



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on April 8, 2014.

Date of Meeting: August 6, 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 5:32 p.m., on Tuesday, August 6, 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:

Michael Rankin
Roger W. Randolph
Kelly Gottschalk

City Attorney
City Clerk
Acting City Manager

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Father Charles Knapp, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

- a. Mayor Rothschild proclaimed August 20, 2013, as the “238th Anniversary of Tucson.” Marty McCune, Tucson-Pima County Historical Commission Commissioner, accepted the proclamation.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Rothschild announced City Manager’s communication number 311, dated August 6, 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, Council Members Cunningham, Uhlich, Scott, 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 312, dated August 6, 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 Michael Rankin, City Attorney. 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 337, dated August 6, 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. La Hacienda #10, Ward 3
3225 N. Swan Rd. #103-105
Applicant: Paul Adolph Allen Sr.
Series 12, City 39-13
Action must be taken by: August 1, 2013

Staff has indicated the applicant is in compliance with city requirements

2. Heist No. 43, Ward 2
7131 E. Broadway Blvd.
Applicant: Lauren Kay Merrett
Series 12, City 40-13
Action must be taken by: August 8, 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)

Location Transfer(s)

3. HA Long Bay Restaurant, Ward 2
7245 E. Tanque Verde Rd. #175
Applicant: Trieu Phuong Nguyen
Series 7, City 41-13
Action must be taken by: August 8, 2013

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

4. Walgreens #15502, Ward 2
8980 E. Tanque Verde Rd.
Applicant: Randy Allen Guse
Series 9, City 42-13
Action must be taken by: August 16, 2013

NOTE: State law provides that for a location transfer, Mayor and Council may consider whether the public convenience requires and that the best interest of the community will be substantially served by the issuance of a license at that location. (A.R.S. Section 4-203; Rule R19-1-102)

c. Special Event(s)

1. Oktoberfest Charities, Ward 3
4502 N. 1st Ave.
Applicant: Manuel Cady
City T77-13
Date of Event: October 10, 2013 - October 13, 2013
(Fundraiser)

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

2. 2nd Saturdays, Ward 6
110 E. Pennington St.
Applicant: Fletcher J. McCusker
City T78-13
Date of Event: September 14, 2013
(Music Festival)

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

3. 2nd Saturdays, Ward 6
110 E. Pennington St.
Applicant: Fletcher J. McCusker
City T79-13
Date of Event: October 12, 2013
(Music Festival)

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

4. St Margaret Mary Alacoque Parish, Ward 1
801 N. Grande Ave.
Applicant: Sonia Marie Felix
City T80-13
Date of Event: October 12, 2013 - October 13, 2013
(Annual Fiesta)

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

5. Salpointe Catholic High School, Ward 3
1545 E. Copper St.
Applicant: Margaret L. Felici
City T81-13
Date of Event: November 1, 2013
(Homecoming Celebration)

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

6. Big Brothers Big Sisters of Tucson, Ward 1
3800 W. Starr Pass Blvd.
Applicant: Diana A. Miranda
City T82-13
Date of Event: September 13, 2013
(Fundraiser)

Staff has indicated the applicant is in compliance with city requirements

7. Arizona Theatre Company, Ward 6
330 S. Scott Ave.
Applicant: Jill Bishop
City T83-13
Date of Event: October 5, 2013
(Fundraiser)

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

d. Agent Change/Acquisition of Control

1. Fairfield Inn Tucson Airport, Ward 5
6955 S. Tucson Blvd.
Applicant: Randy D. Nations
Series 7, City AC7-13
Action must be taken by: August 11, 2013

Staff has indicated the applicant is in compliance with city requirements

NOTE: The local governing body of the city, town or county may protest the acquisition of control within sixty days based on the capability, reliability and qualification of the person acquiring control. (A.R.S. Section 4-203.F)

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 through 5b4, 5c1 through 5c7, and 5d1 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:

Gil Shapiro
Ernest Armenta
Domenick Davis
Dave Croteau

Robert Clark
Raul E. Ramirez
Robert Reus
Billy Lolos

Stephen McPherson
Terry Higuera
Michael Keith

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

Council Member Romero explained the program she attended in Cambridge, for State and local government officials, was paid for by the Arizona List Leadership Fund, not the City of Tucson.

7. CONSENT AGENDA – ITEMS A THROUGH T

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 AUG06-13-313 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of January 8, 2013
3. Mayor and Council Study Session Legal Action Report and Summary Minutes of January 8, 2013

b. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR VICTIM SERVICES FOR FISCAL YEAR 2014

1. Report from City Manager AUG06-13-340 CITY WIDE
2. Resolution No. 22124 relating to Outside Agency Activities; authorizing and approving an Intergovernmental Agreement between the City of Tucson and Pima County for Victim Services for Fiscal Year 2014; and declaring an emergency.

c. ELECTIONS: DESIGNATING VOTING LOCATIONS AND APPOINTING ELECTION BOARDS FOR THE CITY ELECTION TO BE HELD AUGUST 27, 2013

1. Report from City Manager AUG06-13-339 CITY WIDE
2. Resolution No. 22122 relating to Elections; designating the voting locations for the City of Tucson's August 27, 2013 Primary Election; and declaring an emergency.
3. Resolution No. 22123 relating to Elections; appointing officials who will serve as members of Election Boards required for the City of Tucson's August 27, 2013 Primary Election; and declaring an emergency.

- d. ECONOMIC DEVELOPMENT: APPROVING A TIME EXTENSION OF THE DOWNTOWN FINANCIAL INCENTIVE DISTRICT AND AMENDING RESOLUTION NO. 19388
 - 1. Report from City Manager AUG06-13-314 WARDS 1 AND 6
 - 2. Resolution No. 22108 relating to Economic Incentives; amending Resolution No. 19388; approving a time extension and retroactive provision of the Downtown Financial Incentive District and directing staff to prepare an analysis for modifying the boundaries of the district; and declaring an emergency.

- e. HOUSING AND COMMUNITY DEVELOPMENT ADMISSION AS GENERAL PARTNER FOR LOW INCOME HOUSING TAX CREDIT PARTNERSHIPS
 - 1. Report from City Manager AUG06-13-330 CITY WIDE
 - 2. Resolution No. 22119 relating to Housing and Community Development; approving admission of the City of Tucson as General Partner to five Low Income Housing Tax Credit (LIHTC) Partnerships; authorizing and directing submittal of the Withdrawal, Admission and Assignment Agreements to the Arizona Department of Housing (ADOH) and the United States Department of Housing and Urban Development (HUD); and declaring an emergency

- f. PARKS AND RECREATION: APPROVING THE JOAQUIN MURRIETA PARK MASTER PLAN
 - 1. Report from City Manager AUG06-13-343 WARD 1
 - 2. Resolution No. 22126 relating to Parks and Recreation; approving the Joaquin Murrieta Park Master Plan; and declaring an emergency.

- g. FINAL PLAT: (S12-055) TUCSON MARKETPLACE PHASE III, LOTS 1 THROUGH 6
 - 1. Report from City Manager AUG06-13-317 WARD 5
 - 2. Staff recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

- h. FINAL PLAT: (S13-002) COPE COMMUNITY SERVICES, LOTS 1 THROUGH 4, A RESUBDIVISION OF LOT 10 OF MIDVALE PARK COMMERCE CENTER
 - 1. Report from City Manager AUG06-13-318 WARD 1
 - 2. Staff recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

- i. FINAL PLAT (S13-006) VALENZUELA SUBDIVISION MINOR SUBDIVISION, LOTS 1 THROUGH 3, A RESUBDIVISION OF LOT 237 OF LOS RANCHITOS
 - 1. Report from City Manager AUG06-13-319 WARD 5
 - 2. Staff recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

- j. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE INCARCERATION OF CITY PRISONERS
 - 1. Report from City Manager AUG06-13-320 CITY WIDE
 - 2. Resolution No. 22125 relating to Intergovernmental Agreements; approving and authorizing the execution of an Intergovernmental Agreement between the City of Tucson and Pima County for Payment for the Incarceration of Municipal Prisoners for Fiscal Year 2014; and declaring an emergency.

- k. SURPLUS PROPERTY: DONATION OF A 1994 NEOPLAN STYLE BUS AND A 1997 NEW FLYER STYLE BUS TO OLD PUEBLO TROLLEY, INC.
 - 1. Report from City Manager AUG06-13-316 CITY WIDE

- l. TRANSPORTATION: AUTHORIZING AND APPROVING THE IMPLEMENTATION OF THE GREEN STREETS POLICY FOR THE TUCSON DEPARTMENT OF TRANSPORTATION
 - 1. Report from City Manager AUG06-13-326 CITY WIDE

2. Resolution No. 22116 relating to Transportation; authorizing and approving the adoption and implementation of the Green Streets Policy for the Tucson Department of Transportation; and declaring an emergency.
- m. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY OF PIMA COUNTY FOR THE DOWNTOWN LINKS PROJECT
1. Report from City Manager AUG06-13-325 WARDS 1, 5, AND 6
 2. Resolution No. 22114 relating to Intergovernmental Agreements; approving and authorizing execution of Amendment No. 5 to the Intergovernmental Agreement for Transportation Funding between the City of Tucson and the Regional Transportation Authority of Pima County (RTA) for funding to finalize acquisition of necessary rights of way along the roadway alignment for the Downtown Links Project; and declaring an emergency.
- n. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH THE STATE OF ARIZONA FOR OPERATION AND MAINTENANCE OF TRAFFIC SIGNALS AND ROADWAY LIGHTING ALONG STATE ROUTES WITHIN CITY LIMITS
1. Report from City Manager AUG06-13-324 WARDS 4 AND 6
 2. Resolution No. 22112 relating to Intergovernmental Agreements; approving and authorizing execution of Amendment No. One to the Intergovernmental Agreement between the City of Tucson and the State of Arizona for the operation and maintenance of traffic signals and roadway lighting along state routes within the Tucson city limits; and declaring an emergency.
- o. INTERGOVERNMENTAL AGREEMENT: WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION MULTIMODAL PLANNING DIVISION FOR THE STATE SAFETY OVERSIGHT PROGRAM
1. Report from City Manager AUG06-13-335 WARDS 1, 3 AND 6
 2. Resolution No. 22120 relating to Transportation; approving and authorizing an Intergovernmental Agreement between the City of Tucson and the State of Arizona by and through the Arizona Department of Transportation Multimodal Planning Division to establish and administer the State Safety Oversight Program for the SunLink Streetcar Rail System; and declaring an emergency.

- p. INTERGOVERNMENTAL AGREEMENT: WITH THE UNIVERSITY OF ARIZONA FOR THE SMARTSCAPE WATER OUTREACH PROGRAM
1. Report from City Manager AUG06-13-323 CITY WIDE AND OUTSIDE CITY
 2. Resolution No. 22113 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement (IGA) between the City of Tucson and the University of Arizona Board of Regents on behalf of the University of Arizona Cooperative Extension, SmartScape Outreach Program: a landscape water conservation program; and declaring an emergency.
- q. INTERGOVERNMENTAL AGREEMENT: WITH THE UNIVERSITY OF ARIZONA FOR “PROJECT WET” YOUTH EDUCATION PROGRAM
1. Report from City Manager AUG06-13-328 CITY WIDE AND OUTSIDE CITY
 2. Resolution No. 22118 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement with the Arizona Board of Regents on behalf of the University of Arizona’s Water Resources Research Center to continue water education for teachers (Arizona Project WET Program); and declaring an emergency.
- r. WATER: PURCHASE AND SALE AGREEMENT WITH THE CENTRAL ARIZONA WATER CONSERVATION DISTRICT FOR LONG-TERM STORAGE CREDITS
1. Report from City Manager AUG06-13-327 CITY WIDE AND OUTSIDE CITY
 2. Resolution No. 22115 relating to Water; authorizing and approving the execution of a Purchase and Sale Agreement for Long-Term Storage Credits between the Central Arizona Water Conservation District (CAWCD) and the City of Tucson for the benefit of the Central Arizona Groundwater Replenishment District (CAGR) member lands and member service areas; and declaring an emergency.
- s. MEMORIAL: URGING CONGRESS TO REPEAL THE PROVISIONS OF THE FEDERAL TELECOMMUNICATIONS ACT THAT PREEMPT LOCAL REGULATION RELATING TO THE INSTALLATION OF WIRELESS COMMUNICATIONS FACILITIES
1. Report from City Manager AUG06-13-338 CITY WIDE

2. A Memorial relating to Public Health and Safety; asking the United States Congress to consider the repeal of Section 704 of the Federal Telecommunications Act of 1996 and thereby allow local jurisdictions to regulate and control the locating, construction and installation of wireless communications facilities.

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

- t. ELECTION: CALLING A SPECIAL ELECTION TO BE HELD ON NOVEMBER 5, 2013
 1. Report from City Manager AUG06-13-342 CITY WIDE
 2. Ordinance No. 11105 relating to Elections; pursuant to Chapters XVI and XIX of the Tucson Charter, calling a special election to be held on November 5, 2013 for the purpose of submitting to the qualified electors of the City of Tucson a question submitted through Initiative Petition Number 2013-I004, known as the "Sustainable Retirement Benefits Act;" and declaring an emergency.

It was moved by Council Member Uhlich, duly seconded, and passed by a roll call vote of 7 to 0, that Consent Agenda Items a – t, with the exception of Consent Agenda Item s, which was considered separately, be passed and adopted and the proper action taken.

7. CONSENT AGENDA – ITEM S

- s. MEMORIAL: URGING CONGRESS TO REPEAL THE PROVISIONS OF THE FEDERAL TELECOMMUNICATIONS ACT THAT PREEMPT LOCAL REGULATION RELATING TO THE INSTALLATION OF WIRELESS COMMUNICATIONS FACILITIES
 1. Report from City Manager AUG06-13-338 CITY WIDE
 2. A Memorial relating to Public Health and Safety; asking the United States Congress to consider the repeal of Section 704 of the Federal Telecommunications Act of 1996 and thereby allow local jurisdictions to regulate and control the locating, construction and installation of wireless communications facilities.

Council Member Uhlich explained her reasons for requesting separate consideration for Item s. She said the Resolution acknowledged that local governments could not take health issues into consideration for cell towers. She said the Resolution added the Mayor and Council's support to a resolution passed by the Pima County Board of Supervisors in 2009, requesting the local health department be allowed to study the subject and provide recommendations.

It was moved by Council Member Uhlich, duly seconded, and passed by a roll call vote of 7 to 0, that Consent Agenda Item s be passed and adopted and the proper action taken.

8. PUBLIC HEARING: ZONING (SE-12-94) AT&T – PRESIDIO ROAD, C-1 ZONING, WIRELESS COMMUNICATION FACILITY, SPECIAL EXCEPTION LAND USE, DIRECT ORDINANCE ADOPTION

Mayor Rothschild announced City Manager’s communication number 333, dated August 6, 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 a Special Exception Land Use request for property located north of Presidio Road and east of Country Club Road.

Mayor Rothschild said the Zoning Examiner recommended denial of the special exception land use request and Staff recommended approval of the special exception land use and adoption of the ordinance which established conditions for approval. He asked if the applicant was present and wanted to speak.

Greg Lake, AT&T, explained the reasons the application was submitted for this particular site. He stated AT&T had a significant gap in coverage in the area. He also addressed the Zoning Examiner’s statements. He added AT&T offered to move the site fifty feet to the west, place the monopalm on the west side of the site, and plant two live palm trees on the site.

Mayor Rothschild asked if AT&T was agreeable to the proposed requirements as recommended by staff as well as the additional three requirements of moving the site 50 feet to the west, reconfiguring the site to place the monopalm on the west side of the site, and planting live palm trees.

Mr. Lake answered affirmatively.

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

The following people spoke in support of the Special Exception Land Use request: Dan Torrington, Margo LaBarr, and Ed Brogna.

The following people spoke in opposition to the Special Exception Land Use request; David Fossdal, Karen Seger, Elizabeth Kelley, Bonnie Poulos, Marc Haberman, Carolyn Wessels, Leon Byerley, Shane Cummings, and Dennis Williams.

Mayor Rothschild asked those in favor of the tower to stand. He then asked those opposed to the tower to stand.

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

Mayor Rothschild asked the City Clerk to read Ordinance 11100 by number and title only.

Ordinance No. 11100 relating to Zoning; a special exception land use – wireless communications facility – SE-12-94 AT&T Presidio Road located approximately 350 feet north of Presidio Road, and approximately 565 feet east of Country Club Road; approving with conditions the construction of wireless communications facility and antennas, concealed within an artificial palm tree (monopalm), 55 feet in height, within an approximately 20-foot by 40-foot lease area in the C-1 Zone; and setting an effective date.

Mayor Rothschild inquired if the current zoning allowed for a structure that was up to fifty-five feet in height without the consent of the Mayor and Council.

Ernie Duarte, Planning and Development Services Department (PDSD) Director, answered the zoning allowed for a structure of up to fifty-feet by right and that a structure of sixty-five feet required approval from the Zoning Examiner and the Mayor and Council.

Mayor Rothschild clarified AT&T wanted to build a sixty-five foot cell tower. He also repeated the three additional considerations/conditions of moving the site fifty feet to the west, reconfiguring the site to place the monopalm on the west side of the site, and adding additional vegetation. He reminded the Council that one of their options was to remand the matter back to the Zoning Examiner to seek additional information.

Council Member Uhlich expressed her concern over the effect of the process on the Cabrini Neighborhood. She also said she did not trust the capacity of the Council to broker a resolution based on her understanding of the information presented and the conflicting recommendations from Staff and the Zoning Examiner. She then recommended supporting the recommendation of the Zoning Examiner and explained why.

It was moved by Council Member Uhlich, duly seconded, to approve the Zoning Examiner's recommendation.

Michael Rankin, City Attorney, explained the effect of the motion was to deny the application and to articulate the same grounds included in the Zoning Examiner's final report.

Council Member Kozachik asked what the basis was for PSDS's decision to reverse the decision of the Zoning Examiner and deny the Special Exception Land Use request.

Mr. Duarte answered they found the application to be consistent with the zoning, the *General Plan*, the *Grant-Alvernon Area Plan*, and with the reduction in height and additional live palms to disguise the monopalm, it was a land use decision similar to other land use decisions previously made. He also said they made this recommendation to the Zoning Examiner, and they had not reversed his decision.

Council Member Kozachik clarified the AT&T representative stated they were not agreeable to the reduction in height.

Mr. Duarte said Staff's recommendation was for fifty-five feet.

Council Member Kozachik repeated AT&T was still requesting sixty-five feet.

Mr. Rankin answered the application was for sixty-five feet. The first action by City representation was taken by Staff and they recommended approval of the application but to cap the cell tower height at fifty-five feet. He also clarified the next step was for the application to go to the Zoning Examiner for public hearings and his independent recommendation was denial of the application based on the grounds stated in his report.

Council Member Kozachik inquired about the applicant's options if the request was denied.

Mr. Rankin answered due to the fact the applicant articulated interest in changes to the request, they could apply and identify the new site location for the facility, or they could take court action challenging whether the request was denied on reasonable grounds.

Council Member Kozachik concurred with Council Member Uhlich that the Council could not solve this issue at this time, and encouraged the parties involved to find an area of common ground.

Hearing no further discussion, Mayor Rothschild asked for a roll call vote.

Vice Mayor Romero clarified that a "yes" vote meant the application would be denied at this time.

Mayor Rothschild explained he would vote to have the matter remanded back to the Zoning Examiner rather than approve or deny the application. He strongly suggested the involved parties meet and try to find the common ground mentioned by Council Member Kozachik.

Ordinance 11100 was declared failed by a roll call vote of 6 to 1 (Mayor Rothschild dissenting).

(NOTE: Council Member Scott departed at 7:34 p.m. and returned at 7:36 p.m.)

9. PUBLIC HEARING: ZONING (SE-13-26) AT&T - 22ND STREET, C-1 ZONING, WIRELESS COMMUNICATION FACILITY, SPECIAL EXCEPTION LAND USE, DIRECT ORDINANCE ADOPTION

Mayor Rothschild announced City Manager's communication number 332, dated August 6, 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 a Special Exception Land Use request for property located south of Twenty Second Street and west of Country Club Road. He said the Zoning Examiner and staff recommend approval subject to certain conditions. He asked if the applicant or a representative was present and asked if AT&T was agreeable to the proposed requirements as recommended by staff.

Greg Lake, AT&T, stated they were agreeable to all the conditions except for the elimination of legal non-conforming signs and cited *Arizona Revised Statutes (A.R.S.)* § 9-462.02 in support of the objection.

Michael Rankin, City Attorney, stated the provision of the *Statute*, cited by Mr. Lake, was enacted to deal specifically with billboards.

Mayor Rothschild clarified the applicant was asking for approval of the application without that condition. He announced the public hearing was scheduled to last for no more than one hour and speakers were limited to five minute presentations.

Tom Parsons, Attorney representing the owners of the property, spoke in support of the Special Exception Land Use request.

Ivo Ortiz and Mark Mayer spoke in opposition of the Special Exception Land Use request.

(NOTE: Vice Mayor Romero departed at 7:48 p.m. and returned at 7:51 p.m.)

Mr. Lake said they approached the Parks and Recreation Department in regards to placing the cell tower in Reid Park as suggested, but the request was denied. He said AT&T preferred to have the application approved without the removal of the legal non-conforming sign but would take the sign down if it was the Council's pleasure.

Mr. Rankin queried if AT&T would agree to the Prop 207 waiver that included the condition as being waived from any future Prop 207 claims.

Mr. Parsons answered the *Statutes* were clear and they could not be asked to remove the sign. He encouraged a motion that dropped conditions two and twenty-three from the Ordinance. He said if the conditions were not dropped he requested a motion to move forward. He advised they requested a form to address their comments and nothing was forthcoming from the City.

Mr. Rankin advised the applicant was sent the standard form for Prop 207 waiver. He said the form received from the applicant had been modified to exclude a waiver of a 207 claim in relation to a condition requiring the removal of the sign. He said if the applicant agreed to that condition, attendant to that, was that the waive of the 207 claim had to include waiver of any claim in association with the condition. The waiver needed to be signed, not only by the applicant, but by the property owner who was affected by the sign condition.

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

It was moved by Council Member Fimbres, to deny the request, and have City Staff work with both the applicant and neighborhoods, to consider other City owned parcels or park areas as a potential solution, and have the current Ordinance regarding cell towers brought back to the Mayor and Council for discussion, consideration and further action.

Mayor Rothschild clarified the motion made by Council Member Fimbres. He queried why the applicant's request to work with the City was denied.

Fred Gray, Parks and Recreation Department Director, answered the particular site requested was not appropriate due to the expansion of the Arroyo Chico path. He stated they currently had 24 cell towers within city parks, three of which were in Reid Park. He said they had locations within Reid Park that would be suitable for a cell tower and also suggested co-locations on existing cell tower facilities or using ball field lights for cell towers as they already extended into the air.

Tim Burmer, FM Group, Inc., provided reasons why the suggested sites in Reid Park were not suitable for the requirements of the applicant.

Council Member Kozachik encouraged the applicant to look more closely at the suitability of the Reid Park sites. He expressed concern over the current process and a desire to discuss it during a study session in the future.

Council Member Cunningham inquired about an existing agreement with AT&T regarding the number of cell towers in city parks.

Mr. Rankin answered the current agreement did not address the number of towers in city parks.

The motion to deny the request for a Special Exception Land Use and direct staff to work with the applicant and neighborhoods, as well as, look at other City-owned parcels or park areas as a potential solution, and to bring back the current cell tower ordinance for Mayor and Council discussion and consideration, was passed by a roll call vote of 7 to 0, thus Ordinance 11101 was not passed.

10. PUBLIC HEARING: APPROVING THE POLICY AND PROCEDURE FOR SOLICITATION AND CONSIDERATION OF PUBLIC COMMENT ON FARE CHANGES AND MAJOR SERVICE CHANGES ON PUBLIC TRANSPORTATION, AND RESCINDING RESOLUTION 15460

Mayor Rothschild announced City Manager's communication number 344, dated August 6, 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 Policy and Procedure for solicitation and consideration of Public Comment on Fare and Major Service changes on Public Transportation. He asked if Staff wanted to make a brief presentation before being the public hearing.

Carlos DeLeon, Transportation Department Deputy Director, provided an overview of the City's policies for gathering public comment on fare and major service changes to public transportation. He said fare changes were being handled in a separate process and the public hearing was tentatively scheduled for September 10, 2013.

Mr. DeLeon added in October 1990, the Mayor and Council adopted policies for major service changes and procedures for gathering public input to comply with Federal Transit Administration (FTA) requirements. He also said in October 2012, the FTA updated some of the requirements, related to Title 6 of the Civil Rights Act, which covered non-discrimination based on race, color and national origin. The updated Title 6 requirements also incorporated non-discrimination of minority and low income populations. As a result of these changes the City of Tucson, as a recipient of FTA financial assistance, was required to define, update and adopt policies related to fare change, major service change, disparate impact on minority populations and disproportionate impact on low income populations using transit. Policies established thresholds for analysis, and for determining whether the potential fare and service considered in the future would have an adverse effect on minority populations and upon low income populations. If an adverse impact was determined on these groups, actions would have to be taken to minimize and mitigate the impact and must be considered.

Mr. DeLeon stated Staff recommended adoption of Resolution 22127 to approve the changes to the fare and service changes policies and procedures.

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

Stephan Rankus spoke about his view on fare changes.

Suzanne Schafer and Brian Flagg spoke in support of the Public Comment on Fare and Major Service changes on Public Transportation.

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

Council Member Uhlich addressed some of the concerns voiced by the speakers regarding public hearings and said she was open to considering policies and procedures, for fare changes, that went beyond FTA requirements.

Mary McClaine, SunTran Assistant General Manager, clarified what the policy and procedure changes entailed and addressed some of the concerns expressed by speakers and Council Member Uhlich.

Vice Mayor Romero said the proposed changes were positive. She expressed concern over the recent inability of the Transit Task Force (TTF) to reach a quorum and the resulting inability to keep the public informed. She indicated her intention to favor passing the resolution and continued work with Sun Tran, Sun Van, the community, and the Transportation Department to improve public outreach.

It was moved by Vice Mayor Romero, duly seconded, to pass and adopt Resolution 22127, and direct staff to continue working with the community, Sun Tran, Van Tran, and the Transportation Department to ensure public outreach was detailed and part of any changes to the public transportation system.

Council Member Uhlich clarified the resolution addressed the triggers for equity analysis, not when to hold a public hearing for fare increases and the threshold of twenty-five percent was consistent with current thresholds for the equity analysis.

Ms. McClaine answered for clarification, it was the reiteration of the existing on the twenty-five percent threshold. The twenty percent threshold was new. She said the changes did not address public outreach.

Mayor Rothschild asked the City Clerk to read Resolution 22127 by number and title only.

Resolution No. 22127 relating to Transportation; approving City of Tucson Policy and Procedure for Solicitation and Consideration of Public Comment on Fare Changes and Major Service Changes on Public Transportation; rescinding Resolution No. 15460 dated October 8, 1990; and declaring an emergency.

Resolution 22127 was passed and adopted by a roll call vote of 7 to 0.

11. PUBLIC HEARING: SUBSTANTIAL PLAN AMENDMENT FOR THE SECTION 108 ADA SIDEWALKS AND CURBS PROJECT

Mayor Rothschild announced City Manager's communication number 329, dated August 6, 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 a substantial plan amendment for Section 108 Americans with Disabilities Act (ADA) Sidewalks and Curbs Project. He said Staff wanted to make a brief presentation before beginning the public hearing.

Andrea Ibanez, Housing and Community Development Department (HCDD) Interim Director, explained the Department of Housing and Urban Development (HUD) required the Substantial Plan Amendment and provided a brief overview of the process to obtain public comment as it had occurred before the Mayor and Council meeting.

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 asked if anyone wanted to speak on the item.

There was no one.

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

Mayor Rothschild asked the City Clerk to read Resolution 22117 by number and title only.

Resolution No. 22117 relating to Housing and Community Development; approving a Substantial Plan Amendment to the City of Tucson FY 2014 Annual Action Plan to include the Section 108 ADA Sidewalks & Curbs Project to be implemented by the City's Department of Transportation; authorizing and directing submittal of the Substantial Plan Amendment and the Application for Section 108 Loan Guarantee to the United States Department of Housing and Urban Development (HUD); and declaring an emergency.

Vice Mayor Romero asked why the funding could not be used for landscaping and shade trees along the sidewalks, and about the process for repaying the loan.

Ms. Ibanez answered the loan was structured to be paid back over a period of 20 years, and explained the loan payments came from the Community Development Block Grant (CDBG) until the Transportation Department could take them over. She said the funding had been allocated for the ADA Sidewalks and Curbs Project instead of landscaping.

Vice Mayor Romero asked for further clarification of the possibility of using the funds for shade trees.

Ms. Ibanez stated they had asked HUD to use the funding for ADA purposes and not for landscaping.

Mayor Rothschild requested clarification from Daryl Cole.

Daryl Cole, Transportation Department Director, answered the application that was submitted through CDBG and HUD was to compliment the current Bond Election to be used for the resurfacing project of sidewalks and curb ramps on top of the re-pavement of streets.

Vice Mayor Romero commented she understood the need for ADA accessibility issues and repeated her concerns over the lack of including shade trees in pedestrian areas around the community.

Mr. Cole answered trees were not included in the application for the funds, and the ADA accessibility improvements were federal requirements.

Kelly Gottschalk, Assistant City Manager, repeated and supported the statements made by Mr. Cole.

Council Member Cunningham and Mayor Rothschild suggested other methods for obtaining trees to plant for shade in pedestrian areas.

Council Member Uhlich expressed concern over using Section 108 funds for a project that did not encourage long term economic development through sustained jobs. She asked staff how many applications were received for Section 108 funding.

Chris Kaselemis, Economic Initiatives Director, said we only received two applications for economic development funding, and due to the fact that the funding was received from HUD two years ago, there was pressure to begin utilizing the funds.

Council Member Uhlich repeated her concern over the lack of economic development and the reasons for seeking 108 funding.

Mayor Rothschild stated he thought the intent was to move the \$20 million in funding that the City currently had and Mr. Kaselemis answered that was the goal.

Vice Mayor Romero said she could see the proposed schedule of loan payments worked out, and expressed concern for making the payments strictly using CDBG fund allocations and how that would affect other priority City projects. She also inquired if there was some urgency in approving the amendment that evening and the possibility of delaying the item until the September meeting to discuss concerns brought to the table.

Ms. Ibanez addressed the concerns expressed by Vice Mayor Romero regarding the loan payments.

Mayor Rothschild clarified the concerns expressed by Vice Mayor Romero and Council Member Uhlich.

Mr. Cole clarified why the payments were projected to come out of the CDBG funds

Mayor Rothschild clarified the Council's concern over all of the loan payments coming out of the CDGB fund.

Ms. Gottschalk explained the Transportation Department would be able to assume the loan payments in 2023, possibly a few years earlier.

Vice Mayor Romero explained her reasons for asking to continue the item.

It was moved by Vice Mayor Romero, duly seconded, to continue the item to September 10, 2013.

Mayor Rothschild explained the following month would be used to discuss and obtain further information on this issue.

Council Member Kozachik clarified the source of one million, seven hundred dollar figure, and expressed concern over making payments using CDBG funds. He also said he would be comfortable moving forward on this item.

The motion to continue the item to the September 10, 2013, Mayor and Council meeting was carried by a voice vote of 7 to 0.

12. PUBLIC HEARING: AMENDING TUCSON CODE (CHAPTER 19) TO ESTABLISH AN ACCESS TO CARE TAX AND PROGRAM

Mayor Rothschild announced City Manager's communication number 345 dated August 6, 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 Access to Care Tax and Program. He said the public hearing was scheduled to last for no more than one hour and speakers were limited to five minute presentations.

Jim Bechmann, Carondelet Health Network; Dr. Mike Waldrum, University of Arizona Health Network; and Judy Rich, Tucson Medical Center spoke in support of the proposed Access to Care Tax and Program.

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

Mayor Rothschild asked the City Clerk to read Ordinance 11104 by number and title only.

Ordinance No. 11104 relating to Finance; amending Chapter 19 of the Tucson Code to establish an Access to Care program; establishing an effective date for the imposition of the Access to Care tax; and declaring an emergency.

Michael Rankin, City Attorney, read three corrections into the record authorizing staff to take the necessary steps in the administration of the tax to ensure compliance with State budget law and expenditure limits. He said the corrections were as follows:

- Section 2 – “The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this Ordinance, and are specifically authorized to take all actions necessary to comply with State budget law.”
- A new Section 3 would be added to read, “The collection and assessment of the Access to Care tax under this Ordinance shall immediately terminate if such termination is necessary to ensure that the City complies with the limits on expenditures imposed under Arizona law.”
- Section 3 of the Ordinance would be renumbered accordingly.

It was moved by Council Member Scott, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance 11104 with the amendments.

13. ZONING: (C9-11-11) COUSTON – SPEEDWAY BOULEVARD, R-2 TO O-2, ORDINANCE ADOPTION

Mayor Rothschild announced City Manager's communication number 322, dated August 6, 2013, was received into and made part of the record. He asked the City Clerk to read Ordinance 11099 by number and title only.

Ordinance No. 11099 relating to Zoning: amending zoning district boundaries in the area located at the southwest corner of West Speedway Boulevard and North 10th Avenue in Case C9-11-11 Couston – Speedway Boulevard, R-2 to O-2; and setting an effective date.

Roger Randolph, City Clerk, said a three-fourths majority vote was necessary to adopt the Ordinance.

It was moved by Vice Mayor Romero, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance 11099.

14. BOARDS, COMMITTEES, AND COMMISSIONS: EXTENDING THE SUNSET DATE OF THE ECONOMIC AND WORKFORCE DEVELOPMENT SELECTION COMMITTEE

Mayor Rothschild announced City Manager's communication number 314, dated August 6, 2013, was received into and made part of the record. He asked the City Clerk to read Resolution 22110 by number and title only.

Resolution No. 22110 relating to Boards and Commissions; amending Resolution No. 21605 (adopted August 4, 2010, and previously amended by Resolutions Nos. 21802 (September 20, 2011) and 21937 (August 7, 2012)) to extend the Economic and Workforce Development Selection Committee's term to September 1, 2014; and declaring an emergency.

It was moved by Council Member Kozachik, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Resolution 22110.

15. AGREEMENT: THIRD RENEWAL WITH THE DOWNTOWN TUCSON PARTNERSHIP BUSINESS IMPROVEMENT DISTRICT FOR ENHANCED SERVICES

Mayor Rothschild announced City Manager's communication number 321, dated August 6, 2013, was received into and made part of the record. He asked the City Clerk to read Resolution 22111 by number and title only.

Resolution No. 22111 relating to the Downtown Tucson Enhanced Services Agreement; authorizing and approving the renewal of the Downtown Tucson Enhanced Services Agreement No. Three between the Downtown Tucson Partnership Business Improvement District and the City of Tucson; and declaring an emergency.

It was moved by Council Member Uhlich, duly seconded, to pass and adopt Resolution 22111.

Council Member Kozachik said he thought this was a bad business decision and explained why.

Council Member Uhlich said the item sustained a good level of support to achieve continued success in the downtown area.

Resolution 22111 was declared passed and adopted by a roll call vote of 6 to 1, (Council Member Kozachik dissenting).

16. CITY GOVERNMENT: ADOPTING A CODE OF ETHICS FOR CITY ELECTED OFFICIALS, EMPLOYEES, AND MEMBERS OF BOARDS, COMMITTEES, AND COMMISSIONS

Mayor Rothschild announced City Manager's communication number 334, dated August 6, 2013, was received into and made part of the record. He asked the City Clerk to read Ordinance 11102 by number and title only.

Ordinance No. 11102 relating to Ethics and Rules of Conduct; adopting a City of Tucson Code of Ethics; 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 11102.

17. RECONSIDERATION: AMENDING PLAN TUCSON, THE CITY OF TUCSON GENERAL AND SUSTAINABILITY PLAN, TO INCLUDE INFORMATION REQUESTED BY THE ARIZONA ATTORNEY GENERAL

Mayor Rothschild announced City Manager's communication number 336, dated August 6, 2013, was received into and made part of the record. He asked if there was a motion to reconsider the adoption of Resolution 22067.

Michael Rankin, City Attorney, explained the Attorney General requested the *General Plan* be amended. He said statutes require reconsideration of the Resolution so the amendments could be included in the *General Plan* approved by the voters in November. He recommended Mayor and Council accept the additional language and map suggested by the Attorney General and advised the next step was to make a motion to reconsider the prior action and then make a new motion to adopt the *General Plan* with the amendments.

It was moved by Vice Mayor Romero to reconsider Resolution 22067 and to pass and adopt Resolution 22121.

Mr. Rankin advised the motions had to be made separately.

It was moved by Vice Mayor Romero, duly seconded, and passed by a voice vote of 7 to 0, to reconsider Resolution 22067.

It was moved by Vice Mayor Romero, duly seconded, to pass and adopt Resolution 22121.

Council Member Kozachik clarified the item related to new construction only, not remodels of existing structures.

Mayor Rothschild asked the City Clerk to read Resolution 22121 by number and title only.

Resolution No. 22121 relating to Planning and Zoning; amending Resolution No. 22067 adopting "Plan Tucson – City of Tucson General and Sustainability Plan 2013"; amending Plan Tucson to incorporate an additional map and a reference to A.R.S. Section 28-8481; and declaring an emergency.

Resolution 22121 was declared passed and adopted by a roll call vote of 7 to 0.

18. FINANCE: APPROVING THE APPOINTMENT OF SILVIA AMPARANO AS FINANCE DIRECTOR FOR THE CITY OF TUCSON

Mayor Rothschild announced City Manager's communication number 341, dated August 6, 2013, was received into and made part of the record. He asked the City Clerk to read Ordinance 11103 by number and title only.

Ordinance No. 11103 relating to Finance; approving the appointment of Silvia Amparano as Director of the Finance Department and fixing compensation; and declaring an emergency.

It was moved by Council Member Kozachik, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance 11103.

19. MAYOR AND COUNCIL: SELECTION OF VICE MAYOR

Mayor Rothschild announced City Manager's communication number 315, dated August 6, 2013, was received into and made part of the record. He asked the City Clerk to read Resolution 22109 by number and title only.

Resolution No. 22109 relating to the Vice Mayor of the Mayor and Council; selecting a Vice Mayor.

Vice Mayor Romero thanked the City of Tucson and the Mayor for allowing her to serve as the Vice Mayor.

Council Member Cunningham said, though it was his turn in the rotation, he would be more comfortable serving as Vice Mayor next summer.

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 22109, selecting Shirley C. Scott as Vice Mayor.

Council Member Scott thanked Vice Mayor Romero for her service.

20. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Rothschild announced City Manager's communication number 331, dated August 6, 2013, was received into and made part of the record. He asked for a motion to approve the appointment 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 of Aaron Myers to the Metropolitan Education Commission (MEC) in the Libraries/Museums/Arts category.

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

Council Member Fimbres announced his personal appointment of Bernice Vanover to the Pedestrian Advisory Committee (PAC).

21. ADJOURNMENT: 9:07 p.m.

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council would be held on September 10, 2013, 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 6th day of August 2013, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:dd:yl