



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on March 27, 2013.

Date of Meeting: July 10, 2012

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 5:35 p.m., on Tuesday, July 10, 2012, all members having been notified of the time and place thereof.

1. ROLL CALL

The meeting was called to order by Mayor Rothschild 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	Council Member Ward 5
Steve Kozachik	Vice Mayor, Council Member Ward 6
Jonathan Rothschild	Mayor

Absent/Excused:

None

Staff Members Present:

Richard Miranda	City Manager
Michael Rankin	City Attorney
Deborah Rainone	Chief Deputy City Clerk

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Grace Hartman, Villa Maria Care Center, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

- a. Mayor Rothschild proclaimed July as “Smart Irrigation Month.” Alan Forrest, Director of Tucson Water, accepted the proclamation.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Rothschild announced City Manager’s communication number 285, dated July 10, 2012, 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.

Current event reports were provided by Council Members Cunningham, Fimbres, and Vice Mayor Kozachik. A recording of this item is available from the City Clerk’s Office for ten years from the date of this meeting.

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

Mayor Rothschild announced City Manager’s communication number 286, dated July 10, 2012, 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.

Current event report was given by Kelly Gottschalk, Assistant City Manager/Chief Financial Officer. A recording of this item is available from the City Clerk’s Office for ten years from the date of this meeting.

5. LIQUOR LICENSE APPLICATIONS

Mayor Rothschild announced City Manager’s communication number 287, dated July 10, 2012, 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. Sahara Cafe, Ward 3
1730 E. Prince Rd.
Applicant: Ghada Jamal Lulu
Series 12, City 2-12

Action must be taken by: February 24, 2012

Tucson Police Department and Revenue Investigations have indicated the applicant is in compliance with city requirements.

Planning & Development Services has indicated the applicant is not in compliance with city requirements.

2. Asian Bistro, Ward 3
3122 N. Campbell Ave. #100
Applicant: Yee Ming Fung
Series 12, City 18-12

Action must be taken by: April 26, 2012

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

3. Chevron, Ward 3
2475 E. Grant Rd.
Applicant: Harmeet Singh
Series 10, City 41-12

Action must be taken by: July 13, 2012

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

4. Buffalo Wild Wings Grill and Bar, Ward 3
4329 N. Oracle Rd. #135
Applicant: David Ray Henry
Series 12, City 43-12

Action must be taken by: July 15, 2012

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

5. R & D Union, Ward 5
4701 E. 29th St.
Applicant: Raj Agarwal
Series 10, City 44-12

Action must be taken by: July 15, 2012

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

Public Opinion: Written Arguments Opposed Filed

NOTE: State law provides that for a new license application, "In all proceedings before the governing body of a city...the applicant bears the burden of showing that the public convenience requires and that the best interest of the community will be substantially served by the issuance of a license". (A.R.S. Section 4-201).

Person Transfer(s)

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

c. Special Event(s)

1. Tucson Botanical Gardens, Ward 6
2150 N. Alvernon Way
Applicant: Amy Marie Collinsworth
City T50-12
Date of Event: August 16, 2012
(Fundraising Concert)

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

2. DMAFB Top 3, Ward 6
1303 E. University Blvd.
Applicant: Elizabeth Ann Leahy
City T52-12
Date of Event: July 28, 2012
(USAF SNCO Induction Ceremony)

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 Cunningham, duly seconded and carried by a voice vote of 7 to 0, to forward liquor license applications 5b2 through 5b4 and 5c1 through 5c2 to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Application(s)

New License(s)

5. R & D Union, Ward 5
4701 E. 29th St.
Applicant: Raj Agarwal
Series 10, City 44-12

Action must be taken by: July 15, 2012

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

Deborah Rainone, Chief Deputy City Clerk, announced the first item to be considered separately was Item 5b5, R & D Union located in Ward 5, at the request of Council Member Fimbres.

Raj Agarwal, owner of R & D Union spoke about the proximity of his store to other grocery stores and stated the majority of the residents in the area do not own a car which makes his store convenient for those who walk. He added he is applying for a liquor license not a drug license, and addressed the letter opposing the approval of the liquor license.

David Robles, a resident of Alvernon Heights Neighborhood, spoke in opposition of the liquor license approval.

It was moved by Council Member Fimbres, duly seconded and carried by a voice vote of 7 to 0, to forward liquor license applications 5b5 to the Arizona State Liquor Board with a recommendation for denial.

A verbatim transcription of this item is available through the City Clerk's Office.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Application(s)

New License(s)

1. Sahara Cafe, Ward 3
1730 E. Prince Rd.
Applicant: Ghada Jamal Lulu
Series 12, City 2-12

Action must be taken by: February 24, 2012

Tucson Police Department and Revenue Investigations have indicated the applicant is in compliance with city requirements.

Planning & Development Services has indicated the applicant is not in compliance with city requirements.

Deborah Rainone, Chief Deputy City Clerk, announced the second item to be considered separately was Item 5b1, Sahara Cafe located in Ward 3, at the request of Council Member Uhlich.

Discussion was held.

It was moved by Council Member Cunningham, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b1 to the Arizona State Liquor Board with a recommendation for denial.

6. CALL TO THE AUDIENCE

Mayor Rothschild 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.

Mayor Rothschild also announced that pursuant to the Arizona Open Meeting Law, individual Council Members may ask the City Manager to review the matter, ask that the matter be placed on a future agenda, or respond to criticism made by speakers. However, the Mayor and Council may not discuss or take legal action on matters raised during “call to the audience.”

Comments were made by:

Dorreen Martinez	Phillip Miller	Mark Schneider
Keith Van Heyningen		

Vice Mayor Kozachik asked the City Manager to advise Ms. Martinez of her options and of when the Mayor and Council were scheduling the public hearing to discuss her concerns.

Council Member Romero requested Mr. Schneider to email his write up to the Mayor and Council so that they could read the entirety of it.

Mayor Rothschild announced a short recess to deal with technical issues with the sound system.

RECESS: 6:11 p.m.

RECONVENE: 6:17 p.m.

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

6. CALL TO THE AUDIENCE

(This item was returned to after the break)

Comments were made by:

Ken Scoville	Ken Johnson	Robert Reus
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Council Member Uhlich asked the City Attorney to prepare a clearer documentation that outlined how the Catholic Church was not financially benefiting from the preservation of Marist College.

A recording of this item is available from the City Clerk's Office for ten years from the date of this meeting.

7. CONSENT AGENDA – ITEMS A THROUGH E

Mayor Rothschild 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 JUL10-12-283 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of December 20, 2011

b. BOARDS, COMMITTEES AND COMMISSIONS: AMENDING RESOLUTION 16451 REGARDING THE MEMBERSHIP REQUIREMENTS OF THE METROPOLITAN HOUSING COMMISSION

1. Report from City Manager JUL10-12-297 CITY WIDE
2. Resolution No. 21930 relating to Housing; amending Resolution 16451, the creating resolution for the Metropolitan Housing Commission, to broaden the pool of potential Commission members by no longer requiring that members be residents of the City, but rather need only either reside or work within Pima County; and declaring an emergency.

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

c. REAL PROPERTY: SALE OF CITY-OWNED PROPERTY LOCATED AT 1855 EAST FORT LOWELL ROAD TO DAHLSTROM INVESTMENTS L.L.C.

1. Report from City Manager JUL10-12-288 WARD 3
2. Ordinance No. 11004 relating to Real Property; declaring the City-owned property located at 1855 East Fort Lowell Road to be surplus; authorizing and approving the sale thereof to Dahlstrom Investments L.L.C.; and declaring an emergency.

d. HUMAN RESOURCES: TIME EXTENSION REQUEST REGARDING MANDATORY RETIREMENT AGE FOR STEVE SMITH

1. Report from City Manager JUL10-12-294 CITY WIDE

e. ELECTIONS: SETTING A DEADLINE TO SUBMIT ARGUMENTS FOR AND AGAINST THE GENERAL OBLIGATION BOND QUESTION FOR ROAD MAINTENANCE PLACED ON THE NOVEMBER 6, 2012 BALLOT

1. Report from City Manager JUL10-12-289 CITY WIDE

2. Resolution No. 21929 relating to Elections; in compliance with A.R.S. § 35-454, as amended effective August 2, 2012, setting a deadline of August 8, 2012 to submit arguments for and against the General Obligation Bond Question for road maintenance placed on the November 6, 2012 ballot; and declaring an emergency.

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

It was moved by Council Member Uhlich, duly seconded, and passed by a voice vote of 7 to 0, that Consent Agenda Items a – e, with the exception of Items b and e, which were considered separately, be passed and adopted and the proper action taken.

7. CONSENT AGENDA – ITEM B

b. BOARDS, COMMITTEES AND COMMISSIONS: AMENDING RESOLUTION 16451 REGARDING THE MEMBERSHIP REQUIREMENTS OF THE METROPOLITAN HOUSING COMMISSION

1. Report from City Manager JUL10-12-297 CITY WIDE

2. Resolution No. 21930 relating to Housing; amending Resolution 16451, the creating resolution for the Metropolitan Housing Commission, to broaden the pool of potential Commission members by no longer requiring that members be residents of the City, but rather need only either reside or work within Pima County; and declaring an emergency.

Council Member Scott said she wanted to make sure that the Metropolitan Housing Commission remained a majority of citizens who lived within the City or were City residents. She asked that that change be made and for support of the change.

It was moved by Council Member Scott, duly seconded, and passed by a voice vote of 7 to 0, that Consent Agenda Item b, with the amendment that a majority of the commission members be City residents or live within the City limits, be passed and adopted and the proper action taken.

7. CONSENT AGENDA – ITEM E

- e. ELECTIONS: SETTING A DEADLINE TO SUBMIT ARGUMENTS FOR AND AGAINST THE GENERAL OBLIGATION BOND QUESTION FOR ROAD MAINTENANCE PLACED ON THE NOVEMBER 6, 2012 BALLOT
 - 1. Report from City Manager JUL10-12-289 CITY WIDE
 - 2. Resolution No. 21929 relating to Elections; in compliance with A.R.S. § 35-454, as amended effective August 2, 2012, setting a deadline of August 8, 2012 to submit arguments for and against the General Obligation Bond Question for road maintenance placed on the November 6, 2012 ballot; and declaring an emergency

Council Member Fimbres stated that he asked for separate consideration of the item because no where in the Communication did it state that there was a cost or limits for filing arguments for and against the General Obligation Bond.

Michael Rankin, City Attorney, said this item was prepared for the Council's approval because of a new requirement in state law. Under a change to the statutes in the last Legislative session it now required action by the governing body, the Mayor and Council to set the date for the deadline for the submission of arguments. The number of words that could be included into either a pro or con argument or the cost for the submittals were separate issues and did not require action as part of this item but staff could provide that information to the Mayor and Council at any time.

It was moved by Council Member Scott, duly seconded, that Consent Agenda Item e be passed and adopted and the proper action taken.

Deborah Rainone, Chief Deputy City Clerk, added that a memo was being sent to the Mayor and Council with the public notice attached indicating the deadline, as well as, the number of words and the cost.

Council Member Romero asked what the cost was to submit an argument.

Ms. Rainone responded that the cost was still two hundred forty dollars. She said there was talk about trying to lower but it was based on full cost recovery. Basically, she said, that the number of pages that were included in the publicity pamphlet, the number of arguments that came in, and if they were about three hundred words that equated to about half a page. She said the cost for filing an argument had been the same for the last ten years and printing costs had gone up, but staff found that it was an agreeable cost for full cost recovery.

Council Member Romero asked if the cost was something that the Mayor and Council decided. She expressed her concerns about the cost for someone to put their opposition or support for something in writing to inform the community of their opinion

was very expensive. She said there were organizations that sometimes were nonprofit, neighborhood groups, community people, and she thought it was very high. She asked when the deadline was for people to submit their opinions and how constituents were informed.

Ms. Rainone responded that the deadline to submit arguments was August 8, 2012. She said once the memo went out to the Mayor and Council with the information, it would also be advertised in the newspaper as well as posted to the City's website.

Consent Agenda Item e was declared passed and adopted by a voice vote of 6 to 1 (Council Member Fimbres dissenting).

8. PUBLIC HEARING: HVF WEST ANNEXATION DISTRICT

Mayor Rothschild announced City Manager's communication number 293, dated July 10, 2012, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing for the proposed HVF West Annexation District. He said staff wanted to make a brief presentation before beginning the public hearing.

Christopher Avery, Assistant City Attorney, made a brief presentation regarding the public hearing for the HVF Annexation District. He said the HVF Annexation District was a statutorily required process to enable the processing of the annexation that was contemplated in the pre-annexation and development agreement regarding this item that was adopted in late May.

Mr. Avery stated that the HVF Annexation was an annexation that was a direct consequence of the change to the City's water service policy and the HVF property located adjacent to the Davis Monthan Air Force Base had been in existence for about fifteen years now decommissioning aircraft. He said the next steps in the process were to proceed with an annexation and adoption of original City zoning and an adoption of some special conditions to that original City zoning that allowed for the HVF property to continue to be used for recycling of metals.

Mayor Rothschild announced the public hearing was scheduled to last for no more than one hour and speakers were limited to five minute presentations. He asked if there was anyone wishing to speak on the item.

Frank Bangs, Lazarus, Silvyn, and Bangs, spoke in support of the HVF West Annexation District.

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

It was moved by Council Member Scott, duly seconded, and carried by a roll call vote of 7 to 0, to proceed with the HVF West Annexation District.

13. CITY MAGISTRATES: APPOINTMENT OF A CITY MAGISTRATE AND FIXING COMPENSATION

(NOTE: This item was taken out of order)

Mayor Rothschild announced City Manager's communication number 290, dated July 10, 2012, was received into and made part of the record. He asked the City Clerk to read Ordinance 11005 by number and title only.

Ordinance No. 11005 relating to City Magistrates; appointing a City Magistrate of the City of Tucson; fixing compensation and declaring an emergency.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopted Ordinance 11005 naming Nikki A. Chayet as City Magistrate.

14. CITY MAGISTRATES: APPOINTMENT OF LIMITED SPECIAL CITY MAGISTRATE AND FIXING COMPENSATION

(NOTE: This item was taken out of order)

Mayor Rothschild announced City Manager's communication number 291, dated July 10, 2012, was received into and made part of the record. He asked the City Clerk to read Ordinance 11006 by number and title only.

Ordinance No. 11006 relating to City Magistrates; appointing a Limited Special City Magistrate of the City of Tucson; fixing compensation and declaring an emergency.

It was moved by Vice Mayor Kozachik, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopted Ordinance 11006 naming Karen Maish Leavitt as a Limited Special City Magistrate.

9. PUBLIC HEARING: ZONING (C9-12-04) RIO VERDE VILLAGE - RIVER ROAD, SR, RX-1 AND C-1 TO PLANNED AREA DEVELOPMENT, CITY MANAGER'S REPORT, DIRECT ORDINANCE ADOPTION

Deborah Rainone, Chief Deputy City Clerk, announced that at this time, the public hearing would be held, but the Ordinance adoption would come later after the next few items.

Mayor Rothschild announced City Manager's communication number 295, dated July 10, 2012, 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 to rezone properties within the Rio Verde Village. He said the public hearing was scheduled to last for no more than one hour and speakers were limited to five minute presentations.

Chuck Freitas, Russ Burns, Mike Hannley, Dan Santa Maria, Lucy Howell, G.T. Alley III, Larry Franks, Kathleen Buske, Michael Duran, Ray Desmond, Martin Ronstant, Granger Vinall, and Mary Kneeland spoke in support of the zoning for Rio Verde Village.

Ken Scoville expressed his concerns with the zoning for Rio Verde Village Development.

Craig Huston, Carolyn Cox, John Rourke, and Katy Brown spoke in opposition to the zoning for the Rio Verde Village.

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

10. ANNEXATION: RIO VERDE VILLAGE ANNEXATION DISTRICT, ORDINANCE ADOPTION

Mayor Rothschild announced City Manager's communication number 296, dated July 10, 2012, was received into and made part of the record. He asked the City Clerk to read Ordinance 11010 by number and title only.

Ordinance No. 11010 relating to Annexation; extending and increasing the corporate limits of the City of Tucson, Pima County, Arizona pursuant to the provisions of Title 9, Chapter 4, Arizona Revised Statutes, by annexing thereto the Rio Verde Village Annexation District property in the vicinity of the southeast corner of Craycroft Road and River Road, more particularly described in the body of this Ordinance; and establishing Original City Zoning classifications for the annexation area.

Mayor Rothschild asked staff if they wanted to make a brief presentation before proceeding.

Christopher Avery, Assistant City Attorney, gave a brief presentation. He said the Ordinance would adopt the annexation of the Rio Verde Village Annexation District. He stated it was his recommendation in working with the annexation that if the Mayor and Council did not support the planned area development that they not vote for the annexation and stated his reasons why.

Mr. Avery stated that the annexation itself needed to precede the adoption of the zoning. He said if the parcel was annexed and the Mayor and Council did not proceed with the zoning contemplated, the City's ability to accomplish Blanchard-type annexations in the future would be severely compromised. He said he urged the Mayor and Council to freely discuss both the annexation as well as the associated zoning. He commented that according to the number of protests filed in the matter, the decision needed to have six votes in support of the zoning matter.

Mr. Avery recommended that if there were not six votes to proceed with the annexation and with the adoption of the zoning matter, that the annexation not be adopted to allow the City to accomplish Blanchard cases in the future. He noted that there was a lot of expertise that was brought to bear on behalf of the City in this matter.

It was moved by Council Member Cunningham, duly seconded, to pass and adopt Ordinance 11010.

Mayor Rothschild asked if there was any discussion.

Council Member Cunningham stated the Zoning Examiner issued a letter regarding some concerns he had with the developer being able to prove that they had met some of the conditions that were outlined during the public hearing process. He asked the Zoning Examiner if some of those conditions were met and to be specific.

Linus Kafka, Zoning Examiner, stated he submitted a report with a recommendation for approval dated May 31, 2012, based on the number of conditions. He said some of those conditions remained unmet. He stated in the report he requested that agreements and additional material that had not been provided during the hearings, be provided and the agreements referenced the incorporated into the PAD (Planned Area Development) document. Those included agreements regarding cross access across the basis property. Those had not been provided.

Mayor Rothschild asked Keri Silvyn to address Mr. Kafka's comment and the agreement she had worked out with Christopher Avery, Assistant City Attorney and Michael Rankin, City Attorney in the last two days.

Keri Silvyn, Lazarus, Silvyn and Bangs, stated they were aware of the issues that Mr. Kafka had brought up. She gave a brief background of information she had had with City staff, specifically the City Attorney, in revising the cross access easement.

Mayor Rothschild asked the City Attorney, if Ms. Silvyn's comments were consistent with the Zoning Examiner's requirements, and if he was satisfied that they had met legal requirements.

Michael Rankin, City Attorney, answered yes to both questions. He gave background regarding the control of the cross access. He said he and Ms. Silvyn met with the applicant who agreed to amend the easement language under which the basis property no longer had the ability to close the access. He said upon recordation of the agreement, which he felt should be a condition of any approval, would satisfy the minimum legal requirements to demonstrate sufficient control to proceed as a PAD.

Mr. Rankin stated, as explained by the Zoning Examiner, the amended easement language still did not satisfy him to the point of being able to provide a recommendation for approval because he felt the cross access was too limited. He said based on that, he

worked on language of a potential condition that he recommended if the Mayor and Council approved the PAD.

Mr. Rankin read the following, “No submission of any development approvals for the Manor District including but not limited to; tentative or final plats, development or site plans, or building permit requests shall be made to the City of Tucson, and no development of the Manor District shall occur until unrestricted perpetual vehicular and pedestrian cross access between the Manor and Market districts is provided with the vehicular cross access satisfying City of Tucson standards for two way vehicular use. Approval of the required cross access shall be processed pursuant to *LUC (Land Use Code)* section 26311B5 which requires approval by the director of planning and development services.”

Mr. Rankin said, in short, they would not be able to, if the PAD was approved with this condition, there could be no development of the Manor District piece of the PAD until sufficient adequate cross access was provided.

Mayor Rothschild asked the City Attorney if he had handed that proposed motion to each of the Council Members.

Mr. Rankin stated he provided a copy to the Mayor and Council and it included an additional condition that referred to the completion of all revisions to the traffic impact analysis as requested by the City Engineer with a final revised TIA to be attached as an exhibit to the PAD. He said what he did not include in the written draft was the additional condition that he did recommending of the recordation of the amended easement that he referred to.

Council Member Cunningham expressed his concerns about the Rio Verde Annexation District. He said when the zoning started; he contacted his constituents and met with a number of people. He said it should be noted that the construction of the convenient store and the charter school for grades 5-12 that was approved by Pima County was already being built. He said it should also be noted that the County’s process for these projects required the review of the traffic impact analysis. He stated that the County required some improvements to River Road to accommodate the additional traffic.

Council Member Cunningham continued stating that by annexing the convenient store into the City and requiring them to pay sales tax puts the convenient store on the same competitive footing as such stores in the City rather than at an advantage. He stated that additional uses in the PAD included a hotel, a retirement community and office suites; however, a lot of the traffic being generated would already be generated by the school and convenient store. However, he said, he thought that any impact fees collected should be dedicated to the improvements and augmentation to River Road. He commented that that would be part of his motion.

Council Member Cunningham stated that the City also require the developer to do an impact analysis for traffic and provide whatever traffic improvements required. He said if the County did not require sufficient improvements for the charter school and convenient store that was an issue for the County. He said there were other things brought up in the process to constituents that had nothing to do with cross access points, but were very specific points important to constituents such as the height of a possible hotel. He said the height of the hotel was not to exceed seventy-five feet.

Council Member Cunningham said the hotel must be built 20-30 feet below the existing grade of the convenience store, which rises 24 feet in the air, therefore we were looking at a 54 foot height, against what would be a 75 foot height. This was a 20 foot variance between the heights. He said the height profile of the hotel should not overshadow the river center on the north.

Council Member Cunningham said another point brought up was the Greenway and Scenic Corridor. He stated Craycroft was a scenic corridor and the PAD called for scenic corridor requirements to be in affect. He also spoke about a greenway buffer along the bike path, the bicycle leg and loop, preservation of vegetation in the area, bank protection, the traffic on River Road and Basis School.

Council Member Uhlich asked for clarification on process and sequencing of the vote for the annexation.

Mr. Rankin responded that the Mayor and Council needed to act on the annexation first, followed by the original City zoning (translational zoning), and then the PAD (rezoning). He said because they were all inter-related issues, staff was encouraging the Mayor and Council to ask their questions relating to the PAD now so that they could decide how to proceed on all three items.

Council Member Uhlich asked about the dedication of land for the river park development. She said there seemed to be full agreement in dedicating the land needed in the future for the continuation of the river park along the north side of Tanque Verde Creek. She said she wanted to better understand the language incorporated because there were stipulations that the land was only available if and when erosion hazard protection was constructed, the County had funding available to construct the extension of the path and the County had secured public access through easements and dedication. She asked if that was legally recorded as a deed restriction so that that land was truly made available in perpetuity assuming the County pursued those objectives.

Mr. Avery responded that the way that condition was that that condition was brought to the Zoning Examiner for consideration at the hearing and it was included in his report of May 31st and included in the amended submissions for the PAD documents made by the applicant. He said if the PAD was adopted, then that language was included.

Council Member Uhlich asked if the language being used was standard language that was used with Pima County for the river park and was their any deviation from standard language that locked the City in.

Mr. Avery recalled that in the adoption of the PADA (Pre-Annexation Development Agreement) in the spring, the issue resolving the trail was yet to be resolved. He said as part of the PAD process, it became apparent that that was an issue that could be resolved together and wanted to resolve together clearly to deal with some of the concerns raised by Pima County.

Mr. Avery continued that in the initial letters from Pima County, the request was for a fifty to one hundred foot easement for trail purposes. The easement included in the PAD was for one hundred feet, seventy feet along the bank and thirty feet in the river bed. He said the concern for the developers was that there be an opening at both ends of the pipe so that someone who got on the path at Craycroft Road was able to get off the path at Sabino Canyon Road and not have the trail end halfway through and result in all kinds of scattering of access, turning around, or trespassing issues.

Mr. Avery commented that during the Zoning Examiner hearing, it became clear that the County had not yet obtained cross access from parcels within and adjacent to the Cesar parcels. What the City did was worked out language that essentially stated that when the County has lined up access between Craycroft and Sabino Canyon Roads, the Ceasars' would dedicate the seventy foot parcel plus the thirty feet along the river bank. In addition, the landowner was concerned that the trail path might not be constructed for year and years after the dedication was made, so there was a condition that Pima County had the funding available.

Finally, Mr. Avery spoke about the issue of erosion hazard protection that was necessary for the market district to be constructed as envisioned. In addition, he said, it did not make sense to have the trail path constructed twice so the condition was that the bike path be constructed after the erosion hazard protection was constructed. He said it was the opinion of City staff that the trail dedication language was a benefit to the community that allowed for the trail to be constructed as the County needs and as of this date, the County did not have access across the parcel and did not have access across the adjacent parcel.

Council Member Uhlich asked about the dedication of regional park impact fees. She said the stipulation says that the County needed to come up with the funds. She asked if she was reading the stipulation correctly that City road impact fees ought to be dedicated to help with traffic issues at River and Craycroft Roads and the City would dedicate the regional parks impact fees to the river trail and park.

Mr. Avery responded that there was still some uncertainty as to whether the developer would construct the entire path or the County. He said if the developer constructed portions of the river path improvements including the erosion hazard protection, those regional park impact fees would be offset by those credits. In addition,

should the Council desire to segregate those fees and dedicate them towards the County's cost of constructing the trail.

Vice Mayor Kozachik stated his comments should not be taken as his embracing one side or the other, but he had concerns regarding the pathways, internal circulation, sufficiency of the buffer/retaining wall, and traffic issues.

Mr. Avery responded to Vice Mayor Kozachik regarding his concerns with the impact fees. He said the language was clear about the dedication of the pathway and it was also clear that if the pathway should be constructed by the developer as part of the on site improvements, they would obtain impact fees.

Mr. Avery stated that the County administrators had written several letters claiming that the County was ready to construct that section of the trail so there was also the distinct possibility that the County would decide to construct that section of the trail and fund it as part of its general efforts to try and complete the loop and associated amenities. He said in fact it was consistent with the way the rest of the bike paths and trails in the community had been constructed.

Vice Mayor Kozachik asked if in terms of the internal circulation, if the applicant continued to maintain that they were already in compliance, did the default fall to the Zoning Examiner and did that set a separate potential litigation if there continued to be a disagreement as to whether or not they were in compliance.

Mr. Rankin stated if the suggested condition was included, then it would condition any development of the Manor District upon providing a cross access vehicular and pedestrian that satisfied the City of Tucson standards for two-way vehicular traffic. He said it had to be confirmed by the Director of Planning and Development Services through the existing code process referenced in the condition.

Vice Mayor Kozachik indicated there were two major issues; the bank stabilization and the traffic issue. He stated the developers said they would preserve as much of the existing vegetation as possible near the confluence of the Julian Wash at the Tanque Verde Creek and recognized they had to allow for bank stabilization. Pima County Administration said the only thing that survived was soil cement and that the Developers' scheme would not hold up to any flood control and the retaining structure was backwards. He said he wanted a response to the engineering claims since they were in conflict. He asked if the developer bought the remedies for all the reconstruction and litigation that came in if personal property was damaged.

Ernie Duarte, Planning and Development Services Director, responded regarding the proposal for the erosion protection. He said it was not a unique proposal. Nonetheless the project or design as presented thus far was conceptual in nature. He said it still had to be fully engineered and had to be stamped and sealed by a registered professional engineer that was licensed to practice engineering in the State of Arizona. He stated that design would in fact be reviewed by his staff who were also registered

professional engineers and structural engineers to ensure that it would not fail in certain flows. He said with regard to possible failure he thought it would still be the design engineer's responsibility to assume liability for any failure.

Vice Mayor Kozachik stated that there was quite an exchange in conversation with the Zoning Examiner hearing about the traffic issue where the developer was asked if he could produce a revised traffic plan and the answer was continually no because they had to identify specific uses. He said one of the uses was five hundred units in the Manor District that would increase the daily traffic flow by sixteen thousand daily trips.

Vice Mayor Kozachik said that everyone has known for a long time that that area was over capacity and in fact when he asked the County Administrator why the area appeared on their 20-30 plan and disappeared on the 20-40 plan, he was quite direct in stating that River Road had been deleted because such a plan was largely unfunded, it was a wish list, and the congestion was much worse than other parts of the region.

Vice Mayor Kozachik indicated there were several exchanges back and forth on the traffic issue, and was even called a regional issue. He said the City has said they wanted to work with Pima County, but there were no RTA funds and the City's Transportation Department did not have the funds. He stated there was a neighborhood meeting last week where Ray Carroll made it clear that the right-of-way on River Road was there for numerous lanes but in the short and long term there was no money available to do any remediation.

Vice Mayor Kozachik said the Rio Verde Village planned development agreement said the current and future right-of-way was identified as a 150-foot right-of-way adjacent to the project. In terms of the future cross width sections, it was already over capacity now. He summarized that there was an existing condition already over capacity, there was no funding to increase the capacity where it should be, there was no plan that has been agreed on, and the Mayor and Council were being asked to approve an annexation, a PAD and a development plan, exacerbating an existing bad situation, and therefore he would not support it.

Vince Catalano explained the traffic analysis study that was conducted. He said that since the Zoning Examiner's hearing, they revised the traffic impact study to look at the highest density uses and the improvements to revise some of the recommendations. He stated that the intersection at Craycroft and River Roads, they recommended that with the potential highest density build out of four lanes, the level of services was acceptable by the Pima Association of Governments.

Mr. Catalano indicated the first report started in 2010 and it did not pick up the base numbers which were a big part of the Zoning Examiner hearings. He said they re-did the base numbers and looked at the level of service at that point and then extended it out with the highest density build out. He stated they recommended that whatever the build out in the future was, that four lanes be installed along River Road, the frontage and the transition past it. He said the developer had no control over what happened east of

their property. These were both arterials, and were considered a major corner with two arterial roadways, therefore, the development was fitting for what was being proposed, and there were enough access points along Craycroft and River Roads to provide solutions and help with the increase in traffic.

Vice Mayor Kozachik stated he understood Mr. Catalano's presentation, but discussing the intersection did not begin to address what happened with the grid lock that already existed half a mile up the road. He said he could agree that any developer or subsequent developer would need to study the situation and as he was finding out in some of the other arterials in the inner-city area, identifying a problem did not even begin to address whether or not there was an agreed upon solution and whether or not the funding was available.

Vice Mayor Kozachik said he could not support making an existing situation worse knowing, even if the most intensive build out was not done, it was already over capacity and there was no capability from any standpoint of convincing the neighbors that the hundred and fifty foot crossing made sense. He stated that the entire discussion needed to be held simultaneously with the developer and Pima County.

Ms. Silvyn said there were a number of neighborhood meetings and one of them addressed getting together and supporting the City as they annexed and brought the County to the conversation, put River Road back into the RTA plan and looked for funding. She said there were a lot of things in the 20-40 year plan that were unfunded. She stated these were the types of things you took to the RTA and taxpayers. She said the plan was a start at addressing the issues mentioned and there was still a split out in the neighborhoods whether they even wanted River Road expanded.

Council Member Romero asked if Ms. Silvyn could elaborate on the developer's responsibilities in terms of traffic and if every development within the PAD had to go through a traffic analysis.

Ms. Silvyn responded that the traffic impact analysis was revised to include the basis and convenient store. She said they would require that a traffic impact study be completed with each phase of the project. She explained the status of the project as it currently stood on River and Craycroft Roads.

Ordinance 11010 was declared passed and adopted by a roll call vote of 6 to 1 (Vice Mayor Kozachik dissenting).

11. ZONING: (C15-12-02) RIO VERDE VILLAGE ANNEXATION DISTRICT, COUNTY SR, CR-1 AND CB-1 TO CITY SR, RX-1 AND C-1, CITY MANAGER REPORT, DIRECT ORDINANCE ADOPTION AND EXTENSION OF OVERLAY ZONES

Mayor Rothschild announced City Manager's communication number 292, dated July 10, 2012, was received into and made part of the record. He also announced this

was a request to establish Original City Zoning for property located at the southeast corner of North Craycroft Road and East River Road and extend applicable overlay zones. He said the Zoning Examiner and staff recommend authorization of the rezoning. He asked the City Clerk to read Ordinance 11007 by number and title only.

Deborah Rainone, Chief Deputy City Clerk, announced that there was a clerical error in the title of the Ordinance and that the Ordinance number referenced was incorrect and she would read the correct number for the record.

Ordinance No. 11007 relating to Zoning; establishing original City zoning from County SR, CR-1 and CB-1 to City SR, RX-1, C-1 and Major Streets and Routes and Scenic Corridor Zone overlays for approximately 91.59 acres generally located at the southeast corner of North Craycroft Road and East River Road which has annexed to the City of Tucson by Ordinance 11010 adopted July 10, 2012; and setting an effective date.

It was moved by Council Member Cunningham, duly seconded, and passed by a roll call vote of 6 to 1 (Vice Mayor Kozachik dissenting), to pass and adopted Ordinance 11007.

9. PUBLIC HEARING: ZONING (C9-12-04) RIO VERDE VILLAGE - RIVER ROAD, SR, RX-1 AND C-1 TO PLANNED AREA DEVELOPMENT, CITY MANAGER'S REPORT, DIRECT ORDINANCE ADOPTION

(This item was returned to after Item # 11)

It was moved by Council Member Cunningham, duly seconded, to approve Ordinance No. 11009, subject however to the recommended conditions of the Zoning Examiner as set out in his report dated May 31, 2012, and subject to the following additional conditions:

- 1) Completion of all Revisions to the Traffic Impact Analysis as requested by the City Engineer, with the final revised TIA to be attached as an exhibit to the PAD; and
- 2) No submissions of any development approvals for the Manor District, including but not limited to any tentative plats, development or site plans, or building permit requests, shall be made to the City of Tucson; and no development of the Manor District shall occur; until unrestricted and perpetual vehicular and pedestrian cross-access between the Manor and Market Districts is provided, with the vehicular cross-access satisfying City of Tucson standards for two-way vehicular use. Approval of the required cross access shall be processed pursuant to *LUC* Section 2.6.3.11 (B)(5), which requires approval by the Director of Planning and Development Services.

- 3) That any impact fees collected from any projects on the existing PAD portion be used for potential augmentation of River Road improvements.

Michael Rankin, City Attorney, added a fourth condition as follows:

- 4) That the amended easement as described during the hearing be recorded.

Vice Mayor Kozachik asked for clarification from Council Member Cunningham on condition #3 regarding a portion of impact fees be used for potential augmentation of River Road.

Council Member Cunningham clarified that all impact fees be used.

Mr. Rankin said he wanted to address the impact fees. He said the actual programming of impact fees was subject to a subsequent Legislative process where the eligible projects must be designated. He said if impact fees will in fact be going to a project outside the City limits it would require an IGA between the City and County in additional work. He said he wanted to put it on the record but staff understood the direction.

Mr. Rankin said before the Mayor and Council voted on the motion it was important, for the record, that the Mayor and Council confirm that the applicant accepts and agrees to the proposed conditions including the additional conditions that had been read into the record in the event that they were approved.

Keri Silvyn, Lazarus, Silvyn and Bangs, responded they were in agreement with the conditions.

Council Member Romero asked for clarification on the motion. She asked if by impact fees, Council Member Cunningham meant transportation impact fees.

Council Member Cunningham answered in the affirmative, specifically for transportation impact fees.

Ordinance No. 11009 relating to Zoning: amending zoning district boundaries in the area located at the southeast corner of North Craycroft Road and East River Road in case C9-12-04 Rio Verde Village Planned Area Development (PAD 22), SR, RX-1 and C-1 to PAD Zone and setting an effective date.

Ordinance 11009 was passed and adopted by a roll call vote of 6 to 1 (Vice Mayor Kozachik dissenting).

12. CITY CLERK: APPOINTMENT OF THE CITY CLERK

Mayor Rothschild announced City Manager's communication number 298, dated July 10, 2012, was received into and made part of the record. He asked the City Clerk to read Ordinance 11008 by number and title only.

Ordinance No. 11008 relating to the City Clerk; appointing the City Clerk; and declaring an emergency.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopted Ordinance 11008.

13. CITY MAGISTRATES: APPOINTMENT OF A CITY MAGISTRATE AND FIXING COMPENSATION

(NOTE: This item was taken out of order and discussed after Item # 8.)

14. CITY MAGISTRATES: APPOINTMENT OF LIMITED SPECIAL CITY MAGISTRATE AND FIXING COMPENSATION

(NOTE: This item was taken out of order and discussed after Item # 8.)

15. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Rothschild announced City Manager's communication number 284, dated July 10, 2012, 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 Scott, duly seconded, and carried by a voice vote of 7 to 0, to approve the appointment(s) of Daniel Haley, Erin Russ, and Casey Condit to the Gay, Lesbian, Bisexual and Transgender Issues, Tucson Commission (GLBT) in the at-large category and the reappointment of Grady Scott to the City Magistrates Merit Selection Committee (CMMSC).

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

Council Member Cunningham announced his personal appointment(s) of Rachael Volner to the Commission on Disability Issues (CODI) and Mark M. Crum to the Independent Audit and Performance Commission (IAPC).

16. ADJOURNMENT: 8:36 p.m.

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council would be held on August 7, 2012, 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 10th day of July 2012, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:slm:rb