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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on September 24, 2013.

Date of Meeting: February 12, 2013

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 5:31 p.m., on Tuesday, February 12, 2013, 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  
Paul Cunningham  
Karin Uhlich  
Shirley C. Scott  
Richard G. Fimbres  
Steve Kozachik  
Jonathan Rothschild

Vice Mayor, Council Member Ward 1  
Council Member Ward 2  
Council Member Ward 3  
Council Member Ward 4  
Council Member Ward 5  
Council Member Ward 6  
Mayor

Absent/Excused:

None

Staff Members Present:

Richard Miranda  
Michael Rankin  
Roger W. Randolph

City Manager  
City Attorney  
City Clerk

**2. INVOCATION AND PLEDGE OF ALLEGIANCE**

The invocation was given by Chaplain Richard Lopez, Fellowship of Christian Athletes, after which the Pledge of Allegiance was led by the Boy Scout Troops 731 and 733.

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

Mayor Rothschild announced City Manager’s communication number 37, dated February 12, 2013, 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 Vice Mayor Romero, and Council Members Cunningham, Uhlich, Fimbres, and 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 38, dated February 12, 2013, 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 Rothschild announced City Manager’s communication number 44, dated February 12, 2013, 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. Azadero y Taqueria Sonora, Ward 5  
24 W. Irvington Rd.  
Applicant: Otto Ramon Bohon  
Series 12, City 120-12  
Action must be taken by: February 16, 2013

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

This item was considered separately.

2. Relish Kitchen and Wine Bar, Ward 2  
4660 E. Camp Lowell Dr.  
Applicant: Stephen Hurd  
Series 12, City 1-13  
Action must be taken by: February 24, 2013

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

3. Golden Coast Super Buffet, Ward 3  
715 E. Wetmore Rd.  
Applicant: Deng Kui Chen  
Series 12, City 3-13  
Action must be taken by: February 25, 2013

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/Location Transfer(s)

4. Neon Moon, Ward 6  
5470 E. Broadway Blvd.  
Applicant: Chad Charles Carney  
Series 6, City 116-12  
Action must be taken by: February 11, 2013

Planning & Development Services Department and Revenue Investigations have indicated the applicant is in compliance with city requirements.

Tucson Police Department has indicated the applicant is not in compliance with city requirements.

This item was withdrawn by the applicant.

5. Maracana Indoor Sports Arena, Ward 6  
555 E. 18th St.  
Applicant: Kevin Arnold Kramber  
Series 7, City 2-13  
Action must be taken by: February 21, 2013

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

Public Opinion: Written Arguments Opposed/Favor Filed

This item was considered separately.

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. S.A.F.E., Ward 6  
1030 S. Randolph Way  
Applicant: Reagan Anne Kulseth  
City T4-13  
Date of Event: March 2, 2013  
(Fundraiser)

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

2. Tucson Girls Chorus, Ward 6  
160 S. Scott Ave.  
Applicant: Michael J. Butler  
City T5-13  
Date of Event: February 17, 2013  
(Fundraiser)

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

d. Agent Change/Acquisition of Control/Restructure

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

It was moved by Council Member Uhlich, duly seconded and carried by a voice vote of 7 to 0, to forward liquor license applications 5b2 through 5b3 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)

1. Azadero y Taqueria Sonora, Ward 5  
24 W. Irvington Rd.  
Applicant: Otto Ramon Bohon  
Series 12, City 120-12  
Action must be taken by: February 16, 2013

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

Roger W. Randolph, City Clerk, announced the first item to be considered separately was Item 5b1, Azadero y Taqueria Sonora located in Ward 5, at the request of Council Member Fimbres.

Council Member Fimbres asked if the applicant and Yolanda Herrera were present and asked them to come forward.

Otto Ramon Bohon, Applicant, stated he had owned a liquor license for 26 years and never had a problem.

Yolanda Herrera, Sunnyside Neighborhood Association Second Vice President, expressed her support for the liquor license.

It was moved by Council Member Fimbres, 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 approval.

## **5. LIQUOR LICENSE APPLICATIONS**

### **b. Liquor License Application(s)**

#### **Person/Location Transfer(s)**

5. Maracana Indoor Sports Arena, Ward 6  
555 E. 18th St.  
Applicant: Kevin Arnold Kramber  
Series 7, City 2-13  
Action must be taken by: February 21, 2013

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

Public Opinion: Written Arguments Opposed/Favor Filed

Roger W. Randolph, City Clerk, announced the second item to be considered separately was Item 5b5, Maracana Indoor Sports Arena located in Ward 6, at the request of Council Member Kozachik.

Council Member Kozachik stated he would hear from one speaker in opposition and one speaker in support of the liquor license.

Mladen Kozak spoke in support of the liquor license.

Ted Vance spoke in opposition of the liquor license.

It was moved by Council Member Kozachik, 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 from the City Clerk's Office.

**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:

Maia Ingram	Ruth Beeker	Keith Van Heyningen
Jessica Hersh-Ballering,	Sergio Arellano-Oros	Emily Yetman

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 D**

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 FEB12-13-39 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of March 20, 2012
3. Mayor and Council Study Session Legal Action Report and Summary Minutes of March 20, 2012
4. Mayor and Council Regular Meeting Minutes of May 22, 2012
5. Mayor and Council Study Session Legal Action Report and Summary Minutes of May 22, 2012

- b. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY FOR THE TOUMEY PARK NEIGHBORHOOD REINVESTMENT PROJECT
  - 1. Report from City Manager FEB12-13-40 WARD 6
  - 2. Resolution No. 21999 relating to Intergovernmental Agreements; authorizing and approving the execution of Amendment No. One to the Intergovernmental Agreement between the City of Tucson and Pima County for the Toumey Park Neighborhood Reinvestment Project; and declaring an emergency.
  
- c. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY FOR THE MASTER AGREEMENT FOR JOINT USE OF FACILITY SPACE
  - 1. Report from City Manager FEB12-13-48 CITY WIDE
  - 2. Resolution No. 22003 relating to Intergovernmental Agreements; approving and authorizing the execution of an Amended and Restated Site-Specific Supplemental Agreement (Swan Road site) associated with the Intergovernmental Agreement - Master Agreement for Joint Use of Facility Space between Pima County and the City of Tucson in support of the Pima County Wireless Integrated Network (PCWIN); and declaring an emergency.
  
- d. GRANTS: ACCEPTANCE OF THE IBM SMARTER CITIES CHALLENGE GRANT
  - 1. Report from City Manager FEB12-13-45 CITY WIDE AND OUTSIDE CITY
  - 2. Resolution No. 22002 relating to Grants; approving and authorizing execution of a grant agreement with the International Business Machines Corporation as part of IBM's Smarter Cities Challenge; and declaring an emergency.

It was moved by Council Member Scott, duly seconded, and carried by a voice vote of 7 to 0, that Consent Agenda Items a – d be passed and adopted and the proper action taken.

**8. PUBLIC HEARING: TUCSON CODE - AMENDING (CHAPTER 16) THE NEIGHBORHOOD PRESERVATION ORDINANCE**

Mayor Rothschild announced City Manager's communication number 46, dated February 12, 2013, 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 proposed amendments to the Neighborhood Preservation Ordinance. He said staff wanted to make a brief statement before the beginning the public hearing.

Michael Rankin, City Attorney, stated that the proposed amendments to the Neighborhood Preservation Ordinance had been previously discussed in Study Session. Following that discussion, an adjustment was made to the Code with respect to the prohibitions relating to yard sales.

Mayor Rothschild announced the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations.

Ruth Beeker and Colette Altaffer spoke in opposition to the Neighborhood Preservation Ordinance.

Yolanda Herrera spoke in support of stronger language in the amendment to the Neighborhood Preservation Ordinance.

It was moved by Council Member Fimbres, duly seconded, to close the public hearing.

Council Member Uhlich stated, given that fact that there a desire for additional input on the item, she asked the City Attorney if the public hearing was closed could another public hearing be scheduled.

Mr. Rankin stated it could be done either way; it was not a statutorily mandated public hearing. He said the public hearing could be left open and rescheduled or if the public hearing was closed, additional direction could be given for another public hearing.

The motion to close the public hearing was carried by a voice vote of 6 to 1 (Council Member Cunningham dissenting).

Mayor Rothschild asked the City Clerk to read Ordinance 11046 by number and title only.

Ordinance No. 11045 relating to Neighborhood Preservation; amending Section 16 of the Tucson Code, the "Neighborhood Preservation Ordinance"; amending Definitions; amending Building and Structure Exteriors, amending Exterior Premises and Vacant Land Provisions; amending Outdoor Storage Provisions; amending Junked or Inoperable Vehicles Provisions; by amending Chapter 16, Sections 16-3, 16-12, 16-13, 16-15, and 16-34; and declaring an emergency.

Mayor Rothschild asked what the public input was with regard to the change from four to six yard sales per year and if there was an opportunity for public input.

Andrea Ibanez, Housing and Community Development Services Interim Director, stated there were several emails to neighborhood leaders, an informational meeting was held in December but the questions had not focused on yard sales but on storage and other items that had been removed from the proposed Ordinance.

Mayor Rothschild asked if there had been any comment on limiting the number of yard sales from four to six.

Ms. Ibanez stated staff had proposed four yard sales per year with some restrictions, but after discussions, it was changed to six.

Mayor Rothschild stated a time length on yard sales had been raised by the speakers of the public hearing. He said it sounded like a loophole if he could run a yard sale for a week. He asked the City Attorney if there was any language to propose stating the length of a yard sale.

Mr. Rankin stated that language could be added to the Ordinance. He also said another approach would be to say not more than “x” number of times per year and not to exceed in the aggregate an “x” number of days per year. He stated there were a number of ways to approach this, but a yard sale could be defined such as not to exceed two or three days.

Council Member Kozachik stated the email input he had seen wanted to return to the original language. He said the definition of yard sales, in terms of an event and length of time, needed to be addressed.

It was moved by Council Member Kozachik to adopt the Neighborhood Preservation Ordinance as described with the exception of defining a yard sale as an event that occurred within a given 24-hour period and that the original language of four yard sales per year be supported.

The motion died for lack of a second.

Vice Mayor Romero stated that the input that was forwarded to staff regarding the restrictive language regarding four yard sales per year was not included in everyone’s packet. She said there were a few issues that were of concern. She stated the process to garner input regarding yard sales and the initial meeting was inclusive. She stated it had happened before with issues that had to do with University area neighborhoods not matching up with the needs of other communities outside the University community. She said it was unfortunate that not all of the community had the time or the connection with staff to be able to attend those events. After the study session on this item, her office received a flood of emails from community members who were not as active with their neighborhoods as those who spoke that evening.

Vice Mayor Romero went on to state that she contacted the City Manager’s Office about the language regarding yard sales. She stated this language was not very

detailed and so she understood where people would be confused. The language did not talk to the actual problem. They all had neighbors who never put away their stuff and there was always a yard sale sign in front of the house. She said she did not think the language used got to that issue. She stated that the language needed to clarify the intent of the proposal. She stated the root of the problem was that neighbors did not want to see an every weekend yard sale.

Council Member Uhlich stated she knew staff tried to gather up Council feedback after the study session item. She stated that perhaps this piece of language was not tightened to reflect they meant 6 events versus the perpetual yard sale. She asked if there was a provision that limited the number of commercial vehicles and if it was removed.

Ms. Ibanez stated that there was a provision that limited commercial vehicles but it had been removed. She stated the ordinance was trying to deal with large commercial semis. She stated for the most part there were not complaints about businesses parking their trucks in residential areas.

Council Member Uhlich stated she was hoping to extend the conversation. She said she was concerned about parking three vehicles but if one said taxi then they could not park on the street. She said there were family-owned businesses that had more than three cars and did not want to prohibit them and that was why the provision was removed. She said she was feeling torn about the trailers because if a ten-foot RV was allowed it was saying to the truck drivers they could not park the semi at their home. She said she wanted to make sure when the Ordinance said no vehicles over ten-feet, we were being fair to the entire community. She went on to say that the intent was either for safety or to some extent aesthetics. She said on the windows and skylight section it stated that all windows should be kept in sound condition and good repair, and that other than fixed windows, had to be easy to open and capable to be held open. She asked why this was in the Ordinance.

Teresa Williams, Code Enforcement Administrator, stated the intent of making sure the windows were maintained was to protect tenants. She said they did not get calls from property owners about the windows but rentals need to be functional and up to Code and one of the requirements was that windows had to operate.

Council Member Uhlich asked if this was redundant with the Landlord/Tenant Act which was a State Statute.

Ms. Williams stated the Landlord/Tenant Act was handled civilly so a tenant whose window did not open would have to do a civil action against the landlord. What the City was looking for was minimum housing. She went on to say that windows were a form of exit and the building code required that ventilation be provided. These were safety issues and a requirement was that the windows were maintained.

Council Member Uhlich stated it was important that the Ordinance not be completed on autopilot. She said she wanted to make sure what needed to be covered was covered.

Council Member Scott stated she wanted to address the issues regarding semi-tractor trailers. She said there was a chronic complaint given to her office regarding those vehicles in neighborhood areas. She commented it was her understanding that those who drove the commercial semi-tractor trailers were able to park them elsewhere for free, so allowing them in a residential area was onerous to the people. She stated that constituents in her Ward viewed semi-tractor trailers as inappropriate for the neighborhoods.

Mayor Rothschild stated the two issues he heard from the discussion was yard sales and commercial semi-tractor trailers in residential neighborhoods.

Council Member Fimbres stated the definition of the term motor vehicle and junk motor vehicle was a concern in his Ward. He said the definition and who made the determination if there was a junk vehicle or a vehicle needing repair should be flushed out more.

It was moved by Vice Mayor Romero, duly seconded, and carried by a voice vote of 7 to 0, to remand the item back to staff for further discussion and clarification and that it be brought back at a future meeting.

**9. ELECTIONS: CALLING THE 2013 PRIMARY AND GENERAL ELECTIONS AS VOTE BY MAIL ELECTIONS**

Mayor Rothschild announced City Manager's communication number 47, dated February 12, 2013, was received into and made part of the record. He asked the City Clerk to read Ordinance 11046 by number and title only.

Ordinance No. 11046 relating to Elections; pursuant to the provisions of Tucson Charter Chapter IV, Section 1(20) and Chapter XVI, Section 6, Tucson Code Section 12-1.2, and Arizona Revised Statutes Sections 16-204(B) and 16-409, calling the August 27, 2013 city Primary Election and the November 5, 2013 city General Election, and giving notice that these elections, and any special elections occurring on either of those dates, will be conducted as mail ballot elections supplemented by on-site voting locations in each ward; 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 adopt Ordinance 11046.

**10. ELECTIONS: AMENDMENTS TO THE CAMPAIGN FINANCE ADMINISTRATION RULES AND REGULATIONS FOR THE PUBLIC MATCHING FUNDS PROGRAM FOR CANDIDATES FOR CITY OFFICE**

Mayor Rothschild announced City Manager's communication number 41, dated February 12, 2013, was received into and made part of the record. He asked the City Clerk to read Resolution 22000 by number and title only.

Resolution No. 22000 relating to Elections; adopting amended Campaign Finance Administration Rules and Regulations for the administration of the provisions contained in Subchapters A and B of Chapter XVI of the Tucson Charter that govern the Public Matching Funds Program for candidates for City offices; and declaring an emergency.

It was moved by Vice Mayor Romero, duly seconded, to pass and adopt Resolution 22000 with one change to increase the line item for food expenditures to 4%.

Council Member Fimbres asked how the term Domestic Partner was currently defined under the City Code.

Roger Randolph, City Clerk, stated the Tucson Code defined a Domestic Partner under five different categories. They had to be not related by blood closer than would bar marriage in the state of Arizona, neither of whom was in a marriage expressly recognized by the state or in a domestic partnership with another person, both parties had to be 18 years or older, both must be competent to enter into a contract, both must declare they were each other's sole domestic partner, both share a primary residence, were in a relationship of mutual support and declare that they remain in such for an indefinite period of time.

Council Member Fimbres asked if the proposed changes for media buys be explained further in detail and why it was needed.

Mr. Randolph stated the changes in the Campaign Finance Rules and Regulations for media buys was just a clarification of state law that indicated once a contract for media buys had been established that became the date of the expenditure not the date the check had been cut.

Resolution 22000 with the change to increase the line item for food expenditures to 4% was passed and adopted by a roll call vote of 7 to 0.

**11. BOARDS, COMMITTEES AND COMMISSIONS: CREATING A PEDESTRIAN ADVISORY COMMITTEE**

Mayor Rothschild announced City Manager's communication number 42, dated February 12, 2013, was received into and made part of the record. He asked the City Clerk to read Resolution 22001 by number and title only.

Resolution No. 22001 relating to Boards and Commissions; creating the Pedestrian Advisory Committee; and declaring an emergency.

It was moved by Council Member Cunningham, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Resolution 22001.

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

Mayor Rothschild announced City Manager's communication number 43, dated February 12, 2013, 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 Steve Taylor to the 2012 Bond Oversight Commission.

Vice Mayor Romero announced her personal appointment of Alma Gallardo to the Small, Minority, and Women-Owned Business Commission.

**13. ADJOURNMENT: 7:01 p.m.**

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council would be held on February 20, 2013, at 5:30 p.m., in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

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MAYOR

ATTEST:

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CITY CLERK

**CERTIFICATE OF AUTHENTICITY**

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 12th day of February 2013, and do hereby certify that it is an accurate transcription.

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DEPUTY CITY CLERK

RWR:dsc:yl