



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on February 7, 2012.

Date of Meeting: September 7, 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 Wednesday, September 7, 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	Vice Mayor, Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Richard G. Fimbres	Council Member Ward 5
Steve Kozachik	Council Member Ward 6
Robert E. Walkup	Mayor

Absent:

None

Staff Members Present:

Richard Miranda	Deputy City Manager
Michael Rankin	City Attorney
Roger W. Randolph	City Clerk

- * **City Clerk Note:** The minutes of September 7, 2011, as approved by the Mayor and Council, contained a clerical error on page ten and twenty-one. Within the text of the document, deleted text is ~~struckthrough~~ and new text is **bold**. RWR:DR:yl 04/04/12

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 proclaimed September to be “National Preparedness Month.”

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager’s communication number 336, dated September 7, 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 contractors to a small business enterprise forum and to a class covering buffelgrass control.
- b. Council Member Cunningham reminded everyone of the ten year anniversary of September 11. He also announced the following events: a police appreciation night, a shredding event and the opening of a new Sears outlet on the east side.
- c. Vice Mayor Uhlich spoke about the recent Hedrick Acres Changing Hearts and Minds Mural Dedication. She also announced the following events; the Ninth Annual Campbell Plaza Fall Festival, and the People of Color Festival.
- d. Council Member Scott thanked everyone who contributed to and participated in the recent 11th Annual Back to Basics Bash. She also announced the expansion of a new aerospace company in Ward 4, and invited the public to the American Heroes Looking Back Moving Forward dinner event in honor of September 11th.
- e. Council Member Fimbres thanked everyone who helped with the recent Labor Day picnic at Reid Park. He also announced the following events: the J.P. Amparano Golf Tournament, a presentation on Medicare, and invited the public to a freedom walk in honor of September 11th.
- f. Council Member Kozachik invited the public to the next Second Saturday and a memorial event for September 11th.
- g. Mayor Walkup announced the opening of a Rio Nuevo funded garage, and the construction of new university student housing, both in downtown.

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

Mayor Walkup announced City Manager’s communication number 337, dated September 7, 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 338, dated September 7, 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. Dragoon Brewing Company, Ward 1
1859 W. Grant Rd. #111
Applicant: Bruce Alexander Greene
Series 3, City 52-11
Action must be taken by: September 2, 2011

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

Public Opinion: Written Argument in Favor Filed

2. Azian, Ward 6
15 N. Alvernon Way
Applicant: Kim Chu
Series 12, City 53-11
Action must be taken by: September 3, 2011

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

3. Ted’s Country Store, Ward 3
2760 N. Tucson Blvd.
Applicant: Peter Coy Butterbrodt
Series 10, City 55-11
Action must be taken by: September 4, 2011

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

Public Opinion: Written Argument in Favor Filed

4. TMC Shell, Ward 6
5470 E. Grant Rd.
Applicant: Jasjit Singh Chopra
Series 10, City 56-11
Action must be taken by: September 5, 2011

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

Public Opinion: Written Argument Opposed Filed

This item was considered separately.
5. Giant #627, Ward 2
5 S. Houghton Rd.
Applicant: Roger Kenneth Burton
Series 10, City 57-11
Action must be taken by: August 14, 2011

Staff has indicated the applicant is in compliance with city requirements.
6. Giant #629, Ward 3
15 W. Grant Rd.
Applicant: Roger Kenneth Burton
Series 10, City 58-11
Action must be taken by: August 14, 2011

Staff has indicated the applicant is in compliance with city requirements.
7. Giant #626, Ward 3
1850 E. Prince Rd.
Applicant: Roger Kenneth Burton
Series 10, City 59-11
Action must be taken by: August 14, 2011

Staff has indicated the applicant is in compliance with city requirements.
8. Gateway Shell, Ward 4
5502 E. 22nd St.
Applicant: Shahzad Rana
Series 10, City 60-11
Action must be taken by: September 12, 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

9. Home Den Lounge, Ward 3
2607 N. 1st Ave.
Applicant: Frank Phillip Weingart
Series 6, City 63-11
Action must be taken by: September 18, 2011

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

10. Ted's Country Store, Ward 3
2760 N. Tucson Blvd.
Applicant: Peter Coy Butterbrodt
Series 7, City 54-11
Action must be taken by: September 4, 2011

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

Public Opinion: Written Argument in Favor Filed

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. Handi-Dogs, Inc., Ward 2
3888 E. River Rd.
Applicant: Joanne Marie Mauger
City T5411
Date of Event: October 23, 2011
(Fundraiser)

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

2. Tucson Botanical Gardens, Ward 6
2150 N. Alvernon Way
Applicant: Colleen J. LaFleur
City T56-11
Date of Event: October 9, 2011
(Fundraising)

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

3. Tucson Hebrew Academy, Ward 2
3800 E. River Rd.
Applicant: Gina Marie Baudoin
City T58-11
Date of Event: November 6, 2011
(Fundraiser)

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

4. St. Margaret Mary Parish, Ward 1
801 N. Grande Ave.
Applicant: Federico Thomas Valdenegro
City T59-11
Date of Event: October 14, 2011 - October 16, 2011
(Annual Parish Fiesta)

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

5. Equine Voices Rescue & Sanctuary, Ward 6
2200 E. Elm St.
Applicant: Karen L. Pomroy
City T60-11
Date of Event: October 23, 2011
(Fundraiser)

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

6. Tucson Breakfast Lions Club, Ward 5
4823 S. 6th Ave.
Applicant: Wayne Francis Locke
City T61-11
Date of Event: September 23, 2011 - September 24, 2011
(Fundraiser)

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

7. Southern Arizona Network for Down Syndrome, Ward 1
100 S. Avenida del Convento
Applicant: Stephanie Renee Bermudez
City T63-11
Date of Event: September 16, 2011
(Fundraiser)

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

8. The University of Arizona, Arizona Alumni, Ward 6
553 N. Vine Ave. Bldg 58.02
Applicant: Roberta Angelica Quiroz
City T66-11
Date of Event: September 17, 2011
(Sky Suite Ticket Holders Event)

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

This item was considered separately.

9. The University of Arizona, Arizona Alumni, Ward 6
553 N. Vine Ave. Bldg 58.02
Applicant: Roberta Angelica Quiroz
City T67-11
Date of Event: September 24, 2011
(Sky Suite Ticket Holders Event)

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

This item was considered separately.

10. Sonoran Glass Art Academy, Ward 5
633 W. 18th St.
Applicant: Alysa Phiel
City T68-11
Date of Event: October 1, 2011
(Fundraiser)

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

11. Downtown Tucson Partnership, Ward 6
318 E. Congress St.
Applicant: Brandi Renee Haga
City T73-11
Date of Event: September 16, 2011
(Celebrate Latin Culture)

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 Fimbres, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license application 5b1-3, 5b5-10, 5c1-7, 5c10 and 5c11 to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Application(s)

New License(s)

4. TMC Shell, Ward 6
5470 E. Grant Rd.
Applicant: Jasjit Singh Chopra
Series 10, City 56-11
Action must be taken by: September 5, 2011

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

Public Opinion: Written Argument Opposed Filed

Roger W. Randolph, City Clerk, announced the first item to be considered separately was item 5b4, TMC Shell, located in Ward 6.

Council Member Kozachik asked the applicant to address the concerns raised including loitering and littering.

Jasjit Singh Chopra said there were other liquor stores within walking distance which were an ongoing problem and beyond his control, adding his property would be kept clean and he would create jobs. He noted the person who protested was not of sound mind.

It was moved by Council Member Kozachik, duly seconded, and carried by a voice vote of 7 to 0 to forward liquor license application 5b4 to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

c. Special Event(s)

8. The University of Arizona, Arizona Alumni, Ward 6
553 N. Vine Ave. Bldg 58.02
Applicant: Roberta Angelica Quiroz
City T66-11
Date of Event: September 17, 2011
(Sky Suite Ticket Holders Event)

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

9. The University of Arizona, Arizona Alumni, Ward 6
553 N. Vine Ave. Bldg 58.02
Applicant: Roberta Angelica Quiroz
City T67-11
Date of Event: September 24, 2011
(Sky Suite Ticket Holders Event)

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

Roger W. Randolph, City Clerk, announced the next two items to be considered separately were items 5c8 and 5c9, due to Council Member Kozachik declaring a conflict of interest.

It was moved by Vice Mayor Uhlich, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Kozachik declared a conflict of interest), to forward liquor license application 5c8 and 5c9 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 would last thirty minutes.

- a. Mikki Niemi spoke about Parkwise operations and its financial responsibility.
- b. Keith Van Heyningen spoke about corruption in City government.
- c. Michael Toney spoke about Rio Nuevo issues.
- d. Ken Johnson spoke about upcoming events at the American Legion, help for Access Tucson and the Veterans Parade in November.
- e. Roy Warden spoke about the verdict of a recent trial involving Deputy City Manager Richard Miranda.
- f. Robert Klay spoke about regulations for medical marijuana clubs.
- g. Karl Filippini gave suggestions for solving the City's problems.
- h. George Thurman spoke about how the City's red light camera program was a private company money making scam.

7. CONSENT AGENDA

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. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY FOR IMPROVEMENTS TO GRANT ROAD FROM ORACLE ROAD TO SWAN ROAD
 - 1. Report from City Manager SEP07-11-351 WARDS 2, 3 AND 6
 - 2. Resolution No. 21792 relating to Transportation; authorizing and approving the execution of Amendment No. 4 to the Intergovernmental Agreement for transportation funding between the Regional Transportation Authority of Pima County (RTA) and the City of Tucson for the Grant Road Corridor Project at Oracle Road; and declaring an emergency.

- b. GRANT APPLICATION: TO THE FEDERAL TRANSIT ADMINISTRATION FOR THE NEW FREEDOM PROGRAM
 - 1. Report from City Manager SEP07-11-343 CITY WIDE
 - 2. Resolution No. 21784 relating to Transportation; authorizing and approving the submission of a Federal Transit Administration (FTA) Section 5317 New Freedom Program (NFP) Grant Application (Federal Fiscal Year 2009 Funds), Grant AZ-57-X015; and declaring an emergency.

- c. GRANT APPLICATION: TO THE FEDERAL TRANSIT ADMINISTRATION FOR THE JOB ACCESS AND REVERSE COMMUTE PROGRAM
 - 1. Report from City Manager SEP07-11-344 CITY WIDE
 - 2. Resolution No. 21785 relating to Transportation; authorizing and approving the submission of a Federal Transit Administration (FTA) Section 5316 Job Access and Reverse Commute (JARC) Program Grant Application (Federal Fiscal Year 2009 Funds), Grant AZ-37-X020; and declaring an emergency.

- d. REAL PROPERTY: ACQUISITION OF UTILITY EASEMENTS FOR WELL I-001B, NEAR ORACLE ROAD AND TORTOLITA STREET
 - 1. Report from City Manager SEP07-11-350 OUTSIDE CITY
 - 2. Resolution No. 21786 relating to Water and Real Property; authorizing the City Manager to acquire by negotiation certain public utility easements adjacent to City Well I-001B, located near Oracle Road and Tortolita Street; and declaring an emergency.

- e. GRANT APPLICATION: TO THE FEDERAL TRANSIT ADMINISTRATION FOR THE STATE OF GOOD REPAIR BUS AND BUS FACILITIES DISCRETIONARY PROGRAM FUNDS
 - 1. Report from City Manager SEP07-11-346 CITY WIDE
 - 2. Resolution No. 21788 relating to Transportation; authorizing and approving the submission of a Federal Transit Administration (FTA) State of Good Repair (SGR) Bus and Bus Facilities Discretionary Program Funds Grant Application (Federal Fiscal Year 2011 Funds), Grant AZ-04-0016; and declaring an emergency.

- f. GRANT APPLICATION: TO THE FEDERAL TRANSIT ADMINISTRATION FOR THE CLEAN FUELS GRANT PROGRAM FUNDS
 - 1. Report from City Manager SEP07-11-347 CITY WIDE
 - 2. Resolution No. 21789 relating to Transportation; authorizing and approving the submission of a Federal Transit Administration (FTA) Clean Fuels Grant Program Funds (Section 5308) Grant Application (Federal Fiscal Year 2009 Funds), Grant AZ-58-0001; and declaring an emergency.

- g. INTERGOVERNMENTAL AGREEMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY FOR FUNDING OF THE STONE AVENUE GATEWAY PROJECT
 - 1. Report from City Manager SEP07-11-349 WARD 3
 - 2. Resolution No. 21790 relating to Transportation; authorizing and approving the Intergovernmental Agreement for the Transportation Funding, between the City of Tucson and the Regional Transportation Authority of Pima County (RTA) for the Stone Avenue Gateway Project; and declaring an emergency.

- h. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY FOR THE EL PASO AND SOUTHWESTERN GREENWAY PROJECT
 - 1. Report from City Manager SEP07-11-348 WARDS 1, 5 AND 6
 - 2. Resolution No. 21791 relating to Intergovernmental Agreements; authorizing and approving the execution of Amendment No. 2 to the Intergovernmental Agreement between the City of Tucson and the Regional Transportation Authority of Pima County (RTA) to provide additional funding for the El Paso and Southwestern Greenway Project; and declaring an emergency.

- i. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR HOUSEHOLD HAZARDOUS WASTE AND SMALL BUSINESS WASTE PROGRAMS (CONTINUED FROM THE MEETING OF JULY 6, 2011)
 - 1. Report from City Manager SEP07-11-352 CITY WIDE AND OUTSIDE CITY
 - 2. Resolution No. 21793 relating to Intergovernmental Agreements; authorizing and approving a new Intergovernmental Agreement between the City of Tucson and Pima County for the Regional Household Hazardous Waste Collection and Education Program; and declaring an emergency.

- j. MAYOR AND COUNCIL: AMENDING THE 2011 MAYOR AND COUNCIL MEETING SCHEDULE
 - 1. Report from City Manager SEP07-11-353 CITY WIDE
 - 2. Ordinance No. 10924 relating to Administration; amending Section 1 of Ordinance 10842, which approved a schedule of Mayor and Council regular meeting dates for 2011, to reschedule the regular meeting dates of October 4, 2011 to October 5, 2011 and December 6, 2011 to December 5, 2011; and declaring an emergency.

- k. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH VENTANA RESERVE II
 - 1. Report from City Manager SEP07-11-340 WARD 2 AND OUTSIDE CITY
 - 2. Resolution No. 21794 relating to Pre-Annexation and Development Agreements; authorizing and approving the execution of a Pre-Annexation and Development Agreement between Stanley H. Sprei and the City of Tucson; and declaring an emergency.

(This item was continued to the September 13, 2011, meeting.)

- l. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY FOR THE REGIONAL TRANSPORTATION DATA NETWORK TECHNICAL EXPANSION CONTRACT
 - 1. Report from City Manager SEP07-11-341 CITY WIDE AND OUTSIDE CITY

2. Resolution No. 21795 relating to Intergovernmental Agreements; authorizing and approving the execution of Amendment Number 2 to an Intergovernmental Agreement for Transportation Funding between the Regional Transportation Authority of Pima County (RTA) and the City of Tucson for the Regional Transportation Data Network (RTDN) Technical Expansion Contract; and declaring an emergency.
- m. REAL PROPERTY: APPROVING A LEASE AGREEMENT WITH JUNE'S CORNER STORE, LLC, FOR SPACE LOCATED AT 145 NORTH STONE AVENUE
1. Report from City Manager SEP07-11-354 WARD 6
 2. Ordinance No. 10925 relating to Real Property; authorizing and approving the Lease Agreement with June's Corner Store, LLC, for space located at 145 North Stone Avenue; and declaring an emergency.
- n. AGREEMENT: APPROVING AN AMENDED AND RESTATED GROUND LEASE AGREEMENT WITH NEW CINGULAR WIRELESS PCS, LLC
1. Report from City Manager SEP07-11-355 CITY WIDE
 2. Ordinance No. 10926 relating to Real Property: authorizing and approving the Amended and Restated Ground Lease Agreement between the City of Tucson and New Cingular Wireless PCS, LLC; 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 - n, with the exception of Consent Agenda Item k, which was continued, be passed and adopted and the proper action taken.

8. PUBLIC HEARING: RENEWAL OF CABLE TELEVISION LICENSE WITH COX COMMUNICATIONS

Mayor Walkup announced City Manager's communication number 357 dated September 7, 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 proposed renewal of a cable television license with Cox Communications. He said the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations.

Bill Carnegie, Community Food Bank CEO, spoke in support of Cox Communications' license renewal.

Leslie Epperson read part of a petition from Tucson residents regarding issues surrounding the Cox Communication license renewal and support for Access Tucson

Rocky Shamburg, Cox Communications employee, spoke in support of the license renewal.

Bob Kovitz, Access Tucson Board President, spoke against the license renewal, asking for this item to be continued for sixty to ninety days.

Matthew Ramsey, Login Inc. Principal, spoke in support of the license agreement with Cox Communications.

Lisa Horner spoke against immediate approval of the agreement, asking for a continuance of this item, which should be subject to better public scrutiny.

Belinda Federico, spoke in support of the licensing agreement with Cox Communications and discussed what an honor it was for her be employed by Cox Communications.

Mary Charlotte Thurtle, spoke on behalf of the Board of Directors of Access Tucson, and asked for a delay in approving the Agreement.

Beryl Baker said she was a longtime member of Access Tucson and asked the Mayor and Council to postpone their vote to give other stakeholders time to review the Agreement.

Brenda Goldsmith, El Rio Health Clinic Foundation Executive Director, spoke in support of the licensure of Cox Communications.

Tom Prezelski, Access Tucson Board Member, said this item should be postponed to give more time for adequate public input and discussion.

Mary Canty said she worked for Tucson Unified School District (TUSD) and operated Channel 20, the twenty-four hour educational channel. She called for further public discussion on this item.

Mary Paul, Junior Achievement of Arizona, Education Program Manager, said she supported the license agreement with Cox Communications.

Carl Fiske said if the Mayor and Council cared about their community, they would continue this item for sixty to ninety days to include greater public input.

Stuart Thomas asked Mayor and Council to insist Cox Communications continue to maintain Access Tucson.

Libby Hubbard, Access Tucson Producer, asked for the support of the Mayor and Council and Cox Communications to continue their shows.

J. Lisa Jones asked for a continuance of the item so that the Agreement could be arbitrated to serve the entire community.

Lisa Lovallo, Cox Communications Vice President in Southern Arizona, discussed many of their achievements and commented on many tenets of the agreement itself. She emphasized that the City and Cox had complied with all laws governing public notice and disclosure with the highest amount of transparency and stressed the agreement should be approved by the Mayor and Council as is, noting the repercussions of what would occur if it was postponed.

It was moved by Council Member 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 Resolution No. 21796 in number and title only.

Resolution No. 21796 relating to cable communications; approving and authorizing execution of a nonexclusive cable license agreement between the City of Tucson and Coxcom, LLC.; and declaring an emergency.

Vice Mayor Uhlich spoke about the time and energy invested in understanding the parameters of this new cycle of the Agreement adding she wanted to open with an indication of her sense of the best constructive path to proceed. She said the Mayor and Council was devoted to good public process and to proceeding with an open mind toward an end point, adding the state statute in fact defined many terms of the license agreement.

It was moved by Vice Mayor Uhlich, duly seconded, to pass and adopt Resolution 21796 and directed staff to meet with the PEG partners and finalize the necessary documents for the allocation of channels with the explicit direction that Channel 12 continue to be the governmental channel, Access Tucson be placed on the basic tier on Channel 20 and the education partners, particularly Tucson Unified School District (TUSD), receive the allocation of Channel 120 on the digital tier; TUSD is to be given the opportunity to submit programming for airing on the basic tier through either Channel 12 or Access Tucson.

A friendly amendment was made Council Member Romero to also direct staff to continue conversations with Cox Communications, TUSD, Channel 12, and Access Tucson regarding Video on Demand and origination points to be part of a separate agreement to be commenced immediately.

Council Member Romero asked Ms. Lovallo if this was something Cox Communications could agree to.

Ms. Lovallo replied in the affirmative, adding origination and Video on Demand, by statutes, were something that had to be discussed outside the license and Cox

Communications was open and willing to do that as she had previously said to the Mayor and Council.

Council Member Romero commented that Cox Communications was a good partner who contributed tremendously to the City, to non-profit organizations and to the community. She spoke about continuing the dialogue with all the partners to address their concerns.

Council Member Kozachik thanked Cox Communications for their wonderful involvement in the community and commended the friendly amendment ensuring the door was open to continue dialogue with an end result despite being bound by state statute. He asked for clarification regarding the federal law that forced everything on to the basic tier.

Ms. Lovallo responded to Council Member Kozachik's request to clarify her comments regarding basic tier and digital tier in the contract. She said basic tier was the lowest cost, least expensive tier Cox Communications provided. She stated that if analog went away, what was protected was basic tier. Consumers that were financially challenged would have access to public media and paid channels.

Council Member Cunningham stated he thought it was important that everyone involved was receiving the same information. He asked the City Attorney to explain the ten-year agreement with Cox Communication, the auditing portion of the agreement, the exclusiveness of the agreement, the renewal of the agreement three years prior to expiration, the affects on fundraising by Access Tucson and the process of money spent on consultants instead of formalizing the current process in a more expeditious manner.

Michael Rankin, City Attorney, replied that the ten-year agreement, although initially it was a fifteen-year agreement, was the negotiated length of term for the contract. He said the City to determine an appropriate time for the agreement looked at other examples including the former license agreement with Cox Communications, the agreement with ComCast, the County's agreement with Cox Communications and other examples throughout the state. He said ten years was certainly well within best practices for these types of agreements.

Mr. Rankin stated that in the new licensing agreement there was a shift from a fixed fee amount to a fee amount based on a percentage of gross revenue which was a defined term under state law. He added, to meet that need, incorporated into the agreement were some very rigorous audit provisions which allowed the City to not just inspect records, but to audit them to ensure full payment of the five percent of gross revenues which was the maximum allowed to be charged as a fee under state statutes.

Mr. Rankin said the agreement with Cox Communications was a non-exclusive agreement and other cable operators who might want to engage in other cable system operations within the City limits could approach the City and ask for licensure as well.

Mr. Rankin continued that under the federal law, cable providers, such as Cox Communications, could start the clock for the renegotiation period thirty-six months prior to the expiration date of the existing agreement, which in this case was June of 2012. He said to trigger that renewal process, Cox Communications submitted the formal renewal request in August 2009, thirty-six months prior to the expiration of the current agreement, however, the City and Cox Communications did not engage in any meaningful exchange of “draft” proposals until December 2010, which he came to the Mayor and Council in an executive session to receive direction on how to proceed.

Mr. Rankin noted Access Tucson’s fundraising efforts were not compromised by any provisions in this agreement and also remarked on the issue of formalizing the renewal process.

Mr. Rankin mentioned that the process was an important element as the closer the expiration date of the existing agreement was reached without a new renewal license in place. He said the City was in a position of having to engage in the formal process under federal law including assessments, surveys, and consultants which was a procedure they had previously engaged in during the months leading up the prior license agreement in 2007. He stated the cost for that process was an amount well into six figures.

Council Member Fimbres asked for explanation on a statement used in the agreement regarding, “former approval process pursuant to federal law” which he said was a very costly process. He also asked Ms. Lovallo the number of employees Cox Communications had and if they lived within the City limits and what other infrastructure projects they were currently working on.

Mr. Rankin replied stating that what the City was currently engaged in was usually referred to as an informal negotiation process. He said the closer the City got to the expiration of an existing agreement, a more formal renewal procedure was followed that was dictated by federal law, which began with the thirty-six month request for renewal process. He said beyond that, what the licensing authority had to do was to be in a position on whether or not to renew a license as proposed by the cable provider, which meant there were a series of steps that needed to be followed.

Ms. Lovallo said that Cox Communications employed about four hundred eight Tucson employees and about two hundred seventeen resided in the City. She continued that Cox Communications invested in significant capital in some very large infrastructure projects within Pima County and the City of Tucson. She stated that in the Sunnyside Unified School District, they had recently completed a technology improvement worth about six hundred thousand dollars, had done a tremendous amount of work with the Pima County libraries, infrastructure for health care and behavior health care in the County and were currently working on a request for proposals for the Tucson Unified School District to upgrade their technology. She continued by outlining some of their future projects.

Mayor Walkup commended Ms. Lovallo and her employees on what a great partner they were in making Tucson a better place.

Resolution No. 21796 was declared passed and adopted by a roll call vote of 7 to 0.

RECESS: 7:56 p.m.

RECONVENE: 8:06 p.m.

Mayor Walkup called the meeting back to order. All members were present as they were at the beginning of the meeting.

9. PUBLIC HEARING: FEDERAL TRANSIT ADMINISTRATION SECTION 5307 CAPITAL GRANT APPLICATION

Mayor Walkup announced City Manager's communication number 345 dated September 7, 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 the submission of a Federal Transit Administration Capital Grant Application. He said the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations.

Mikki Niemi stressed that before this money was appropriated, the City should know where the money was coming from as it could not afford any more cuts or loans.

It was moved by Council Member 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 Resolution No. 21787 in number and title only.

Resolution No. 21787 relating to Transportation; authorizing and approving the submission of a Federal Transit Administration (FTA) Section 5307 Capital Grant Application (Federal Fiscal Year 2011), Grant AZ-90-X116; and declaring an emergency.

Vice Mayor Uhlich asked staff to address the question raised regarding the source of funding for the local share of the match and who would own the capital assets that would be secured by the grant.

Jim Glock, Transportation Department Director, referred to the Notice of Public Hearing that was attached to the Mayor and Council Communication. He said the preventative maintenance for Sun Tran and Sun Van augmented the City's operation and maintenance budgets for those systems. He said as future years' budgets were finalized, the City would be looking at strategies needed to offset the general fund support for transit with another funding source. Mr. Glock stated that ownership of the buses, at this point, was still with the City of Tucson.

It was moved by Vice Mayor Uhlich, duly seconded to pass and adopt Resolution 21787.

Mayor Walkup asked if there was any further discussion.

Council Member Cunningham asked if the grant was written into the budget. He also asked if it had been factored in the budget that older buses would be replaced with a new fleet of twelve buses and if that would reduce routine maintenance costs.

Mr. Glock responded that this was a formula grant; the City planned on receiving these funds on an annual basis and the budget included this funding level for FY 2012. He also answered in the affirmative on the replacement of the older buses and routine maintenance costs.

Council Member Kozachik asked Mr. Glock to elaborate on the age of the current fleet and anticipated maintenance costs.

Mr. Glock replied that the age of the City's fleet and its maintenance costs plus the addition of the two grants previously noted would allow the City to essentially replace older model buses. He said the City had forty-five high quality buses acquired in 2001 which would be managed in the years to come, noting his Department generally looked at their maintenance costs on a parts cost per mile basis which would hopefully be reduced.

Mayor Walkup asked how the buses were powered.

Mr. Glock replied that the current buses ran on biodiesel, however, the ten new buses that would be purchased would be diesel/electric hybrids.

Mayor Walkup asked for a roll call vote.

Resolution No. 21787 was declared passed and adopted by a roll call vote of 7 to 0.

10. ELECTIONS: CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE CITY PRIMARY ELECTION HELD AUGUST 30, 2011 (CONTINUED FROM THE MEETING OF SEPTEMBER 5, 2011)

Mayor Walkup announced City Manager's communication number 356 dated September 7, 2011, was received into and made part of the record. He asked the City Clerk to read Resolution No. 21797 in number and title only.

Resolution No. 21797 relating to Elections: Canvassing the returns and declaring the results of the Primary Election held in the City of Tucson, Arizona on August 30, 2011.

Council Member Fimbres said the August 30, 2011, Mayor and Council Primary Election marked a turning point in the City of Tucson's election process, adding it was the first election conducted through an all vote-by-mail process with more ballots cast

than in the 2007 or 2009 primary elections, or since the primary election of 1999. He thanked the City Clerk and his staff for their work in the first vote-by-mail election, noting this was a good start to get people to participate in the election process.

It was moved by Council Member Fimbres, duly seconded and passed by a roll call vote of 7 to 0, to pass and adopt Resolution 21797.

11. ZONING: (C9-11-02) CIRCLE K – SPEEDWAY BOULEVARD R-1 TO C-1, CITY MANAGER'S REPORT, DIRECT ORDINANCE ADOPTION

Mayor Walkup announced City Manager's communication number 342 dated September 7, 2011, was received into and made part of the record. He also announced this was a request to rezone property located 175 feet east of Craycroft Road, on the north side of 1st Street. He said the Zoning Examiner and staff recommended approval subject to certain conditions and asked if the applicant was present and in agreement.

David Cisiewski of MD Partners spoke on behalf of Circle K. He said they were agreeable to all proposed conditions.

Mayor Walkup asked the City Clerk to read Ordinance 10923 in number and title only.

Ordinance No. 10923 relating to zoning: amending zoning district boundaries in the area located 175 feet east of Craycroft Road, on the north side of 1st Street in case C9-11-02, Circle K - Speedway Boulevard, R-1 to C-1, and setting an effective date.

Council Member Kozachik asked staff about the existing easement. He said it was his understanding that Circle K had no authority or ability to block the easement and wanted to know if he was correct. He asked what the City could do to mitigate that potential since that was the cut-through back into the neighborhood. He also asked if staff knew what exactly the easement was there for; safety reasons, environmental services, etc.

Peter Gavin, Zoning Examiner, confirmed that Council Member Kozachik was correct regarding Circle K. He said the applicant was willing to install signage restricting turns going south into the neighborhood on the adjacent properties. Mr. Gavin asked the owner to explain the purpose of the easement.

Mr. Cisiewski said the easement had existed since about 1947 and was a private covenant between the various parcel owners involved over the years. He said, as agreed, they would put up a "Do Not Enter" sign and as they moved forward, they would work with the adjoining parcel owners, to the extent they could, to get them to agree to abandon the easement and would certainly make efforts to do that.

Council Member Kozachik reiterated, for clarification, the conditions being approved.

Mr. Gavin confirmed the City was prepared to accommodate a waiver for normal development standard regarding cutting off the pedestrian access.

Mr. Cisiewski said for the record this was already processed with staff and had been approved.

It was moved by Council Member Kozachik, duly seconded to approve the request as recommended by the Zoning Examiner and pass and adopt Ordinance No. 10923 with the conditions.

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 10923.

12. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 339, dated September 7, 2011, was received into and made part of the record

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

Council Member Scott announced her personal appointment of Joe Yee to the Planning Commission.

13.

* **14. ADJOURNMENT: 8:29 p.m.**

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, September 13, 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 7th day of September, 2011, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:tl:yl