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)

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.

(Continued from the Mayor and Council Meeting of February 15, 2011)

2. Vietnam Veterans of America, Ward 5  
2500 E. Ajo Way  
Applicant: Jesus David Alegria  
City T4-11  
Date of Event: March 26, 2011  
(Fundraising)

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

3. WOW Arizona, Ward 6  
400 N. Toole Ave.  
Applicant: Christopher James Vincent  
City T7-11  
Date of Event: March 20, 2011  
(Promote safe bicycle transportation)

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

4. Tucson Museum of Art, Ward 1  
140 N. Main Ave.  
Applicant: Amanda Ivy Reed  
City T9-11  
Date of Event: March 7, 2011  
(Crush Seminar)

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

5. Tucson Museum of Art, Ward 1  
140 N. Main Ave.  
Applicant: Amanda Ivy Reed  
City T10-11  
Date of Event: March 14, 2011  
(Crush Seminar)

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

d. Agent Change/Acquisition of Control

1. Rubio's Fresh Mexican Grill, Ward 3  
2906 N. Campbell Ave.  
Applicant: Nicholas Charles Boutin  
Series 12, City AC1-11  
Action must be taken by: February 6, 2011

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

2. Rubio's Fresh Mexican Grill, Ward 6  
3421 E. Broadway Blvd.  
Applicant: Nicholas Charles Boutin  
Series 12, City AC2-11  
Action must be taken by: February 6, 2011

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 Romero, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b1, 5c1 through 5c5, 5d1 and 5d2 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. Robert Reus spoke about "freedom of speech" and his experience with Mexico and border towns.
- b. Michael Toney spoke about HB 2711, gun laws and public safety.

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

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 FEB23-11-79 CITY WIDE

2. Mayor and Council Special Meeting Minutes of November 8, 2010
  3. Mayor and Council Regular Meeting Minutes of November 9, 2010
- b. CITY VEHICLES: ANNUAL APPROVAL OF EXEMPTION OF CERTAIN CITY VEHICLES FROM BEARING IDENTIFYING MARKINGS
1. Report from City Manager FEB23-11-81 CITY WIDE
  2. Resolution No. 21692 relating to City vehicles; pursuant to A.R.S. Section 38-538.03(B), exempting certain City motor vehicles from the requirement that they bear markings identifying them as City vehicles; making this exemption effective from February 27, 2011 through and including February 26, 2012; and declaring an emergency.
- c. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE SULLIVAN JACKSON EMPLOYMENT CENTER SUPPORTIVE HOUSING PROGRAM
1. Report from City Manager FEB23-11-84 CITY WIDE
  2. Resolution No. 21693 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and Pima County for the Sullivan Jackson Employment Center Supportive Housing Program/Bridges for homeless men and women; and declaring an emergency.
- d. REAL ESTATE: SALE OF CITY OWNED PROPERTY LOCATED AT 797 EAST AJO WAY TO GOLDEN EAGLE DISTRIBUTORS
1. Report from City Manager FEB23-11-85 WARD 5
  2. Ordinance No. 10879 relating to Real Estate; authorizing and approving the sale of a one acre parcel of City Owned property located at 797 East Ajo Way to Golden Eagle Distributors, Inc.; and declaring an emergency.
- e. INTERGOVERNMENTAL AGREEMENT: WITH TUCSON UNIFIED SCHOOL DISTRICT REGARDING HUMAN SERVICES
1. Report from City Manager FEB23-11-90 CITY WIDE
  2. Resolution No. 21696 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and the Tucson Unified School District to provide Human Services; and declaring an emergency.

f. AGREEMENT: APPROVING AN AMENDED AND RESTATED MASTER OPERATING AGREEMENT AND OCCUPANCY AGREEMENT WITH THE TUCSON COMMUNITY CABLE CORPORATION

1. Report from City Manager FEB23-11-91 CITY WIDE
2. Resolution No. 21698 relating to outside agency activities; authorizing and approving the Second Amended and Restated Master Operating and Occupancy Agreement between Tucson Community Cable Corporation ("TCCC"), dba Access Tucson, and the City of Tucson/Channel 12; and declaring an emergency.

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

It was moved by Council Member Cunningham, duly seconded, and passed by a roll call vote of 7 to 0, that Consent Agenda Items a – e, be passed and adopted and the proper action taken. (Note: Consent Agenda Item f was considered separately.)

**7. CONSENT AGENDA – ITEM F**

f. AGREEMENT: APPROVING AN AMENDED AND RESTATED MASTER OPERATING AGREEMENT AND OCCUPANCY AGREEMENT WITH THE TUCSON COMMUNITY CABLE CORPORATION

1. Report from City Manager FEB23-11-91 CITY WIDE
2. Resolution No. 21698 relating to outside agency activities; authorizing and approving the Second Amended and Restated Master Operating and Occupancy Agreement between Tucson Community Cable Corporation ("TCCC"), dba Access Tucson, and the City of Tucson/Channel 12; and declaring an emergency.

Deborah Rainone, Chief Deputy City Clerk, announced the item to be considered separately was Consent Agenda Item f at the request of Council Member Kozachik

Council Member Kozachik asked if there was a rental fee attached to the use of the Channel 12 production truck in Section 3.5 of the Resolution.

Sean McBride, Assistant City Manager, stated the reason that was in the Resolution was to protect the City from liability. The specific rates for additional work had to have a separate understanding that identified rates paid for that work.

Lisa Horner, Access Tucson Executive Director, said the agreement was that if there was any additional use of the vehicle other than Channel 12, such as Access Tucson or the Tucson Unified School District, the user would have to pay for the contracted Tucson 12 engineer to cover liability for transporting the vehicle plus any work that needed to be done.

Council Member Kozachik pointed out what he thought was probably a clerical error in Section 3.6, Revenue Sharing, where it referenced a ratio defined in Section 3.2. He said he thought it should read 3.3.

Michael Rankin, City Attorney, stated Council Member Kozachik was correct.

Vice Mayor Fimbres asked for clarification of “landlord” in the Mayor and Council communication.

Mr. Rankin responded that the reference in the communication was an attempt to explain what was going on in the amendment. He explained that it meant the City would now have a relationship with the Tucson Community Cable Corporation (TCCC) as the landlord to the tenant, as well as co-occupant, and was not meant to imply that the TCCC was the landlord to the City.

It was moved by Council Member Kozachik, duly seconded, and passed by a roll call vote of 7 to 0 that Consent Agenda Item f be passed and adopted and the proper action taken.

**8. ZONING: (C9-10-04) DESERT TOYOTA – 22ND STREET, C-1 TO C-2, CITY MANAGER'S REPORT**

Mayor Walkup announced City Manager's communication number 83, dated February 23, 2011, was received into and made part of the record. He also announced this was a request to rezone property located on the south side of East 22<sup>nd</sup> Street, east of Prudence Road. He said the Zoning Examiner and staff recommend authorization of the rezoning subject to certain conditions. He asked if the applicant or representative were present and if they were agreeable to the proposed requirements.

George Lance, on behalf of the applicant, said they were agreeable to the proposed requirements.

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

**9. ZONING: (C9-10-05) CITY OF TUCSON – CONGRESS STREET, R-2, C-3 AND I-1 TO OCR-2, CITY MANAGER'S REPORT, DIRECT ORDINANCE ADOPTION**

Mayor Walkup announced City Manager's communication number 82, dated February 23, 2011, was received into and made part of the record. He also announced this was a request to rezone property located on the southeast corner of the westbound Interstate-10 Frontage Road and West Congress Street. He said the Zoning Examiner and staff recommend approval subject to certain conditions. He asked the City Clerk to read Ordinance 10878, by number and title only.

Ordinance No. 10878 relating to zoning: amending zoning district boundaries in the area located at the southeast corner of the Interstate-10 West Frontage and West Congress Street in case C9-10-05, City of Tucson - Congress Street, R-2, C-3 and I-1 to OCR-2 and setting an effective date.

It was moved by Council Member Kozachik, 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 10878.

**10. WATER: ADOPTING TUCSON WATER'S FINANCIAL PLAN FOR FISCAL YEARS 2011 THROUGH 2016**

Mayor Walkup announced City Manager's communication number 86, dated February 23, 2011, was received into and made part of the record. He asked the City Clerk to read Resolution 21694 by number and title only.

Resolution No. 21694 relating to Tucson Water; authorizing and adopting the Tucson Water Financial Plan and Conservation Fund Financial Plan for the period from fiscal year 2011 to fiscal year 2016; and declaring an emergency.

It was moved by Council Member Scott, duly seconded, and passed by a roll call vote of 6 to 1 (Council Member Kozachik dissenting), to pass and adopt Resolution 21694.

Council Member Kozachik explained his reasons for his dissenting vote.

**11. WATER: NOTICE OF INTENTION TO INCREASE CERTAIN TUCSON WATER MISCELLANEOUS FEES AND SCHEDULING A PUBLIC HEARING FOR APRIL 12, 2011**

Mayor Walkup announced City Manager's communication number 87, dated February 23, 2011, was received into and made part of the record. He asked the City Clerk to read Resolution 21695 by number and title only.

Resolution No. 21695 relating to water; authorizing the adoption of a notice of intention to increase certain Tucson Water miscellaneous fees; and declaring an emergency.

It was moved by Vice Mayor Fimbres, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Resolution 21695 and direct staff to file a proposed fee schedule with the City Clerk's Office and set a Public Hearing for April 12, 2011.

**12. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH THE FLOWING WELLS IRRIGATION DISTRICT FOR RECLAIMED WATER**

Mayor Walkup announced City Manager's communication number 88, dated February 23, 2011, was received into and made part of the record. He asked the City Clerk to read Resolution 21697 by number and title only.

Resolution No. 21697 relating to Water; authorizing and approving the execution of Addendum No. 1 to the Intergovernmental Agreement between the City of Tucson and the Flowing Wells Irrigation District relating to reclaimed water; and declaring an emergency.

It was moved by Council Member Uhlich, duly seconded, to pass and adopt Resolution 21697.

Council Member Kozachik asked staff if the Resolution included a component for the retainment of capital infrastructure.

Chris Avery, Tucson Water Chief Counsel, answered it did not. He said Tucson Water had a similar agreement with the Town of Oro Valley where water was being provided and at the conclusion of the agreement, both parties hoped to come up with a rate that included operating costs, as well as a formula by which Oro Valley would pay their fair share of the capital costs to deliver reclaimed water. He said he thought that same rate could be used for the Flowing Wells agreement.

Resolution 21697 was declared passed and adopted by a roll call vote of 7 to 0.

**13. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS**

Mayor Walkup announced City Manager's communication number 78, dated February 23, 2011, was received into and made part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member Uhlich, duly seconded, and carried by a voice vote of 7 to 0, to approve the appointments of Charles Casey to the Climate Change Committee as a Principal Member in the Workforce/Labor category and J.L. Pepe Mendoza to the Veterans' Affairs Committee in the Health Care System, Department of Veterans Affairs category and the reappointment of Melanie Morrison to the Metropolitan Housing Commission in the Community Partner category.

**11. ADJOURNMENT:** 6:14 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, March 8, 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 23rd day of February 2011 and do hereby certify that it is an accurate transcription.

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DEPUTY CITY CLERK

RWR:yl:sac