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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on August 9, 2011.

Date of Meeting: April 26, 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 5:53 p.m., on Tuesday, April 26, 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:

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 Charlie Knapp, Catholic Diocese of Tucson, after which the Pledge of Allegiance was led by Council Member Scott assisted by the Tucson Fire Department's Honor Guard and representatives of the Pipes and Drums group.

Presentations:

- a. Mayor Walkup, assisted by Council Member Cunningham, presented Certificates of Appreciation to retiring board members of the Eastside Neighbors Volunteer Program.
- b. Mayor Walkup, assisted by Vice Mayor Fimbres, proclaimed May 1 to May 7 as "Correctional Officers Week." Lieutenant Amber Barber accepted the proclamation.
- c. Mayor Walkup proclaimed April 29 to be "Arbor Day." Brian Lubber, District Forester from the Arizona State Forestry Division, accepted the proclamation. Mr. Forester awarded Mayor Walkup with the Tree City Award.

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

Mayor Walkup announced City Manager's communication number 159, dated April 26, 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 reported on the grand opening reception for Su Voz Vale (Your Voice Counts) and the Certificate of Occupancy Night sponsored by Planning and Development Services Department.
- b. Council Member Cunningham reported on the Farmer's Market at Jesse Owens Park, the new location of the Eastside Parks and Recreation Department behind the Ward 2 Council Office, the Summer Program Class Guidebook, a Neighborhood Legislature meeting for Boomers and the Elderly, a Business Roundtable on potential uses for Hi-Corbett Field, and the Tucson Padres' baseball game.
- c. Council Member Uhlich reminded the community to attend the 40<sup>th</sup> Anniversary International Mariachi Conference, the 4<sup>th</sup> Annual Historic Open House and Tour entitled "Neon Miracle Mile," the League of Women Voters moderator training on electoral issues and the Jefferson Park Historic Home Tour Festival.

- d. Vice Mayor Fimbres announced the memorial services for fallen officers was held by the Tucson Police Department and the Pima County Sheriffs Department, and reported on National Nurses Week.
- e. Council Member Kozachik announced the Tucson Folk Festival was held in El Presidio Park.

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

Mayor Walkup announced City Manager’s communication number 160, dated April 26, 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.

No report was given.

**5. LIQUOR LICENSE APPLICATIONS**

Mayor Walkup announced City Manager’s communication number 161, dated April 26, 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 licenses scheduled for this meeting.

Person Transfer

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

- c. Special Event(s)

NOTE: There are no application(s) for special events scheduled for this meeting.

- d. Agent Change/Acquisition of Control

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

**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 about transparency, change orders for projects within the City and design for the Modern Streetcar.
- b. Pepper Provenzano spoke about his concerns regarding the Kolb Road Extension Project.

Council Member Kozachik, with regard to Mr. Provenzano's comments, requested a written response from the City Attorney on whether the Kolb Road Extension Project could proceed while the NEPA Study was still ongoing.

- c. Robert Reus spoke about the City's form of government.
- d. Brennan Cain-Nuccio, guest reader from T.U.S.D., read the next installment of "*Tucson, the Novel: An Experiment in Literature and Civil Discourse.*"
- e. Keith Van Heyningen expressed his personal views regarding elected officials.
- f. Michelle Purcell and Alexander McKenna, students from the Northern Arizona University Satellite Campus, spoke about their mission to repair potholes through a means of a proactive volunteer community initiative in City neighborhoods, working with the City's Department of Transportation, to report and fix potholes.

Council Members Romero and Uhlich asked the City Manager to direct the City's Volunteer Coordinator and the Transportation Director to make contact with Ms. Purcell and Mr. McKenna regarding their project.

- g. Ken Johnson spoke about his concerns regarding attendance at American Legion events.
- h. Anne Stephenson, Udall Park Neighborhood Association President, spoke about her concerns regarding the duties and responsibilities of elected officials and the use of paid staff to support them.
- i. Michael Toney spoke about upgrades to the Tucson Community Center.
- j. Mike Feder thanked the Mayor and Council for their support of upcoming events at Hi-Corbett Field.

Council Member Cunningham requested that the City Manager make Mr. Feder's flyers available to all City employees.

(Note: Council Member Uhlich departed at 6:35 p.m. and returned at 6:37 p.m.)

**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 APR26-11-163 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of December 14, 2010

b. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH MERIDIAN ENTERPRISES, LLC

1. Report from City Manager APR26-11-167 OUTSIDE CITY AND WARD 5
2. Resolution No. 21725 relating to Pre-Annexation and Development Agreements; authorizing and approving the execution of a Pre-Annexation and Development Agreement between Meridian Enterprises, LLC and the City of Tucson; and declaring an emergency.

Note: if annexed, area would be in Ward 5

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

c. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY FOR THE KOLB ROAD EXTENSION TO THE SABINO CANYON ROAD IMPROVEMENTS PROJECT

1. Report from City Manager APR26-11-166 WARD 2
2. Resolution No. 21726 relating to Intergovernmental Agreements; approving and authorizing the execution of Amendment No. 2 to the Intergovernmental Agreement between the City of Tucson and the Regional Transportation Authority of Pima County (RTA) for the Kolb Road Connection to Sabino Canyon Road Project; and declaring an emergency.

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

d. ELECTIONS: CALLING A CITY PRIMARY ELECTION ON AUGUST 30, 2011 AND A CITY GENERAL ELECTION ON NOVEMBER 8, 2011

1. Report from City Manager APR26-11-164 CITY WIDE

2. Ordinance No. 10888 relating to elections; pursuant to the provisions of Tucson Charter Chapter IV, Section 16-204, Calling the August 30, 2011 City primary election and the November 8, 2011 City general election.

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

e. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE USE OF CITY COMMUNICATIONS FACILITIES

1. Report from City Manager APR26-11-168 CITY WIDE
2. Resolution No. 21727 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between Pima County and the City of Tucson for use of City communications facilities to house electronic equipment and antennas; and declaring an emergency.

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

f. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE USE OF CITY RADIO FREQUENCIES FOR THE PIMA COUNTY WIRELESS INTEGRATED NETWORK PROJECT

1. Report from City Manager APR26-11-169 CITY WIDE
2. Resolution No. 21724 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between Pima County and the City of Tucson for the shared use of City 800 MHz radio frequencies for the Pima County Wireless Integrated Network Project; and declaring an emergency.

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

g. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR RENOVATION OF THE CITY EMERGENCY COMMUNICATIONS CENTER

1. Report from City Manager APR26-11-165 CITY WIDE
2. Resolution No. 21723 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between Pima County and the City of Tucson for renovation of the City Emergency Communications Center located in the Thomas O. Price (TOPSC) Service Center; and declaring an emergency.

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

h. LICENSE AND CONCESSION AGREEMENT: WITH TRIPLE-A BASEBALL, LLC FOR USE OF HI CORBETT STADIUM

1. Report from City Manager APR26-11-170 WARD 6
2. Resolution No. 21728 relating to Parks and Recreation; approving and authorizing execution of a License and Concession Agreement between the City of Tucson and Williams Entertainment, L.L.C., the concessions agent for Triple-A Baseball, L.L.C.; and declaring an emergency.

It was moved by Council Member Kozachik, duly seconded, and passed by a roll call vote of 7 to 0, that Consent Agenda Items a – h, with the exception of Items b and d – g, which were considered separately, and Item c, which was continued, be passed and adopted and the proper action taken.

**7. CONSENT AGENDA – ITEM B**

b. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH MERIDIAN ENTERPRISES, LLC

1. Report from City Manager APR26-11-167 OUTSIDE CITY AND WARD 5
2. Resolution No. 21725 relating to Pre-Annexation and Development Agreements; authorizing and approving the execution of a Pre-Annexation and Development Agreement between Meridian Enterprises, LLC and the City of Tucson; and declaring an emergency.

Note: if annexed, area would be in Ward 5

Roger W. Randolph, City Clerk, announced the first item to be considered separately was Consent Agenda Item b, at the request of Vice Mayor Fimbres.

Vice Mayor Fimbres commented that this pre-annexation agreement with Meridian Enterprises, LLC was the first project to occur since the Mayor and Council took action in August 2010 on a new policy for Tucson Water. He asked Byron Howard to speak briefly on the issue.

Byron Howard, Special Project Manager, commented on the project and thanked all those involved to make it happen.

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

**7. CONSENT AGENDA – ITEM D**

**d. ELECTIONS: CALLING A CITY PRIMARY ELECTION ON AUGUST 30, 2011 AND A CITY GENERAL ELECTION ON NOVEMBER 8, 2011**

1. Report from City Manager APR26-11-164 CITY WIDE
2. Ordinance No. 10888 relating to elections; pursuant to the provisions of Tucson Charter Chapter IV, Section 16-204, Calling the August 30, 2011 City primary election and the November 8, 2011 City general election.

Roger W. Randolph, City Clerk, announced the next item to be considered separately was Consent Agenda Item d, at the request of Council Member Kozachik.

Council Member Kozachik spoke about Senate Bill 1331 that allowed for mail in ballots in jurisdictions that conduct non-partisan elections and that the Court of Appeals upheld the City of Tucson's process. He asked the City Attorney if the November 2011 General Election would be affected if SB 1331 was signed, as amended.

Michael Rankin, City Attorney, responded it would not. The City's Vote by Mail decision was based on the City's Charter authority, especially in light of the recent Court of Appeals decision in the Southern Arizona Leadership Council (SALC)/Peyton v. City of Tucson case. He said it was quite clear to him that the exercise of the City's authority under the City Charter would prevail. However, he said, the best result would be if the Governor vetoed SB 1331, so that there was not a statute on the books that appeared, at least on its face, to conflict with the City's practice which would almost certainly lead to additional costly litigation.

Council Member Kozachik asked if the election results could be challenged if SB1331 is signed and the City continues as planned with the election.

Mr. Rankin stated someone could raise the challenge although he suggested that if a challenge was raised, anyone wishing to bring forth a challenge would need to do so prior to the election.

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

**7. CONSENT AGENDA – ITEM E THROUGH G**

**e. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE USE OF CITY COMMUNICATIONS FACILITIES**

1. Report from City Manager APR26-11-168 CITY WIDE

2. Resolution No. 21727 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between Pima County and the City of Tucson for use of City communications facilities to house electronic equipment and antennas; and declaring an emergency.
- f. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE USE OF CITY RADIO FREQUENCIES FOR THE PIMA COUNTY WIRELESS INTEGRATED NETWORK PROJECT
1. Report from City Manager APR26-11-169 CITY WIDE
  2. Resolution No. 21724 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between Pima County and the City of Tucson for the shared use of City 800 MHz radio frequencies for the Pima County Wireless Integrated Network Project; and declaring an emergency.
- g. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR RENOVATION OF THE CITY EMERGENCY COMMUNICATIONS CENTER
1. Report from City Manager APR26-11-165 CITY WIDE
  2. Resolution No. 21723 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between Pima County and the City of Tucson for renovation of the City Emergency Communications Center located in the Thomas O. Price (TOPSC) Service Center; and declaring an emergency.

Roger W. Randolph, City Clerk, announced the next item to be considered separately was Consent Agenda Item e, at the request of Vice Mayor Fimbres.

Vice Mayor Fimbres stated he wanted to discuss Consent Items e – g at the same time and stated his reasons why. He introduced Captain Paul Wilson, Pima County Sheriff's Department, to give a brief overview of the three Intergovernmental Agreements (IGAs).

Captain Paul Wilson, Pima County Sheriff's Department, gave a brief overview regarding the IGAs between Pima County and the City of Tucson that would further the Pima County wireless integrated project.

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

**8. REAL PROPERTY: APPROVING MAYOR AND COUNCIL POLICIES RELATING TO THE SALE AND LEASE OF CITY-OWNED PROPERTY**

Mayor Walkup announced City Manager's communication number 171, dated April 26, 2011, was received into and made part of the record. He asked the City Clerk to read Ordinance 10892, by number and title only.

Ordinance No. 10892 relating to real property; approving Mayor and Council policies relating to the sale and lease of City-owned properties; repealing Ordinance No. 8614 and Ordinance No. 10077; and declaring an emergency.

Council Member Cunningham asked for clarification on the Ordinance. For instance, he asked, if the City would be stuck in a situation where a piece of property could be sold for forty-nine thousand dollars so that it did not have to be reviewed by the Mayor and Council. He also asked if he was correct in that currently property could not be sold without the Mayor and Council's approval.

Michael Rankin, City Attorney, responded the Mayor and Council should not be concerned. He said the Ordinance authorized administrative sale of properties below the fifty thousand dollar threshold. He stated it had to be based on the valuation of the property which was the responsibility of real estate staff. He commented that all City staff involved had a fiduciary responsibility to the City and would not "fudge" the number to stay below the threshold.

Mr. Rankin stated the new policy repealed two earlier Ordinances that set lower thresholds; seventy-five hundred dollars which was raised to twenty-five thousand. The proposed Ordinance increased the threshold to fifty thousand dollars.

It was moved by Council Member Cunningham, duly seconded, to pass and adopt Ordinance 10892.

Mayor Walkup asked if there was any discussion.

Vice Mayor Fimbres requested that a friendly amendment be made to the motion to direct staff to bring back an Ordinance to amend the real estate fee schedule to include waivers or reductions of application fees for transactions involving property where the value of the property was disproportionate to the fee.

Council Member Cunningham accepted the friendly amendment.

Council Member Kozachik said he wanted to know what circumstances would result in residential occupants being displaced and why rental rates would not be implemented that were similar to the commercial rates as a percentage of fair market.

Mr. Rankin responded he was not sure; when he was writing the Ordinance, he did it to be consistent with the “draft” administrative directive that was being developed for both sale and lease of property.

Council Member Kozachik asked what happened to the revenues generated when properties for Housing and Community Development become unsuitable; did they go into the General Fund. He also asked how properties were determined to be surplus.

Mr. Rankin replied they should unless they were tied to a specific funding source used for the acquisition. He said as for the surplus, before properties are offered for sale, the City determines, in fact, that they are surplus to the City’s needs and something that they needed to hold on to.

Hector Martinez, Real Estate Program Director, stated that before a property is declared surplus, it was circulated within the various departments to ascertain if anyone had a specific use for the property.

The motion to pass and adopt Ordinance 10892 and to direct staff to bring back an Ordinance to amend the real estate fee schedule to include waivers or reductions of application fees for transactions involving property where the value of the property was disproportionate to the fee was passed by a roll call vote of 7 to 0.

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

Mayor Walkup announced City Manager’s communication number 162, dated April 26, 2011, was received into and made part of the record. He asked if there were any personal appointments to be made.

There were none.

**10. ADJOURNMENT: 7:16 p.m.**

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, May 3, 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 26th day of April 2011, and do hereby certify that it is an accurate transcription.

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DEPUTY CITY CLERK

RWR:yl:sac