



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on February 22, 2012.

Date of Meeting: November 15, 2011

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:44 p.m., on Tuesday, November 15, 2011, all members having been notified of the time and place thereof.

1. ROLL CALL

The meeting was called to order by Mayor Pro-Tempore Uhlich and upon roll call, those present and absent were:

Present:

Regina Romero	Council Member Ward 1
Paul Cunningham	Council Member Ward 2
Karin Uhlich	Mayor Pro-Tempore, Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Richard G. Fimbres	Council Member Ward 5
Steve Kozachik	Council Member Ward 6

Absent/Excused:

Robert E. Walkup	Mayor
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Staff Members Present:

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

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Pastor Roy Tullgren, Gospel Rescue Mission, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

Mayor Pro-Tempore Uhlich proclaimed November 19, 2011 as “Festival in the Park Day.”

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Pro-Tempore Uhlich announced City Manager’s communication number 439, dated November 15, 2011, was received into and made part of the record. She 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.

Current event reports were provided by Council Members Romero, Cunningham and Fimbres. A recording of this item is available from the City Clerk’s Office.

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

Mayor Pro-Tempore Uhlich announced City Manager’s communication number 440, dated November 9, 2011, was received into and made part of the record. She 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 Pro-Tempore Uhlich announced City Manager’s communication number 441 dated November 15, 2011, was received into and made part of the record. She asked the City Clerk to read the Liquor License Agenda.

b. Liquor License Application(s)

New License(s)

- 1. Salud Oyster Bar & Grill, Ward 1
1825 W. Valencia Rd.
Applicant: Jesus Francisco Bonillas Jr.
Series 12, City 80-11
Action must be taken by: November 28, 2011

Tucson Police Department has indicated the applicant is in compliance with city requirements.

Revenue Division-Investigations and Planning & Development Services Department have indicated the applicant is not in compliance with city requirements.

2. Nimbus American Bistro n Brewery, Ward 2
6464 E. Tanque Verde Rd.
Applicant: Brandon Craig Williams
Series 12, City 81-11
Action must be taken by: November 27, 2011

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

3. The Hog Pit Smokehouse, Ward 2
6910 E. Tanque Verde Rd.
Applicant: Curtis Kevin Lostutter
Series 12, City 82-11
Action must be taken by: November 27, 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

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

c. Special Event(s)

1. Our Lady of Lavang Parish, Ward 5
800 S. Tucson Blvd.
Applicant: Van Hieu Nguyen
City T110-11
Date of Event: January 28, 2012 - January 29, 2012
(Vietnamese New Year Festival)

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

2. Bootstraps to Share aka BICAS, Ward 6
127 W. 5th St.
Applicant: Erik B. Ryberg
City T112-11
Date of Event: December 3, 2011 - December 4, 2011
(Fundraiser)

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

d. Agent Change/Acquisition of Control

1. Margarita Bay Bar and Restaurant, Ward 2
7415-7417 E. 22nd St.
Applicant: Dennis Michael Murphy
Series 6, City AC14-11
Action must be taken by: November 26, 2011

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

2. Doubletree Hotel, Ward 6
445 S. Alvernon Way
Applicant: Kevin Arnold Kramber
Series 11, City AC15-11
Action must be taken by: November 27, 2011

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

3. Zen Rock, Ward 6
121 E. Congress St.
Applicant: Kevin Arnold Kramber
Series 6, City AC16-11
Action must be taken by: November 27, 2011

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

4. Woody's, Ward 3
3710 N. Oracle Rd.
Applicant: John David Huff
Series 6, City AC17-11
Action must be taken by: December 1, 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)

Roger W. Randolph, City Clerk, announced that the applicant for Salud Oyster Bar & Grill had requested the item be continued to the November 22, 2011 meeting.

It was moved by Council Member Kozachik, duly seconded and passed by a voice vote of 6 to 0 (Mayor Walkup absent/excused), to forward liquor license applications 5b2 and 5b3, 5c1 and 2, and 5d1 – 4 to the Arizona State Liquor Board with a recommendation for approval.

6. CALL TO THE AUDIENCE

Mayor Pro-Tempore Uhlich 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.

Comments were made by:

Mikki Niemi	Ken Johnson	Michael Migliore
Jennifer Rawson	Jon McLane	Tracy Toland
Jessica Shuman	Robert Reus	Kristina Ruiz
Douglas Trudeau	Keith Van Heyningen	William Lolos
Andy Marshall	Joan Puca	Christopher Puca M.D.
Terry Pawlowski	Joe Callahan	Robert Alexander Dumas
Kacee Dwyer	Richard Kaiser	Guy Josserand III
Roger Putzi	Nancy Schlegel	Susan Foster
Matthew Pence	Shannon Cain	William Warfield
Chris Lovato	Molly McKasson	Charlie Manolakis
Stephanie Jackson	Marisa Muro	Sheldon Gutman

A recording of this item is available from the City Clerk's Office.

7. CONSENT AGENDA

No items were scheduled for the Consent Agenda.

8. ZONING: (C9-11-06) BURGER KING – 22ND STREET, RX-1 AND SR TO C-1, CITY MANAGER'S REPORT

Mayor Pro-Tempore Uhlich announced City Manager's communication number 442 dated November 15, 2011, was received into and made part of the record. She also announced this was a request to rezone property located on the southwest corner of 22nd Street and Harrison. She said the Zoning Examiner and staff recommend authorization of the rezoning subject to certain conditions. She asked if the applicant or representative were present and if they were agreeable to the proposed requirements.

Scott McDonald, on behalf of the applicant, said they were agreeable to the proposed requirements.

Mark Mandel, Harrison Terrace Homeowners Association President, spoke in opposition to the rezoning request. He stated that ninety-seven percent of the homeowners in the area were opposed. The opposition was based on the safety of the small community; primarily relating to increased traffic, loitering and littering.

Council Member Cunningham asked Peter Gavin, Zoning Examiner, if he could address the actions that had been taken to mitigate the neighbors concerns.

Peter Gavin, Zoning Examiner, stated the staff report was sent to all neighbors within three hundred feet of the proposed location prior to his hearing. The report contained both the City of Tucson General Plan and the Pantano East Plan. He stated his hearing was continued four times, one time occurring on-site. He highlighted a number of the conditions the applicant was required to meet.

Council Member Cunningham stated he appreciated where the neighborhood was coming from but felt the mitigation would help protect the neighbors. He said that if traffic issues arose they could be dealt with.

Council Member Kozachik asked if the condition agreeing to a waiver of claims was related to Proposition 207 and if the developer had received the required approval from the Pima County Regional Wastewater Reclamation District (PCRWRD).

Michael Rankin, City Attorney, confirmed the waiver of claims was related to Proposition 407.

Ernie Duarte, Planning and Development Services Director, stated the required approval from the PCRWRD was to occur between the request for authorization, which was the current item, and ordinance adoption.

Mayor Pro-Tempore Uhlich asked the Zoning Examiner to confirm the condition relating to the thirty-two foot easement.

Mr. Gavin stated it was to be a thirty-two foot easement with a public trail that would contain landscaping.

It was moved by Council Member Cunningham, duly seconded, and passed by a roll call vote of 6 to 0 (Mayor Walkup absent/excused), to approve the request as recommended by the Zoning Examiner.

9. ELECTIONS: CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE CITY GENERAL ELECTION HELD NOVEMBER 8, 2011 (CONTINUED FROM THE MEETING OF NOVEMBER 14, 2011)

Mayor Pro-Tempore Uhlich announced City Manager's communication number 437 dated November 15, 2011, was received into and made part of the record. She asked the City Clerk to read Resolution 21822, by number and title only.

Resolution No. 21822 relating to elections; canvassing the returns and declaring the results of the General Election held in the City of Tucson, Arizona on November 8, 2011.

Council Member Fimbres made comments relating to the successful outcome of the City's first all mail ballot election.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 6 to 0 (Mayor Walkup absent/excused) to pass and adopt Resolution 21822.

10. REAL PROPERTY: LEASE AGREEMENT WITH THE ARIZONA BOARD OF REGENTS FOR THE USE OF HI CORBETT FIELD FOR UNIVERSITY OF ARIZONA BASEBALL

Mayor Pro-Tempore Uhlich announced City Manager's communication number 438 dated November 15, 2011, was received into and made part of the record. She asked the City Clerk to read Resolution 21821, by number and title only.

Resolution No. 21821 relating to Real Property; authorizing and approving the lease agreement between the City of Tucson and the Arizona Board of Regents for use of Hi Corbett Field for University of Arizona Baseball; and declaring an emergency.

Michael Rankin, City Attorney, stated that the Mayor and Council Communication and the Resolution indicated there could be minor language revisions made prior to the execution of the agreement. This allowed for the execution of the agreement as long as the revisions did not result in substantive changes to what was presented. He stated he had just heard from the University of Arizona (U of A) and they did in fact have several minor changes. If any of the changes turned out to be substantial they would be brought back to the Mayor and Council for review.

Mr. Rankin stated he was prepared to walk through the terms of the agreement should the Council desire. He stated the terms were in line with the letter of intent the Mayor and Council had previously approved.

Council Member Romero asked the City Attorney to go over the more complex issues of the agreement.

Mr. Rankin stated that the initial term of the lease was five years with the option to renew for an additional five years. Any renewals beyond that required approval of the

governing bodies of both entities. He said the rental rate was three hundred thousand dollars for the first year and two hundred sixty-two thousand dollars for the next four years of the initial term. If the agreement was extended then an inflator based on the Consumer Price Index would be added to each additional year.

Mr. Rankin said the lease covered the field, an annex field, designated parking areas, clubhouse, locker room, office and retail space. He said the U of A would have use of the facility the entire year. During the low season the City would have the ability to use the facility for other uses. He said the U of A was allowed to make improvements to the facility, however, at the expiration of the lease those improvements would revert to the City. He said the maintenance and operations and utilities were also spelled out in the agreement. He said that the U of A, as a government entity, was not liable for sales tax, but under the agreement they would charge two percent on concessions and merchandise and would remit that to the City.

Mr. Rankin said the City would continue to hold the liquor license, but the U of A was responsible for all Title 4 issues. He said each party to the agreement would provide indemnification to the other party. He said there was a sixty-day time period built in for the settlement of the Toros litigation. He further explained what types of items would constitute a substantial change.

Council Member Romero asked how much it cost the City to maintain Hi Corbett field in comparison to what the U of A would pay.

Fred Grey, Parks and Recreation Director, stated the fees charged to the U of A were based on their portion of the use of the facility. He said the cost to the City for maintenance of the facility was less than those fees.

Council Member Fimbres asked who was responsible and liable for the sale of alcohol under the terms of the agreement and if the sales tax was in addition to the rent payment.

Mr. Rankin stated that the U of A would be responsible. He said if they contracted with an outside vendor it would be the vendor's responsibility to provide the necessary liability insurance naming the City as an additional insured. Mr. Rankin confirmed the sales tax was in addition to the rent.

Council Member Cunningham asked Shelley Duncan, former U of A player, to comment on the agreement. Mr. Duncan commented on the positive aspects of moving U of A baseball to Hi Corbett.

It was moved by Council Member Cunningham, duly seconded, and passed by a roll call vote of 5 to 0 (Council Member Kozachik recused due to conflict of interest and Mayor Walkup absent/excused), to pass and adopt Resolution 21821.

11. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Pro-Tempore Uhlich announced City Manager's communication number 443 dated November 15, 2011, was received into and made part of the record. She asked if there were any personal appointments to be made.

There were none.

10. ADJOURNMENT: 8:32 p.m.

Mayor Pro-Tempore Uhlich announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, November 22, 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 15th day of November 2011, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR