



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on August 9, 2011.

Date of Meeting: April 5, 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 5:43 p.m., on Tuesday, April 5, 2011, all members having been notified of the time and place thereof.

Roger W. Randolph, City Clerk, announced Council Member Uhlich was unable to be present for the evening's meeting, but would be participating by telephone. This was allowable under the Mayor and Council Rules and Regulations. He stated Council Member Uhlich could vote on all matters in the same way as those members physically present as long as she participated in the discussions. On the evening's agenda, all votes would be done by roll call rather than voice vote.

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 (electronic attendance)
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 Mark Parsons, New Life Church, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

- a. Mayor Walkup proclaimed April to be “Sexual Assault Awareness Month.” Rowan Frost, Southern Arizona Center Against Sexual Assault Program Supervisor, accepted the proclamation.
- b. Mayor Walkup proclaimed April to be “Water Awareness Month.” Andrew Quigley, Tucson Water Acting Director, accepted the proclamation.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager’s communication number 122, dated April 5, 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 public to attend Bike Fest 2011 and the 17th Annual Tucson Earthday Festival and Parade.
- b. Council Member Cunningham invited senior citizens to visit and become members at the Morris K. Udall Center Carol West Senior Addition. He also invited the public to attend the Ward 2 monthly business meeting, the opening of the swimming pools at Fort Lowell Park and Morris K. Udall Park, and the Farmer’s Market at Jesse Owens Park. He concluded his comments by acknowledging the University of Arizona Wildcats Men’s Basketball Team for a great season, and commended them for advancing to the Elite Eight.
- c. Council Member Scott invited the public to attend Small Business Forum hosted by Ward 4 at Pima Community College.
- d. Vice Mayor Fimbres thanked staff from Tucson’s Department of Transportation Department, Sun Tran, and area residents who attended the Sun Tran Public Forum at the El Pueblo Neighborhood Center. He also reported on the Certificate of Occupancy (CofO) Night sponsored by the Planning and Development Services Department, the Plan Tucson night sponsored by the Housing and Community Development Department, and a health fair for infants.
- e. Council Member Kozachik reported the following events: a block party in Downtown Tucson, Ben Bells Kindness Days, and Second Saturdays.

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

Mayor Walkup announced City Manager’s communication number 123, dated April 5, 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, distributed a brochure on accomplishments in 2010 by the City of Tucson and acknowledged staff members who assisted with publication.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager’s communication number 132, dated April 5, 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. The Polish Cottage, Ward 6
4520 E. Broadway Blvd.
Applicant: Monika D. Glowacka-Musial
Series 12, City 7-11
Action must be taken by: April 11, 2011

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

2. Southern Wine & Spirits of Arizona, Ward 5
6000 S. Country Club Rd.
Applicant: Michael H. Jahn
Series 4, City 8-11
Action must be taken by: April 16, 2011

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

This item was considered separately at the request of Vice Mayor Fimbres.

3. Claim Jumper Restaurant, Ward 6
3761 E. Broadway Blvd.
Applicant: Lee Edward Esch
Series 12, City 9-11
Action must be taken by: April 18, 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/Location Transfer

4. Axis Food Mart, Ward 5
1540 E. Broadway Blvd.
Applicant: Maen Fahed Mdanat
Series 9, City 10-11
Action must be taken by: April 18, 2011

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

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

This item was considered separately.

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)

c. Special Event(s)

1. Opening Minds through the Arts (OMA) Foundation, Ward 6
330 S. Scott Ave.
Applicant: Donn A. Poll
City T17-11
Date of Event: May 7, 2011
(Annual Fundraiser)

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

Public Opinion: Written Argument in Favor Filed

2. La Frontera Tucson International Mariachi Conference, Ward 5
2500 E. Ajo Way
Applicant: Alfonso Dancil
City T21-11
Date of Event: April 30, 2011
(Fundraiser for La Frontera Center)

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

3. Tucson Museum of Art, Ward 1
140 N. Main Ave.
Applicant: Amanda Ivy Reed
City T24-11
Date of Event: April 22, 2011
(Art After Dark Event)

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 T25-11
Date of Event: June 24, 2011
(Exhibition Opening)

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

5. St. Demetrios Greek Orthodox Church, Ward 3
1145 E. Fort Lowell Rd.
Applicant: George A. Makris
City T29-11
Date of Event: April 24, 2011
(Easter Picnic)

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

6. Junior League of Tucson, Ward 6
3400 E. Camino Campestre
Applicant: Anita S. Denton
City T30-11
Date of Event: April 29, 2011
(Rummage Sale Pre-Party)

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

d. Agent Change/Acquisition of Control

1. Ba-Dar Chinese Restaurant, Ward 2
7321 E. Broadway Blvd.
Applicant: Hsin Wei Ho
Series 7, City AC6-11
Action must be taken by: March 26, 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 passed by a roll call vote of 7 to 0, to forward liquor license applications 5b1 and 5b3, 5c1 through 5c6, 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)

2. Southern Wine & Spirits of Arizona, Ward 5
6000 S. Country Club Rd.
Applicant: Michael H. Jahn
Series 4, City 8-11
Action must be taken by: April 16, 2011

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

Roger W. Randolph, City Clerk, announced the first item to be considered separately was Item 5b2, Southern Wine & Spirits of Arizona, located in Ward 5.

Vice Mayor Fimbres asked if the manager or a representative was present. He noted there was no opposition to the license, but wanted to make the applicant aware that there had been trouble in other States with the company; and he wanted to make sure the business was a good partner.

A representative (not identified) said they were a good partner, and did not have any issues in the State of Arizona. He said they were trying to change locations, as they were looking for a little more space.

It was moved by Vice Mayor Fimbres, duly seconded, and passed by a roll call vote of 7 to 0, to forward liquor license application 5b2 to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Application(s)

Person/Location Transfer

4. Axis Food Mart, Ward 5
1540 E. Broadway Blvd.
Applicant: Maen Fahed Mdanat
Series 9, City 10-11
Action must be taken by: April 18, 2011

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

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

Roger W. Randolph, City Clerk, announced the final item to be considered separately was Item 5b4, Axis Food Mart, located in Ward 5.

Vice Mayor Fimbres stated that based on prior history, the Series 9 was denied on December 9, 2010, by the Arizona Department of Liquor Licenses and Control, for a person, not location. He added that since December 9, 2010, the Axis Food Mart was put on an improvement plan. According to the Tucson Police Department Licensing Division, Axis Food Mart employees had been through mandated service and training, improving their security and surveillance equipment. Vice Mayor Fimbres reported that Axis Food Mart had passed inspections and cub activities in regards to underage sales of liquor. He asked the applicant to come forward, and if he had any comments he wanted to make.

Maen Fahed Mdanat, applicant, reported they updated training for his staff and were doing a lot in cleaning up the property the best they could.

Greg Clark spoke in support of the liquor license application.

Peter G. Norback spoke in support of the liquor license.

Anthony DiGrazia spoke in opposition to the liquor license application.

It was moved by Vice Mayor Fimbres, duly seconded, and passed by a roll call vote of 7 to 0, to forward liquor license application 5b4 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, and the “call to the audience” was scheduled to last thirty-minutes.

- a. Robert Reus announced the passing of Joseph Sweeney, and he also gave an update on his Initiative for an aldermanic form of government.
- b. Mikki Niemi acknowledged the passing of Joseph Sweeney. He also spoke about budget issues facing the City and the mini dorm issue in the Jefferson Park Neighborhood.
- c. Jim Clark spoke about the Zoning Administrator’s determination on mini dorms in the Jefferson Park Neighborhood, and liability issues facing the City of Tucson.
- d. Ken Johnson spoke about American Legion events and Access Tucson.

- e. Dentis M. Shaw spoke in opposition to violence in the community, and also reported on a March Against Violence scheduled in Tucson on November 11, 2011.
- f. Michael Toney spoke about Rio Nuevo issues facing the City.
- g. Shannon Cain read an installment of *“Tucson, the Novel; and Experiment in Literature and Civil Discourse.”*
- h. Jim Hannley spoke about the need for the City to have a renter’s tax.
- i. Curtis Dutiel commented on the mini dorm issue in the Jefferson Park Neighborhood.

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. INDUSTRIAL DEVELOPMENT AUTHORITY: RE-APPOINTMENT TO THE BOARD OF DIRECTORS OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF TUCSON
 - 1. Report from City Manager APR05-11-126 CITY WIDE
 - 2. Resolution No. 21708 relating to the Industrial Development Authority of the City of Tucson; reappointing Evelia Martinez and Marilyn Robinson, whose previous terms expired on March 12, 2011, to the Board of Directors of the Industrial Development Authority of the City of Tucson, for new six-year terms beginning on March 13, 2011 and expiring March 12, 2017; and declaring an emergency.
- b. FINANCE: APPROVAL OF FISCAL YEAR 2010 INVOLUNTARY TORT JUDGEMENTS
 - 1. Report from City Manager APR05-11-127 CITY WIDE
 - 2. Resolution No. 21709 relating to Fiscal Year 2012 Primary Property Tax Levy; approving litigation awards made pursuant to settlements approved by the City Manager; and declaring an emergency.
- c. MEMORIAL: SUPPORTING THE CONTINUED OPERATION OF THE NAVAJO GENERATING STATION AND URGING THE ENVIRONMENTAL PROTECTION AGENCY TO ACCEPT THE LOW NOX BURNERS AS THE BEST AVAILABLE RETROFIT TECHNOLOGY FOR COMPLIANCE UNDER THE CLEAN AIR ACT

1. Report from City Manager APR05-11-124 CITY WIDE
2. A Memorial relating to the City of Tucson's support for the continued operation of the Navajo Generating Station and urging the Environmental Protection Agency to accept the Low Nox Burners as the best available retrofit technology for compliance under the Clean Air Act.

(This item was continued at the request of Council Member Scott.)

d. APPROVAL OF MINUTES

1. Report from City Manager APR05-11-129 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of November 23, 2010

e. REAL PROPERTY: AUTHORIZATION TO ACQUIRE REAL PROPERTY FOR THE MODERN STREETCAR PROJECT AND AMEND RESOLUTION 21509

1. Report from City Manager APR05-11-130 WARDS 6
2. Resolution No. 21710 relating to Transportation; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, certain right-of-way needed for the Modern Streetcar Project; amending Resolution No. 21509 adopted April 13, 2010, authorizing the acquisition of right-of-way for the Downtown Links Project; and declaring an emergency.

f. AGREEMENT: FIRST AMENDMENT TO LICENSE AND CONCESSION AGREEMENT WITH THE COLORADO ROCKIES BASEBALL CLUB

1. Report from City Manager APR05-11-135 WARD 6
2. Resolution No. 21712 relating to Parks and Recreation; authorizing and approving the First Amendment to the License and Concession Agreement with the Colorado Rockies Baseball Club; and declaring an emergency.

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 – f, with the exception of Item c which was continued, be passed and adopted and the proper action taken.

8. PUBLIC HEARING: BINGO LICENSE APPLICATION - ARIZONA SCHOOL FOR THE DEAF AND BLIND ALUMNI, 1436 NORTH 11TH AVENUE; CITY NUMBER 203

Mayor Walkup announced City Manager's communication number 125, dated April 5, 2011, 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 for a bingo license for the Arizona School for the Deaf and Blind Alumni located at 1436 North 11th

Avenue. He asked if the applicant or representative were present and if they had any comments before beginning the public hearing. There was no one.

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

There were no speakers.

It was moved by Council Member Scott, duly seconded, and passed by a roll call vote of 7 to 0, to close the public hearing.

It was moved by Council Member Uhlich, duly seconded, and passed by a roll call vote of 7 to 0, to forward the bingo license application for the Arizona School for the Deaf and Blind Alumni to the Arizona Department of Revenue for approval.

9. PUBLIC HEARING: CONDUCTING 2011 CITY OF TUCSON ELECTIONS AS VOTE BY MAIL ELECTIONS

Mayor Walkup announced City Manager's communication number 134, dated April 5, 2011, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing as directed by Mayor and Council to give the public an opportunity to provide input on the issue of conducting the 2011 City of Tucson Elections as vote by mail elections. He said staff would make a brief presentation before beginning the public hearing.

Roger W. Randolph, City Clerk, gave a few high points of a discussion held at a previous Mayor and Council meeting. He reported on the hybrid election system the City currently used, which meant the City Clerk's Office anticipated that there would be about sixty-five polling locations, and another sixty-five to ninety percent of the City's voters would still vote by mail under the early voting process.

Mr. Randolph said if the Mayor and Council decided to go with the vote by mail process; it would eliminate a lot of the administrative complexities that revolve around the election process. It would provide greater control over the entire process, and the City would not have to deal with the logistics related to polling places, the trouble with provisional ballots which are very complex and difficult for board workers to comprehend and understand and the transporting of equipment and ballots on election night. He said the fact that all voters eligible to participate are given the opportunity to do so is truly a definition of an effective method of conducting an election.

Mr. Randolph said the use of vote by mail would also eliminate any issues due to potential inaccessibility experienced by some voters on Election Day. Mr. Randolph also spoke about concerns of voters wanting to go to the polls. He said, per the City Charter, there would be one polling place per Ward, as well as the 12th Street Election Center, open on Election day where voters could cast their ballot, get a replacement ballot, or

drop off their ballot. Mr. Randolph added that sixty percent to ninety percent of voters currently voted by mail.

Mr. Randolph also commented on concerns about the integrity and security of the ballots, and the process the City currently used. He assured the Mayor and Council that those same concerns had been addressed relating to early voting. He said, because of the growth of early voting, he felt the City had a head start on that in addressing those concerns. Mr. Randolph stated all ballots in a vote by mail election were tracked, and each signature on the affidavit was verified by the Pima County Recorder's Office against the actual image of the voter's registration form.

Mr. Randolph also spoke about the intense auditing process that was done at the end of each election to ensure each and every ballot was accounted for. He said, in City elections there were two hundred and forty-four precincts that were consolidated down to the sixty-five voting areas and when the audit takes place, the audit is only done to the sixty-five voting places. He continued that in a vote by mail election, the audit would be conducted all the way down to the two hundred forty-four precincts through the vote by mail process.

Mr. Randolph said if the Mayor and Council adopted the Resolution, it would establish vote by mail for the 2011 Elections. He said it did not mandate that all future elections be vote by mail elections and the Mayor and Council had the option to go back to the hybrid-type election.

F. Ann Rodriguez, Pima County Recorder, elaborated on comments made by the City Clerk. She said her official role in assisting the City of Tucson Election, should the Mayor and Council vote to go with an all ballot by mail election, was to conduct signature comparison components of the election, as they did for all other jurisdictions. She explained that the idea of vote by mail elections was not new. Different cities in Pima County had taken part in the vote by mail process, and found it was cost effective and their participation rate grew. She urged the City to support the vote by mail process.

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

Connie Sadler Nelson, Ken Johnson, Matt Kopec, Sam Almy, Kenneth Bertschy, Delores Grayam, Linda Letherman, Curtis Dutiel, Luke Knipe and Andrea Noel Rodriguez all spoke in support of the vote by mail election.

Robert Reus, Mikki Niemi, Bill Beard, Sam Stone, Mike Ebert, William Townsend, Claire Morgan, Jennifer Rawson, Joe Trudel, Rebecca Guthrie, Rick Stertz and Rick Grinnell spoke in opposition to vote by mail elections.

It was moved by Council Member Scott, duly seconded, and passed by a roll call vote of 7 to 0, to close the public hearing.

Mayor Walkup asked the City Clerk to read Resolution 21711 by number and title only.

Resolution No. 21711 relating to elections: notice to the citizenry by the Mayor and Council of the City of Tucson, Arizona, of its intent that the City conduct the August 30, 2011 primary election, the November 8, 2011 general election, and any special elections occurring on either of those dates as mail ballot elections supplemented by available on-site voting locations in each ward; and declaring an emergency.

Vice Mayor Fimbres gave background information on a presentation by the City Clerk addressing the issue of conducting vote by mail elections in 2011, and early voting trends. He also spoke about the challenges of conducting polling place elections and current budget constraints facing the City.

It was moved by Vice Mayor Fimbres, duly seconded, to pass and adopt Resolution 21711.

Council Member Romero voiced comments about every citizen's right to vote and expanding that opportunity to every registered voter. She also commented on the reasons she supported vote by mail elections.

Council Member Cunningham spoke about his concerns with changing the rules of elections. He said he supported that the issue be referred to the ballot and allowed the voters to decide.

Council Member Scott commented on early ballot statistics from the 2007, 2009, and 2010 elections. She said that more than sixty percent of the voters preferred not to go to the polls, and voted an early ballot instead.

Council Member Kozachik expressed concerns that the proposal would reduce voter options, and the concerns about having only one polling place per Ward.

A substitution motion was made by Council Member Kozachik to retain the present hybrid system, but decrease the polling places to no fewer than five per Ward.

Motion died for lack of a second.

Council Member Uhlich said she understood Council Member Kozachik's substitute motion, and said in the proposal voters were not being denied the right to the opportunity to go to the polls. She noted that close to two thirds of the voters were already voting by mail, and by moving towards a vote by mail system, they would be making it more straightforward for that right to be exercised by mail.

A second substitute motion was made by Council Member Kozachik, duly seconded, to refer the issue to the November ballot to let the voters decide.

Council Member Romero asked the City Clerk how much it would cost to include additional issues and questions on the ballot.

Mr. Randolph replied to put an additional issue on a ballot was approximately thirty to fifty thousand dollars.

Council Member Uhlich suggested that they were still offering the opportunity to cast a ballot at the polls, but most importantly they were ensuring that every registered voter received a ballot in their hands. She said she felt that the proposal for vote by mail expanded opportunities for participation. She supported conducting the 2011 election as a vote by mail election.

Further comments were made by Council Member Kozachik and Council Member Romero about taking voters rights by having only one polling place per Ward.

The second substitute motion failed by a vote of 2 to 5 (Council Members Romero, Uhlich, Scott, Vice Mayor Fimbres and Mayor Walkup dissenting.)

Mayor Walkup commented that the issue was not about convenience, cost, or security. It was about participation.

Resolution 21711 was declared passed and adopted by a roll call vote of 5 to 2 (Council Members Cunningham and Kozachik dissenting.)

10. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 133, dated April 5, 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 passed by a roll call vote of 7 to 0 to approve the appointment of Andrea Kennedy to the Sign Code Advisory and Appeals Board (SCAAB) and Minnette Burges to the Fort Lowell Historic Zone Advisory Board (FLHZAB), and the reappointment of James E. Ayres to the Sign Code Advisory and Appeals Board (SCAAB).

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

There were none.

11. ADJOURNMENT: 8:14 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, April 12, 2011, 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 5th day of April 2011 and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:sac:ds