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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on October 8, 2013.

Date of Meeting: February 26, 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 5:33 p.m., on Tuesday, February 26, 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:

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	Council Member Ward 6
Jonathan Rothschild	Mayor

Absent/Excused:

Regina Romero	Vice Mayor, Council Member Ward 1
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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 Craig Coulter, Oro Valley Church of the Nazarene, 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 61, dated February 26, 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 Council Members Cunningham, 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 59, dated February 26, 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.

Current event report was given by Richard Miranda, City Manager. 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 64, dated February 26, 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. Super Carniceria el Rodeo, Ward 5  
3901 E. Benson Hwy.  
Applicant: Rolando Valenzuela  
Series 10, City 6-13  
Action must be taken by: March 16, 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)

2. CVS Pharmacy #10307, Ward 6  
6310 E. Broadway Blvd.  
Applicant: Jason Barclay Morris  
Series 9, City 8-13  
Action must be taken by: March 17, 2013

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

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. North Fourth Avenue Merchants Association, Ward 6  
4th Ave. between University Blvd. & 9th St.  
Applicant: John A. Sedwick  
City T6-13  
Date of Event: March 22, 2013 - March 24, 2013  
(Fundraiser)

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

2. Santa Cruz Catholic Parish, Ward 5  
1220 S. 6th Ave.  
Applicant: Rebecca Marie Lujan  
City T9-13  
Date of Event: April 13, 2013 - April 14, 2013  
(Annual Fiesta)

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

3. The Centurions, Ward 5  
4823 S. 6th Ave.  
Applicant: Toby Allen  
City T10-13  
Date of Event: May 18, 2013  
(Fundraiser)

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

4. St. Francis De Sales Youth Group, Ward 2  
1375 S. Camino Seco  
Applicant: Marian E. Tierney  
City T14-13  
Date of Event: March 16, 2013  
(Fundraiser)

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

5. Saints Peter & Paul Parish, Ward 6  
1436 N. Campbell Ave.  
Applicant: Kathleen Marie Rogers  
City T15-13  
Date of Event: March 23, 2013  
(Fundraiser)

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

6. St. Patrick's Day Parade and Festival, Ward 6  
220 S. 5th Ave.  
Applicant: Teresa Mellum  
City T17-13  
Date of Event: March 17, 2013  
(Celebrate Irish Culture)

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

7. Tucson Museum of Art, Ward 1  
140 N. Main Ave.  
Applicant: Meagan Elizabeth Crain  
City T20-13  
Date of Event: March 4, 2013  
(Fundraiser)

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 (Vice Mayor Romero absent/excused), to forward liquor license applications 5b1 through 5b2 and 5c1 through 5c7 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:

Ken Johnson  
Raquel Teran

Maya Castillo  
Courtney Martinez

Mike Wilson

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 FEB26-13-60 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of June 12, 2012
3. Mayor and Council Study Session Legal Action Report and Summary Minutes of June 12, 2012

**b. INDUSTRIAL DEVELOPMENT AUTHORITY: AUTHORIZATION OF AMENDMENTS TO THE BYLAWS**

1. Report from City Manager FEB26-13-66 CITY WIDE
2. Resolution No. 22008 relating to the Industrial Development Authority of the City of Tucson (IDA); authorizing and approving amendments to the IDA's Bylaws to allow the IDA to be certified as a Community Development Financial Institution (CDFI); and declaring an emergency.

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

It was moved by Council Member Kozachik, duly seconded, and passed by a roll call vote of 6 to 0 (Vice Mayor Romero absent/excused), that Consent Agenda Item a with the exception of Item b which was considered separately, be passed and adopted and the proper action taken.

**7. CONSENT AGENDA – ITEM B**

**b. INDUSTRIAL DEVELOPMENT AUTHORITY: AUTHORIZATION OF AMENDMENTS TO THE BYLAWS**

1. Report from City Manager FEB26-13-66 CITY WIDE
2. Resolution No. 22008 relating to the Industrial Development Authority of the City of Tucson (IDA); authorizing and approving amendments to the IDA's Bylaws to allow the IDA to be certified as a Community Development Financial Institution (CDFI); and declaring an emergency.

Roger W. Randolph, City Clerk, announced that the item to be considered separately was Item b at the request of Council Member Kozachik.

Council Member Kozachik acknowledged the value of the Community Development Financial Institution (CDFI), specifically its role in initiating Housing and Urban Development (HUD) Investment in the community. He stated his concern was not with the City's role in the CDFI, but with the distribution of funds once they reach the Industrial Development Authority (IDA). He inquired how the City would prevent IDA board members who may have a financial stake in the distribution of those funds were prevented from profiteering.

Michael Rankin, City Attorney, commented on the distribution of funds and stated the conflict of interest laws that applied to the Mayor and Council also applied to IDA board members. He assured Mr. Kozachik that the laws in place inhibit the potential for exploitation of CDFI funds.

Council Member Uhlich questioned staff if other CDFI's existed in the City of Tucson.

Albert Elias, Assistant City Manager, stated there were no other known CDFI's in Tucson.

Council Member Uhlich announced her support of the issue.

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

Council Member Uhlich requested Mr. Elias to ensure that the IDA understood the City's process and expectations in awarding economic development funds.

**8. PUBLIC HEARING: TEP HOUGHTON ANNEXATION DISTRICT**

Mayor Rothschild announced City Manager's communication number 69, dated February 26, 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 the proposed TEP Houghton Annexation District. He said the public hearing was scheduled to last for no more than one hour and speakers were limited to five minute presentations. He asked if anyone in the audience wished to speak on the issue.

There were no speakers.

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

It was moved by Council Member Scott, duly seconded, and carried by a voice vote of 6 to 0 (Vice Mayor Romero absent/excused), to proceed with the TEP Houghton annexation.

**9. PUBLIC HEARING: AMENDMENT TO THE 2004 PIMA COUNTY BOND IMPLEMENTATION ORDINANCE FOR THE SOUTHEAST COMMUNITY PARK AND REALLOCATION OF FUNDS**

Mayor Rothschild announced City Manager's communication number 68, dated February 26, 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 the change of project scope for the Southeast Community Park reallocation of funds. He said the public hearing was scheduled to last for no more than one hour and speakers were limited to five minute presentations. He asked if anyone in the audience wished to speak on the issue.

There were no speakers.

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

Mayor Rothschild asked the City Clerk to read Resolution 22009 by number and title only.

Resolution No. 22009 relating to Parks and Recreation; requesting an amendment of the 2004 Pima County Bond Implementation Ordinance to change the project scope for the Southeast Community Park and reallocating dedicated funds in the amount of six million dollars (\$6,000,000) of the project funding primarily for land acquisition and minimal first phase development of the project; and declaring an emergency.

It was moved by Council Member Scott, duly seconded, to pass and adopt Resolution 22009.

Council Member Kozachik inquired if there was a performance measure in place to ensure the land did not remain vacant. Mr. Kozachik stated as long as the County had ownership there should be a stipulation in the transaction that required land development.

Fred Gray, Parks and Receptions Director, noted that originally \$4 million was allocated for acquisition and \$2 million for first phase development, but due to low land values it was prudent to acquire as much land as possible. He stated that with the future Pima County Bond there was also a second phase development fund of \$2.5 million and the initiative in question pertained to increasing the \$2.5 million to \$4 or \$5 million for first phase development. He said they would work with a Memorandum of Understanding (MOU) with Pima County or amend the current IGA if the Mayor and Council desired.

Mayor Rothschild expressed a concern with the proposal, specifically the request to rescind an Intergovernmental Agreement (IGA) without an alternate IGA in place. He asked the maker of the motion, Council Member Scott, if the Council could vote subject to an IGA with Pima County concurrent with the Resolution.

Council Member Scott requested clarification on the components of the alternate IGA.

Mayor Rothschild replied that the IGA should entail consequences in the event the property was purchased and development did not occur.

Council Member Scott asked if the City, in this situation, could prescribe performance measures in an IGA.

Michael Rankin, City Attorney, explained that in order for the City to enforce procedural requirements they had to have in place an IGA that established rights or procedural requirements that applied to the transaction and were connected to the request for the reallocation of bond funds. He further indicated if that was the direction the Mayor and Council wished to take, they could approve the resolution, with the amendment that rather than it calling for the cancellation of the 2550 IGA, that it call for an amendment of the 2005 IGA to define the roles and responsibilities of the City and County as well as the public process that was to be followed in connection with this particular development.

Council Member Scott questioned whether or not Pima County had a public process in place for park development and if so, would the amendment to the 2005 IGA require a public process.

Mr. Rankin noted that Pima County's normal procedures were likely to include a public process, but if the City desired it to be codified in an agreement it could do so through an amendment to the IGA as opposed to cancellation of the IGA.

Mr. Gray commented on the proposed amendment and stated that according to the current IGA, the City acted in conjunction with the County on the Bond Program. He explained that an amendment to the IGA would reverse the roles outlined by the original agreement; therefore, the County would assume the role of the City and the City would act as a project liaison for the County. The County would also assume the operation and maintenance costs for future park development.

Mayor Rothschild queried if it was possible to discuss with County officials an IGA pertaining to the matters outlined by Mr. Gray and other contingencies.

Mr. Gray consented.

Discussion continued regarding the proposed amendment to the IGA.

Council Member Scott withdrew her motion to allow staff time to return, as quickly as possible, with an IGA with Pima County concurrent with the Resolution.

**10. ZONING: (C9-12-11) MAHALO PROPERTIES - WRIGHTSTOWN ROAD, RX-1 TO R-1, CITY MANAGER'S REPORT, DIRECT ORDINANCE ADOPTION**

Mayor Rothschild announced City Manager's communication number 63, dated February 26, 2013, was received into and made part of the record. He also announced this was a request to rezone property located at the southwest corner of Wrightstown Road and Brown Avenue from RX-1 to R-1 zoning. He said the Zoning Examiner and staff recommend approval subject to certain conditions.

Mayor Rothschild asked if the applicant or representative was present and agreeable to the proposed requirements.

Linda Morales with the Planning Center, consented to the proposed requirements.

Ms. Morales requested clarification regarding the super majority vote requirement. She indicated they delivered documentation to the Planning Department staff that addressed the written protests field.

Ernie Duarte, Director, Planning and Development Services Department, confirmed that the protests had been withdrawn so a simple majority vote of the Mayor and Council was all that was needed to pass the Ordinance should they so choose.

Mayor Rothschild asked the City Clerk to read Ordinance 11047 by number and title only.

Ordinance No. 11047 relating to Zoning; amending zoning district boundaries in the area of the southwest corner of Wrightstown Road and Brown Avenue in Case C9-12-11 Mahalo Properties - Wrightstown Road, RX-1 to R-1; and setting an effective date.

Council Member Cunningham requested that the five foot screen wall requirement listed in the Ordinance be amended to six feet.

Ms. Morales and her client were amenable to the change.

It was moved by Council Member Cunningham, duly seconded, and passed by a roll vote of 6 to 0 (Vice Mayor Romero absent/excused), to approve the request as recommended by the Zoning Examiner and pass and adopt Ordinance 11047, with the amendment to increase the screen wall from five feet to six feet.

**11. MEMORIAL: DECLARING SUPPORT FOR COMPREHENSIVE IMMIGRATION REFORM**

Mayor Rothschild announced City Manager's communication number 62, dated February 26, 2013, was received into and made part of the record. Mayor Rothschild asked the City Clerk to read the Memorial by title only.

A Memorial relating to Immigration Reform; declaring support for Comprehensive Immigration Reform.

Council Member Fimbres conveyed Mayor and Council's past stance on Immigration Reform and the importance of Congress taking action on the Memorial.

Council Member Cunningham read a letter written by Moon Joe Yee, Ward 2 Constituent, urging the Mayor and Council to support the Memorial.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll vote of 6 to 0 (Vice Mayor Romero absent/excused), to pass and adopt the Memorial.

**12. TUCSON CODE: AMENDING (CHAPTER 22) TUCSON SUPPLEMENTAL RETIREMENT SYSTEM**

(This item was continued to a future meeting at the request of staff.)

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

Mayor Rothschild announced City Manager's communication number 65, dated February 26, 2013, 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 6 to 0 (Vice Mayor Romero absent/excused), to approve the appointment of Jan Bancroft to the Metropolitan Education Commission (MEC).

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

Council Member Scott announced her personal appointment of Priscilla Fernandez to the Small, Minority, and Women-Owned Business Commission (SMWBC).

Council Member Fimbres announced his personal appointment of Nicholas K.M. Pafford to the Tucson Commission on Gay, Lesbian, Bisexual, and Transgender Issues (GLBT).

**14. ADJOURNMENT:** 6:11 p.m.

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, March 5, 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 26th day of February 2013, and do hereby certify that it is an accurate transcription.

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DEPUTY CITY CLERK

RWR: lmo:rg