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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on March 4, 2014.

Date of Meeting: October 22, 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, October 22, 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	Vice Mayor, Council Member Ward 4
Richard G. Fimbres	Council Member Ward 5
Steve Kozachik	Council Member Ward 6
Jonathan Rothschild	Mayor

Absent/Excused:

Regina Romero	Council Member Ward 1
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Staff Members Present:

Richard Miranda	City Manager
Michael Rankin	City Attorney
Suzanne Mesich	Assistant City Clerk

**2. INVOCATION AND PLEDGE OF ALLEGIANCE**

The invocation was given by Pastor Roy Tullgren, Gospel Rescue Mission, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

- a. Mayor Rothschild proclaimed November 16, 2013 as “Family Festival in the Park Day.”

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

Mayor Rothschild announced City Manager’s communication number 403, dated October 22, 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 Scott, Council Members Cunningham and Fimbres. 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 402, dated October 22, 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 406, dated October 22, 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. Market Friendly, Ward 3  
3701 E. Grant Rd.  
Applicant: Abdul Kareem Hakeem  
Series 10, City 62-13  
Action must be taken by: November 1, 2013

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

2. Cafe Francais, Ward 2  
2930 N. Swan Rd. #126  
Applicant: Maurice Jean Cochard  
Series 12, City 63-13  
Action must be taken by: November 1, 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 Transfer(s)

3. Denim & Diamonds, Ward 6  
5470 E. Broadway Blvd.  
Applicant: H.J. Lewkowitz  
Series 6, City 64-13  
Action must be taken by: November 3, 2013

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

4. New Asia Chinese Restaurant, Ward 3  
2116 W. Grant Rd.  
Applicant: Tony Trac Wong  
Series 7, City 65-13  
Action must be taken by: November 3, 2013

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

NOTE: State law provides that for a person to person transfer, Mayor and Council may consider the applicant's capability, qualifications and reliability. (A.R.S. Section 4-203)

c. Special Event(s)

1. YWCA Tucson, Ward 1  
525 N. Bonita Ave.  
Applicant: Eula Liane Hernandex  
City T120-13  
Date of Event: November 7, 2013  
(Fundraiser)

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

2. Sonoran Art Foundation, Inc., Ward 5  
633 W. 18th St.  
Applicant: Nicholas Robert Letson  
City T121-13  
Date of Event: November 2, 2013  
(Annual Fundraiser)

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

3. Saints Peter and Paul Parish, Ward 6  
1436 N Campbell Ave.  
Applicant: Michael Xavier Sanchez  
City T122-13  
Date of Event: November 2, 20113  
(Fundraiser)

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

4. Tucson Celtic Festival Association, Ward 3  
4502 N. 1st Ave.  
Applicant: Erin Renee Haugen  
City T123-13  
Date of Event: November 1, 2013 – November 3, 2013  
(Celtic Festival Fundraiser)

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

5. St Ambrose Catholic School, Ward 6  
300 S. Tucson Blvd.  
Applicant: Sonia Valencia  
City T124-13  
Date of Event: November 8, 2013 – November 10, 2013  
(Fundraiser)

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

6. Bootstraps to Share (BICAS), Ward 1  
127 W. 5th St.  
Applicant: Erik B. Ryberg  
City T130-13  
Date of Event: October 31, 2013  
(Fundraiser)

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

7. Friends of Tucson's Birthplace, Ward 1  
946 W. Mission Lane  
Applicant: Douglas William Biggers  
City T132-13  
Date of Event: November 9, 2013  
(3<sup>rd</sup> Publication Issue of Edible Baja Arizona)

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

8. Tucson Dance Foundation, Ward 3  
1102 W. Grant Rd.  
Applicant: Thomas C. Booth  
City T134-13  
Date of Event: October 24, 2013  
(Fundraiser)

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

d. Agent Change/Acquisition of Control

1. May's Counter, Ward 6  
2945 E. Speedway Blvd.  
Applicant: Lauren Kay Merrett  
Series 12, City AC11-13  
Action must be taken by: November 4, 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 Kozachik, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Romero absent/excused), to forward liquor license applications 5b1-4, 5c1-8 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.”

Mayor Rothschild announced Guadalupe Gallardo would be assisting with anyone in the audience needing Spanish language translation for items listed on the agenda.

Comments were made by:

Angelica Loreto	Mary DeCamp	Terry Higuera
Andy Silverman	Ruth Beeker	Arturo Robles
Keith Van Heyningen	Pernela Jones	Susan Caldwell
Agustin Reyes	Robert Clark	James Jordan
Jonathan Salvatierra	Elga Gutierrez	Erin Cain-Hodge
Kathryn Ferguson	Monica Velasco	Rick Saling
Carol Schurr	Leilani Clark	Rosa Leal

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 H**

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 OCT22-13-401 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of March 27, 2013
3. Mayor and Council Legal Action Report and Summary Minutes of March 27, 2013
4. Mayor and Council Regular Meeting Minutes of April 9, 2013
5. Mayor and Council Legal Action Report and Summary Minutes of April 9, 2013
6. Mayor and Council Regular Meeting Minutes of April 16, 2013
7. Mayor and Council Legal Action Report and Summary Minutes of April 16, 2013

- b. AGREEMENT: APPROVING AN EXTENDED OCCUPANCY AGREEMENT WITH LITERACY CONNECT
  - 1. Report from City Manager OCT22-13-404 CITY WIDE
  - 2. Ordinance No. 11119 relating to Housing and Community Development; authorizing and approving the Extended Occupancy Agreement between the City of Tucson and Literacy Connects for the residential duplex at the Qunicie Douglas Library Annex at 943 and 945 East 35th Street; and declaring an emergency.
  
- c. EASEMENT AGREEMENT: WITH THE ARIZONA BOARD OF REGENTS AND CARONDELET HEALTH NETWORK FOR ACCESS RIGHTS TO CONSTRUCT A FLOODWALL
  - 1. Report from City Manager OCT22-13-409 WARD 1
  - 2. Resolution No. 22149 relating to Planning and Development; authorizing the City Manager to enter into an Easement Agreement with Arizona Boards of Regents, on behalf of the University of Arizona (“University”), and Carondelet Health Network (“Carondelet”) to acquire an easement to allow the City of Tucson access rights for a third party to construct a floodwall to revise the FEMA Flood Insurance Rate Maps; and declaring an emergency.

(This item was continued to a later date at the request of Michael Rankin, City Attorney.)
  
- d. REAL PROPERTY: SALE OF SURPLUS CITY PROPERTY LOCATED AT 527 W. SIMPSON STREET
  - 1. Report from City Manager OCT22-13-410 WARD 6
  - 2. Ordinance No. 11121 relating to Real Property; declaring the City-owned property located at 527 West Simpson Street to be surplus; authorizing and approving the sale thereof to the Handlers of Tucson, Inc.; and declaring an emergency.
  
- e. REAL PROPERTY: SALE OF SURPLUS CITY PROPERTY LOCATED AT 633 W. 18TH STREET
  - 1. Report from City Manager OCT22-13-411 WARD 1
  - 2. Ordinance No. 11122 relating to Real Property; declaring the City-owned property located at 633 West 18th Street to be surplus; authorizing and approving the sale thereof to the Sonoran Art Foundation, Inc.; and declaring an emergency.

- f. REAL PROPERTY: SECOND AMENDMENT TO THE LEASE AGREEMENT WITH CAFE POCA COSA FOR PROPERTY LOCATED AT 120 E. PENNINGTON STREET
  - 1. Report from City Manager OCT22-13-408 WARD 6
  - 2. Ordinance No. 11120 relating to Real Property; authorizing and approving the Second Amendment to lease with Cafe Poca Cosa, for Real Property located at 120 East Pennington Street, Tucson, Arizona; and declaring an emergency.
  
- g. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR USE, MAINTENANCE, AND SUPPORT OF THE CITY NETWORK FOR THE PIMA COUNTY WIRELESS INTEGRATED NETWORK
  - 1. Report from City Manager OCT22-13-414 CITY WIDE
  - 2. Resolution No. 22151 relating to Intergovernmental Agreements; approving and authorizing the execution of an Intergovernmental Agreement between the City of Tucson and Pima County regarding ongoing use, maintenance, and support of the City Network in furtherance of Pima County Wireless Integrated Network (“PCWIN”); and declaring an emergency.
  
- h. INTERGOVERNMENTAL AGREEMENT: ADMENDMENT 2 TO ADDENDUM 1 TO AGREEMENT WITH THE TOWN OF ORO VALLEY RELATING TO EFFLUENT AND RECLAIMED WATER
  - 1. Report from City Manager OCT22-13-405 OUTSIDE CITY
  - 2. Resolution No. 22147 relating to Water; authorizing and approving the execution of Amendment Number 2 to Addendum 1 to the Intergovernmental Agreements between the City of Tucson and the Town of Oro Valley relating to effluent and reclaimed water; and declaring an emergency.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Romero absent/excused), that Consent Agenda Items a – h, with the exception of item c which was continued, be passed and adopted and the proper action taken.

**8. REAL PROPERTY: APPROVING A GOVERNMENT PROPERTY LEASE EXCISE TAX LEASE AGREEMENT WITH OT ALEGRIA, LLC FOR PORTIONS OF THE CADENCE AND PLAZA CENTRO RETAIL PROJECT**

Mayor Rothschild announced City Manager's communication number 407, dated October 22, 2013, was received into and made part of the record. He asked the City Clerk to read Resolution 22148 by number and title only.

Resolution No. 22148 relating to Development and Real Property; authorizing and approving the Government Property Lease Excise Tax ("GPLET") Lease Agreement between the City of Tucson and OT Alegria, LLC; and declaring an emergency.

Council Member Kozachik expressed concern on the issue of making sure the City did not lose the GPLET qualifications based on some of the changes that could occur over the course of the project. He questioned three different areas. The agreement stated the landlord abated the tenant's obligation. The landlord agreed to any additional action requested by the tenant which the tenant deemed reasonable and necessary to qualify for the GPLET. He asked whether the broad language would cause the City, as the landlord, to concede their voice with respect to whether or not the additional action the tenant would deem necessary was reasonable.

Michael Rankin, City Attorney, said the City would not be abdicating their voice. Due to the totality of the agreement and through the imposition as a matter of law the requirements of the statute, the tenant was not going to qualify for GPLET if for some reason there was a change in use. That type of change would change the financial analysis which required the benefit to the public exceeded the benefit to the private entity. He said the language did not compromise either the direction from the Mayor and Council or the requirements under the statute.

Council Member Kozachik stated he had similar concerns in two other sections: 1) alterations or 2) easements, dedications and other matters. He asked if any alterations or changes in the project itself would disqualify it as a GPLET, or if they would have to come back to Mayor and Council for approval of the changes.

Mr. Rankin responded they would not have to come back to Mayor and Council for an alteration in construction, but if it were an alteration to change the use, which is the basis for qualifying for the GPLET benefit, they would have to return to Mayor and Council with a new agreement. The new agreement would be subject to all thresholds the initial agreement was subject to, including the financial analysis.

Council Member Fimbres asked if this was the third and final step in the GPLET process for this particular development proposal.

Mr. Rankin responded that this was the third and final step of the GPLET process.

Council Member Fimbres asked when this proposal would go into effect.

Mr. Rankin stated the proposal would go into effect upon approval by Mayor and Council. The benefits of the GPLET would start upon Certificate of Occupancy.

Council Member Fimbres asked it be explained to Mayor and Council the potential incentives, and how this does not violate either the gift clause or City North case ruling.

Mr. Rankin explained these incentives went through a process of reviews including comprehensive financial analysis to ensure the public benefit of the project met or exceeded the private benefit from the value of the incentive. He stated that was the fundamental test of the gift clause.

It was moved by Council Member Kozachik, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Romero absent/excused), to pass and adopt Resolution 22148.

**9. ECONOMIC DEVELOPMENT: APPROVAL OF MODIFICATIONS TO THE PRIMARY JOBS INCENTIVE PROGRAM**

Mayor Rothschild announced City Manager's communication number 413, dated October 22, 2013, was received into and made part of the record. He asked the City Clerk to read Resolution 22150 by number and title only

Resolution No. 22150 relating to Economic Development; approving adoption of modifications to the application and review process for economic development incentives, specifically the Primary Job Incentive Program; and declaring an emergency.

Council Member Uhlich asked if this was an amendment to the guidelines and policy, but did not award any particular project incentives and whether that would be through a separate individual application process.

Michael Rankin, City Attorney, said that was correct. He clarified the revision of the criteria to the job incentive program. He explained the revision to the criteria to the Mayor and Council consideration.

It was moved by Council Member Uhlich, duly seconded, and carried by a roll call vote of 6 to 0 (Council Member Romero absent/excused), to pass and adopt Resolution 22150.

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

Mayor Rothschild announced City Manager's communication number 412, dated October 22, 2013, was received into and made part of the record.

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

There were none.

**11. ADJOURNMENT:** 7:04 p.m.

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council would be held on Wednesday, November 6, 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 22<sup>nd</sup> day of October 2013, and do hereby certify that it is an accurate transcription.

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DEPUTY CITY CLERK

RWR:sf:dp