



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on August 7, 2012.

Date of Meeting: February 22, 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 5:33 p.m., on Wednesday, February 22, 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	Vice Mayor, Council Member Ward 3
Richard G. Fimbres	Council Member Ward 5
Steve Kozachik	Council Member Ward 6
Jonathan Rothschild	Mayor

Absent/Excused:

Shirley C. Scott	Council Member Ward 4
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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 Steven Brownson, Christ Presbyterian Church, after which the Pledge of Allegiance was presented by the entire assembly

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Rothschild announced City Manager’s communication number 68, dated February 22, 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 Romero, Cunningham, Fimbres, and Vice Mayor Uhlich. 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 69, dated February 22, 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.

No report given.

5. LIQUOR LICENSE APPLICATIONS

Mayor Rothschild announced City Manager’s communication number 70, dated February 22, 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)

NOTE: There are no application(s) for new licenses scheduled for this meeting.

Person Transfer

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

c. Special Event(s)

1. Tucson Young Professionals, Inc., Ward 1
140 N. Main Ave.
Applicant: Christopher J. Lawler
City T5-12
Date of Event: April 6, 2012
(Promote Community Event Downtown)

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

2. Tucson Breakfast Lions Club, Ward 5
4823 S. 6th Ave.
Applicant: Wayne Francis Locke
City T6-12
Date of Event: March 30, 2012 - March 31, 2012
(Fundraiser)

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

3. Tucson Community School, Ward 3
2109 E. Hedrick Dr.
Applicant: Mary Sue Houser
City T9-12
Date of Event: March 17, 2012
(Dinner & Silent/Live Auction)

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 6 to 0, (Council Member Scott absent/excused) to forward liquor license applications 5c1 through 5c3 to the Arizona State Liquor Board with a recommendation for approval.

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:

Maddy Bynes	Yvonne Merrill	Randy Ford
Bennie Baker	Billy Lolos	Raelene Kaylor
Ron Shoopman	James Jordan	Kevin Campbell
Jennifer Stoddard		

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 B

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 FEB22-12-75 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of November 15, 2011

b. BOARDS, COMMITTEES, AND COMMISSIONS: REQUESTING PERMISSION FOR THE HUMAN RELATIONS COMMISSION TO FORM A SUBCOMMITTEE TO FURTHER RESEARCH APPLYING AND ATTAINING NON-PROFIT STATUS

1. Report from City Manager FEB22-12-72 CITY WIDE
2. Resolution No. 21862 relating to the Human Relations Commission; authorizing the Human Relations Commission to form a subcommittee to further research the possibility of applying and attaining non-profit status; and declaring an emergency.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Scott absent/excused) that Consent Agenda Items a and b be passed and adopted and the proper action taken.

8. PUBLIC HEARING: ZONING (C9-06-18) PEPPER VINER – EVERGREEN AVENUE, SR TO R-2 ZONING, REACTIVATION, FIVE-YEAR TIME EXTENSION, CHANGE OF CONDITIONS

Mayor Rothschild announced City Manager's communication number 71, dated February 22, 2012, was received into and made part of the record. He also announced that this was the time and place legally advertised for a public hearing on a request for a reactivation, five-year time extension and change of conditions for the property located on the southeast corner of Evergreen Avenue and Escalante Road, west of Pantano. He asked if the applicant or representative was present and if they wanted to speak on the item; they did not.

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

There were no speakers.

It was moved by Council Member Cunningham, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Scott absent/excused), to close the public hearing.

It was moved by Council Member Fimbres, duly seconded, to approve the requested a reactivation, five year time extension and change of conditions as recommended by staff.

Mayor Rothschild asked if there was any discussion.

Council Member Kozachik asked the City Attorney if the date of December 12, 2016, was correct instead of October 12, 2016; due to the ten year limit provided in the Ordinance.

Michael Rankin, City Attorney, clarified that the initial authorization by the Mayor and Council was dated December 12, 2006, so ten years made it December 12, 2016.

Council Member Fimbres asked staff if their recommendations ensured a Prop 207 waiver.

Ernie Duarte, Planning and Development Services Department Director, responded affirmatively. He said Conditions 17 and 18 were new conditions not previously in effect in 2006.

The motion to approve the requested reactivation, five year time extension and change of conditions as recommended by staff was passed by a voice vote of 6 to 0 (Council Member Scott absent/excused).

9. TUCSON CODE: AMENDING (CHAPTER 20) PROHIBITING TEXTING WHILE DRIVING

Mayor Rothschild announced City Manager's communication number 73, dated February 22, 2012, was received into and made part of the record. He called on Council Member Romero who deferred to Vice Mayor Uhlich.

It was moved by Vice Mayor Uhlich, duly seconded, to pass and adopt Ordinance 10966.

Mayor Rothschild asked if there was any discussion.

Council Member Kozachik stated that in prior discussions, it was suggested that public transit drivers not be exempted from the Ordinance. He also commented that specific language should be included making the offense a primary offense and not just assumed.

Michael Rankin, City Attorney, addressed the Council regarding changes to the Ordinance since its initial presentation based on feedback from the public hearing. He said that the Ordinance had been modified so that it did not prohibit a person from passively receiving a written text message. He said the Ordinance specifically prohibited the act of composing and sending text messages while the vehicle was in motion. He confirmed the exemptions had been narrowed down from the model ordinance to remove certain exemptions all together such as those with a CDL license and to specify that the exemption provided for law enforcement and public safety personnel was limited to their uses of the devices in the capacity of their official duties.

Mr. Rankin stated the Ordinance was also revised to specifically refer to "handheld communications devices" as opposed to PDAs to reflect the conduct of texting, emailing, and instant messaging.

Mr. Rankin said since the Mayor and Council Communication was written, he received additional feedback with respect to the public transit exemption. He informed the Council that if they wanted to make that change, it was an easy change for him to read into the record which entailed striking out Subsection B (3) in its entirety.

Mr. Rankin stated, with respect to making the offense a primary enforcement ordinance, as written it was because it was not made something other than primary. Nonetheless, if the Council wanted that emphasized, he could read language into the record expressly making it primary enforcement. He said, in other words, it could be independently the basis for a stop as opposed to just a "tag-a-long" in the event the vehicle was stopped for another traffic offense.

Mayor Rothschild clarified that Council Member Kozachik's suggestion would be taken in the form of an amendment to the original motion, at which time the amendment was seconded.

Council Member Fimbres inquired regarding the law enforcement and public safety personnel exemption. He said he understood it to mean while on duty.

Mr. Rankin clarified that change had been made on Page 1 under Subsection B. He stated that all exemptions only applied when the use of the handheld wireless communication device was used as part of their official duties.

Mayor Rothschild asked Vice Mayor Uhlich, as the original motion maker, if she accepted the amendment made by Council Member Kozachik.

Vice Mayor Uhlich accepted the amendment to her original motion for the purpose of discussion. She inquired regarding the use of handheld communication devices used by public transit personnel in their duties. She asked Council Member Kozachik if he knew.

Council Member Kozachik stated he was not familiar and suggested if they had to use a handheld communication device, they should stop the bus and do it while not moving.

Mr. Rankin stated that he was not familiar with the potential use of handheld communication devices by public transit personnel. He mentioned that state law prohibited school bus drivers from texting while driving. He stated that the Ordinance in question was a broader category of public transit personnel. He said he did not know, but would be somewhat surprised, if they used handheld devices for texting, emailing or instant messaging as part of their official duties.

Council Member Romero said she believed the drivers use radios as a means to communicate if they were having issues with their bus or running late.

Vice Mayor Uhlich accepted the amendment as offered.

Mayor Rothschild asked if there was any further discussion.

Mr. Rankin stated he wanted to read language into the record to specify the primary enforcement was available. Under Subsection C, it currently read that a violation of the section was a non-moving civil traffic violation. He stated that the following language be added, "a peace officer may stop and issue a citation to a person operating a motor vehicle on a street in this city if the peace officer has reasonable cause to believe there is a violation of this section."

Vice Mayor Uhlich asked about the phrasing in Section A that stated a person shall not operate a motor vehicle or use the devices while the motor vehicle was in

motion. She stated some ordinances specified unless the vehicle was legally parked. She asked staff to explain their thinking versus the other thinking.

Mr. Rankin answered that the language had been modeled after the Code from the City of Phoenix per direction from the Mayor and Council. He said there was discussion on it, but did not think there was specific direction which way to go.

Vice Mayor Uhlich stated she was pleased the City was moving in the direction to pass the Ordinance to protect the public. She asked if the Council could receive a report from the Tucson Police Department (TPD) and other people who could help advise the Council if adjustments needed to be made at a later time.

Roger W. Randolph, City Clerk, announced that the Ordinance had to be read into the record.

Ordinance No. 10966 relating to Motor Vehicles and Traffic: amending Tucson Code to prohibit using a wireless communications device to send or read written messages while motor vehicle is in motion; by amending Chapter 20, Article V of the Tucson Code to add a new Section 20-160; establishing an effective date; and declaring an emergency.

Ordinance 10966 was passed and adopted by a roll call vote of 6 to 0 (Council Member Scott absent/excused).

10. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Rothschild announced City Manager's communication number 74, dated February 22, 2012, was received into and made part of the record.

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

Council Member Cunningham announced his personal appointment of Robert Blizzard to the Transit Task Force (TTF).

Vice Mayor Uhlich announced her personal appointment of Patricia Weidhopf to the 2012 Redistricting Advisory Committee (RAC).

11. EXECUTIVE SESSION: INTERGOVERNMENTAL AGREEMENT AMENDMENT WITH THE REGIONAL TRANSPORTATION AUTHORITY FOR THE MODERN STREETCAR

Mayor Rothschild announced City Manager's communication number 76, dated February 22, 2012, was received into and made part of the record.

It was moved by Council Member Cunningham, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Scott absent/excused) to enter into Executive Session as noticed in the agenda.

RECESS: 6:32 p.m.

RECONVENE: 6:51 p.m.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Scott absent/excused) to reconvene into open session.

12. MAYOR AND COUNCIL DIRECTION FOLLOWING EXECUTIVE SESSION: INTERGOVERNMENTAL AGREEMENT AMENDMENT WITH THE REGIONAL TRANSPORTATION AUTHORITY FOR THE MODERN STREETCAR

Mayor Rothschild announced City Manager's communication number 77, dated February 22, 2012, was received into and made part of the record.

No direction was given.

13. ADJOURNMENT: 6:52 p.m.

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council would be held on February 28, 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 22nd day of February 2012, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:kt:yl