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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on April 21, 2015.

Date of Meeting: September 9, 2014

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, September 9, 2014, all members having been notified of the time and place thereof.

### 1. ROLL CALL

The meeting was called to order by Mayor Rothschild and upon roll call, those present and absent were:

Present:

Regina Romero	Council Member Ward 1
Paul Cunningham	Vice Mayor, 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:

None

Staff Members Present:

Martha Durkin	City Manager
Michael Rankin	City Attorney
Roger W. Randolph	City Clerk

**2. INVOCATION AND PLEDGE OF ALLEGIANCE**

The invocation was given by Monsignor Thomas Cahalane, Our Mother of Sorrows Parrish, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

- a. Mayor Rothschild proclaimed September as “National Preparedness Month”. Gwen Corner, World Care, accepted the proclamation.
- b. Mayor Rothschild, assisted by Council Member Romero, presented Certificates of Appreciation to Inovus Solar and members of the Tumamoc Hill Solar Lighting Project. Certificates were accepted by Jessie Soto, City of Tucson Transportation Department; Michael Keith, Downtown Tucson Partnership; Chris Sigurdson, University of Arizona; Dale Curtis, Inovus Solar and TL McCarthy, Pace Electrical.

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

Mayor Rothschild announced City Manager’s communication number 274, dated September 9, 2014, 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 Cunningham, Council Members Romero, 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 275, dated September 9, 2014, 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 provided by Martha Durkin, 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 283, dated September 9, 2014, 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. QuikTrip #1464, Ward 3  
3200 N. Oracle Rd.  
Applicant: Troy Charles DeVos  
Series 10, City 82-13  
Action must be taken by: January 4, 2014  
  
Staff has indicated the applicant is in compliance with city requirements.
2. Barrio Cuisine, Ward 6  
186 & 188 E. Broadway Blvd.  
Applicant: Kevin Arnold Kramber  
Series 12, City 51-14  
Action must be taken by: August 21, 2014  
  
Staff has indicated the applicant is in compliance with city requirements.  
  
Public Opinion: Written Arguments in Opposition/Support Filed  
  
This item was considered separately.
3. Food for Ascension Cafe, Ward 6  
330 E. 7th St.  
Applicant: Catherine J. Lilly  
Series 7, City 53-14  
Action must be taken by: August 18, 2014  
  
Staff has indicated the applicant is in compliance with city requirements.
4. Sheraton Tucson Hotel & Suites, Ward 2  
5151 E. Grant Rd.  
Applicant: Margarita Aguirre Robidoux  
Series 11, City 57-14  
Action must be taken by: September 7, 2014  
  
Staff has indicated the applicant is in compliance with city requirements.
5. Wal-Mart Supercenter #3884, Ward 6  
3435 E. Broadway Blvd.  
Applicant: Clare Hollie Abel  
Series 10, City 58-14  
Action must be taken by: September 11, 2014  
  
Staff has indicated the applicant is in compliance with city requirements.  
  
Public Opinion: Written Arguments in Opposition/Support Filed

6. Poco & Moms II, Ward 2  
7000 E. Tanque Verde Rd. #4 & #34  
Applicant: Thomas Robert Aguilera  
Series 12, City 59-14  
Action must be taken by: September 19, 2014

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

7. Street Taco and Beer, Ward 1  
58 W. Congress St.  
Applicant: Dagoberto Martinez  
Series 12, City 60-14  
Action must be taken by: September 11, 2014

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)

8. Szechuan Omei Restaurant, Ward 6  
2601 E. Speedway Blvd.  
Applicant: Ricky Lau  
Series 7, City 54-14  
Action must be taken by: August 23, 2014

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)

Person/Location Transfer(s)

9. The Screening Room, Ward 6  
127 E. Congress St.  
Applicant: Kent David Edwards  
Series 7, City 56-14  
Action must be taken by: August 24, 2014

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

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. Tucson Museum of Art, Ward 1  
140 N. Main Ave.  
Applicant: Graham Michael Thompson  
City T79-14  
Date of Event: October 17, 2014  
(Art Opening Reception)

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

2. Tucson Museum of Art, Ward 1  
140 N. Main Ave.  
Applicant: Graham Michael Thompson  
City T80-14  
Date of Event: October 30, 2014  
(Halloween Festival)

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

3. Our Mother of Sorrows Church, Ward 2  
1800 S. Kolb Rd.  
Applicant: Argelia Saavedra  
City T81-14  
Date of Event: October 10, 2014 - October 12, 2014  
(Annual Parish Fiesta)

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 T82-14  
Date of Event: October 31, 2014 - November 2, 2014  
(Scottish Cultural Festival)

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

5. Arizona Craft Brewers Guild, Ward 5  
2500 E. Ajo Way  
Applicant: Rob James Fullmer  
City T87-14  
Date of Event: October 18, 2014  
(Support and create awareness of Craft Brewers in Southern Arizona)

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

6. Tucson Botanical Gardens, Ward 6  
2150 N. Alvernon Way  
Applicant: Mary A. Confrey  
City T88-14  
Date of Event: October 12, 2014  
(2014 Butterfly Affaire)

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

7. Tucson Botanical Gardens, Ward 6  
2150 N. Alvernon Way  
Applicant: Mary A. Confrey  
City T89-14  
Date of Event: October 17, 2014  
(Fundraiser-Fashion Show)

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

8. Tucson Botanical Gardens, Ward 6  
2150 N. Alvernon Way  
Applicant: Mary A. Confrey  
City T90-14  
Date of Event: October 25, 2014  
(Celebrate Dia de los Muertos)

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

9. Sr. Jose Women's Shelter, Ward 2  
1800 S. Kolb Rd.  
Applicant: Jean Fedigan  
City T93-14  
Date of Event: September 27, 2014  
(Fundraiser)

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

10. St. Demetrios Greek Orthodox Church, Ward 3  
1145 E. Fort Lowell Rd.  
Applicant: Carol G. Cantos  
City T95-14  
Date of Event: October 25, 2014  
(St. Demetrios Nameday Celebration)

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

11. Tucson Breakfast Lions Club, Ward 5  
4823 S. 6th Ave.  
Applicant: Wayne Francis Locke  
City T96-14  
Date of Event: October 3, 2014 - October 4, 2014  
(Monster Trucks Event)

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

12. World Care, Ward 5  
4823 S. 6th Ave.  
Applicant: Gwendolyn Lee Corner  
City T102-14  
Date of Event: September 21, 2014  
(Music Festival)

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

13. Museum of Contemporary Art, Ward 6  
265 S. Church Ave.  
Applicant: Dan S. Martin  
City T103-14  
Date of Event: September 27, 2014  
(Art Opening/Exhibition)

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

14. Pima Council on Aging Foundation, Ward 6  
17 E. Toole Ave.  
Applicant: Kimberley A. Hoidal  
City T104-14  
Date of Event: October 4, 2014  
(Art Auction)

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

15. Orthodox Christian Church of the Holy Resurrection, Ward 6  
5910 E. 5th St.  
Applicant: Loren Wayne Makus  
City T105-14  
Date of Event: October 25, 2014 - October 26, 2014  
(Fundraiser)

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

16. Tucson Firefighters Benevolent Association, Inc., Ward 6  
900 S. Randolph Way  
Applicant: Roger Sloan Tamietti  
City T107-14  
Date of Event: October 25, 2014  
(Chili Cook-Off)

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

17. St. Patricks Day Parade of Tucson, Inc., Ward 6  
814 E. University Blvd.  
Applicant: Gregory Patrick Landers  
City T110-14  
Date of Event: September 26, 2014  
(Fundraiser)

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

18. El Rio Foundation, Ward 1  
450 W. Paseo Redondo  
Applicant: Brenda Goldsmith  
City T111-14  
Date of Event: September 27, 2014  
(Fundraiser)

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

19. St. Augustine Cathedral, Ward 6  
192 S. Stone Ave.  
Applicant: Cecilia A. Metz  
City T113-14  
Date of Event: October 4, 2014 - October 5, 2014  
(Fundraiser)

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

20. Warehouse Arts Management Organization, Ward 6  
127 E. Toole Ave.  
Applicant: Marvin Oliver Shaver  
City T114-14  
Date of Event: October 4, 2014  
(Art Exhibit)

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

d. Agent Change/Acquisition of Control

1. Sonora Market, Ward 5  
3050 E. 36th St.  
Applicant: Amani H. Hamad  
Series 9, City AC17-14  
Action must be taken by: August 18, 2014

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 Uhlich, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b1, 5b3 through 5b4, 5b6 through 5b9, 5c1 through 5c20, and 5d1 to the Arizona State Liquor Board with a recommendation for approval.

**5. LIQUOR LICENSE APPLICATIONS**

b. Liquor License Application(s)

New License(s)

2. Barrio Cuisine, Ward 6  
186 & 188 E. Broadway Blvd.  
Applicant: Kevin Arnold Kramber  
Series 12, City 51-14  
Action must be taken by: August 21, 2014

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

Public Opinion: Written Arguments in Opposition/Support Filed

Roger Randolph, City Clerk, announced the first item to be considered separately was Item 5b2, Barrio Cuisine, located in Ward 6.

Council Member Kozachik asked if the person(s) who wrote the letter of opposition were present. He explained that the letter cited noise issues, no restaurant in the courtyard, and parking concerns. He asked how those would be addressed.

Ross Rulney, Property Owner, replied the courtyard behind the business was to remain private to the residents and other tenants, and was not for public use. He stated the proprietor of the restaurant was aware of this and was included in their lease agreement. He also stated their outdoor area that was constructed for the purpose of an outdoor patio

and would be used as such and was located on the southwest corner of 5th Avenue and Broadway Boulevard. He advised, regarding the noise and traffic issues, they would do what they could for a mixed use property.

Council Member Kozachik clarified the letter spoke to concerns regarding businesses in general and not with respect to 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 application 5b2 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. Wal-Mart Supercenter #3884, Ward 6  
3435 E. Broadway Blvd.  
Applicant: Clare Hollie Abel  
Series 10, City 58-14  
Action must be taken by: September 11, 2014

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

Public Opinion: Written Arguments in Opposition/Support Filed

Mayor Rothschild announced the next item to be considered separately was Item 5b5, Wal-Mart Supercenter, located in Ward 6.

Clair Hollie Abel, Applicant, stated the Wal-Mart at the El Con Mall opened without a liquor license and met with the neighborhoods regarding the concerns expressed a year ago when the Wal-Mart had previously applied for a liquor license. She stated they had come to an agreement with the Colonia Solana Neighborhood Association and the El Encanto Neighborhood Association in which the store hours would decrease significantly from the current twenty-four hours, once the liquor license was approved.

Council Member Kozachik confirmed the terms of the agreement where the store hours would be 6:00 a.m. to 11:00 p.m. except on Saturday when they would remain open until midnight, except on holidays, Thanksgiving and Christmas. He also confirmed the agreement stated that Wal-Mart would not file for a Series 9 liquor license for at least two years after the approval of the current application and would not sell guns and ammunition while holding a liquor license.

Ms. Abel responded the store hours would be 6:00 a.m. to midnight beginning on Thanksgiving through December 31.

Council Member Kozachik thanked the Neighborhood Associations involved and Wal-Mart management for coming together with an agreement that served the community.

It was moved by Council Member Kozachik, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license application 5b5 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:

Terry Bennett	Suzanne Schafer	Luis Araiza
Keith Van Heyningen	Anthony Potter	Gerardo Lopez
Les Pierce	Alejandro Valenzuela	

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 N**

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 SEP09-14-278 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of March 18, 2014
3. Mayor and Council Study Session Legal Action Report and Summary Minutes of March 18, 2014

b. FINAL PLAT: (S14-009) SIERRA MORADO UNIT 3, PHASE 2, LOTS 1-12, 20-42, 50-55, 64-66 AND 75-80, AND COMMON AREAS "A" AND "B", A RESUBDIVISION OF "SIERRA MORADO UNIT 3 LOTS 807 THROUGH 871 AND COMMON AREAS "A", "B" AND "C"

1. Report from City Manager SEP09-14-263 WARD 4
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.

c. FINAL PLAT: (S13-038) RILLITO CROSSING MARKETPLACE LOTS 3 THROUGH 6

1. Report from City Manager SEP09-14-271 WARD 3
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.

d. MUTUAL AID AGREEMENT: WITH THE 162ND WING OF THE ARIZONA AIR NATIONAL GUARD FOR EMERGENCY SERVICES

1. Report from City Manager SEP09-14-288 CITY WIDE
2. Resolution No. 22289 relating to the Tucson Fire Department; authorizing and approving an updated agreement between the City of Tucson, acting through the Tucson Fire Department (TFD), and the 162nd Wing of the Arizona Air National Guard (AANG) for mutual aid between the two agencies in providing emergency fire, medical, and specialty hazard services; and declaring an emergency.

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

1. Report from City Manager SEP09-14-270 CITY WIDE
2. Resolution No. 22282 relating to Boards and Commissions; amending Resolution No. 21605 (adopted August 4, 2010, and previously amended by Resolutions Nos. 21802 (September 20, 2011), 21937 (August 7, 2012) and 22110 (August 6, 2013)) to extend the Economic and Workforce Development Selection Committee's term to September 1, 2016; and declaring an emergency.

- f. BUDGET AND INTERNAL AUDIT: APPROVING THE INTERNAL AUDIT PLAN FOR FISCAL YEAR 2015
1. Report from City Manager SEP09-14-284 CITY WIDE
  2. Resolution No. 22287 relating to Budget and Internal Audit; approving the Internal Audit Plan for Fiscal Year 2015; and declaring an emergency.
- g. INTERGOVERNMENTAL AGREEMENT: WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE OPERATION AND MAINTENANCE OF THE TUCSON MODERN STREETCAR PROJECT (CONTINUED FROM THE MEETING OF AUGUST 5, 2014)
1. Report from City Manager SEP09-14-282 WARDS 1 AND 6
- (Staff has requested this item be continued to the meeting of September 23, 2014.)
- h. REAL PROPERTY: SALE OF SURPLUS CITY PROPERTY LOCATED AT 214-244 WEST GRANT ROAD
1. Report from City Manager SEP09-14-276 WARD 3
  2. Ordinance No. 11197 relating to Real Property; declaring property located at 214-244 West Grant Road to be vacant surplus property; authorizing the sale thereof to 744 Euclid LLC; and declaring an emergency.
- (This item was considered separately at the request of Vice Mayor Cunningham.)
- i. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY OF PIMA COUNTY FOR THE HOUGHTON ROAD CORRIDOR PROJECT
1. Report from City Manager SEP09-14-279 WARDS 2 AND 4
  2. Resolution No. 22284 relating to Intergovernmental Agreements (IGA); approving and authorizing the execution of Amendment No. 8 to the IGA between the City of Tucson (City) and the Regional Transportation Authority (RTA) for the Houghton Road Corridor Project; and declaring an emergency.
- (This item was considered separately at the request of Vice Mayor Cunningham.)

j. INTERGOVERNMENTAL AGREEMENT: WITH THE CITY OF PHOENIX FOR STORAGE, RECOVERY & EXCHANGE OF CENTRAL ARIZONA PROJECT WATER

1. Report from City Manager SEP09-14-277 CITY WIDE AND OUTSIDE CITY
2. Resolution No. 22283 relating to Intergovernmental Agreements; approving and authorizing execution of an Intergovernmental Agreement between the City of Phoenix and the City of Tucson for Storage, Recovery, and Exchange of Central Arizona Project Water (CAP); and declaring an emergency.

(This item was considered separately at the request of Vice Mayor Cunningham.)

k. REAL PROPERTY: ACQUISITION OF TWO WATER EASEMENTS FROM THE BUREAU OF LAND MANAGEMENT FOR WATER TRANSMISSION MAINS BETWEEN VALENCIA ROAD AND KINNEY ROAD (CONTINUED FROM THE MEETING OF MAY 20, 2014)

1. Report from City Manager SEP09-14-281 OUTSIDE CITY
2. Resolution No. 22286 relating to Tucson Water; authorizing the City Manager to acquire water easements from the Bureau of Land Management (BLM) for relocation of existing eight-inch transmission mains in the Tucson Water system, within the Arizona Department of Transportation (ADOT) State Route 86 Project Limits between Valencia Road and Kinney Road; and declaring an emergency.

l. REAL PROPERTY: ACQUISITION OF THREE WATER EASEMENTS FROM THE ARIZONA STATE LAND DEPARTMENT FOR WATER TRANSMISSION MAINS BETWEEN VALENCIA ROAD AND KINNEY ROAD (CONTINUED FROM THE MEETING OF MAY 20, 2014)

1. Report from City Manager SEP09-14-280 OUTSIDE CITY
2. Resolution No. 22285 relating to Tucson Water; authorizing the City Manager to acquire water easements for water transmission mains in the Tucson Water system from the Arizona State Land Department (ASLD), with the Arizona Department of Transportation (ADOT) State Route 86 Project Limits between Valencia Road and Kinney Road; and declaring an emergency.

- m. **PARKS AND RECREATION: AUTHORIZING THE EXECUTION OF A COMMUNITY PARTNER PLAYGROUND CONTRACT WITH KABOOM, INC. TO SECURE GRANT FUNDING**
  - 1. Report from City Manager SEP09-14-290 WARD 3
  - 2. Resolution No. 22290 relating to Parks and Recreation; authorizing execution of a Community Partner Playground Contract with KaBOOM, Inc. in order to secure grant funding to build a multi-generational playground at La Madera Park; and declaring an emergency.
  
- n. **FINAL PLAT: 6730 SOUTH TUCSON BOULEVARD, LOTS 1 THROUGH 4**
  - 1. Report from City Manager SEP09-14-291 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.

It was moved by Council Member Scott, duly seconded, and passed by a roll call vote of 7 to 0, that Consent Agenda Items a – n, with the exception of item g, which was continued, and items h – j, which were considered separately, be passed and adopted and the proper action taken.

**7. CONSENT AGENDA – ITEMS H**

- h. **REAL PROPERTY: SALE OF SURPLUS CITY PROPERTY LOCATED AT 214-244 WEST GRANT ROAD**
  - 1. Report from City Manager SEP09-14-276 WARD 3
  - 2. Ordinance No. 11197 relating to Real Property; declaring property located at 214-244 West Grant Road to be vacant surplus property; authorizing the sale thereof to 744 Euclid LLC; and declaring an emergency.

Mayor Rothschild announced the first item to be considered separately was Consent Agenda Item h, at the request of Vice Mayor Cunningham.

Vice Mayor Cunningham asked how much was originally paid for the property.

Albert Elias, Assistant City Manager, responded \$1.9 million was the total acquisition cost for the three parcels.

Vice Mayor Cunningham clarified the City received nine hundred forty thousand dollars for a parcel that cost \$1.9 million plus the cost of improvements.

Mr. Elias replied that the City had taken part of the three parcel property for roadway purposes and the size of the parcels was diminished.

Vice Mayor Cunningham stated he understood the parcels were diminished, but he believed value had been added to the property because of the roadway improvements. He asked when the property was purchased and expressed concern over the City losing \$1 million on the land. He said he thought it was Regional Transportation Authority (RTA) money and not General Fund money, but either way, it was still tax payer money. He asked what other offers the City had received.

Mr. Elias responded the City had received four bids on the property ranging from four hundred twenty-seven thousand dollars to nine hundred forty thousand dollars which was the highest bid.

Vice Mayor Cunningham asked how much it would cost to maintain the property if they decided to wait for a better offer.

Mr. Elias said the City did not have to pay property taxes and he did not know what the maintenance costs associated with the property would be. He stated that by selling the property it would put it back on the tax rolls for the City.

It was moved by Council Member Scott, duly seconded, that Consent Agenda Item h be approved and the proper action taken.

Council Member Kozachik asked if there had been a recent appraisal on the property and if it was the one showing for \$1 million.

Mr. Elias responded affirmatively and stated that a re-evaluation was done by the appraiser, who agreed that the nine hundred forty thousand dollars was an appropriate value for the property.

Mayor Rothschild asked how much of the property was severed off for the road improvements.

Mr. Elias replied he did not know the exact square footage but the illustration provided in the Mayor and Council materials showed a significant amount of the parcel was severed because there was a space needed for the indirect left hand turn.

Consent Agenda Item h was declared passed and adopted and the proper action taken by a roll call vote of 6 to 1 (Vice Mayor Cunningham dissenting).

## **7. CONSENT AGENDA – ITEM I**

### **i. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY OF PIMA COUNTY FOR THE HOUGHTON ROAD CORRIDOR PROJECT**

1. Report from City Manager SEP09-14-279 WARDS 2 AND 4

2. Resolution No. 22284 relating to Intergovernmental Agreements (IGA); approving and authorizing the execution of Amendment No. 8 to the IGA between the City of Tucson (City) and the Regional Transportation Authority (RTA) for the Houghton Road Corridor Project; and declaring an emergency.

Mayor Rothschild announced the next item to be considered separately was Consent Agenda Item i, at the request of Vice Mayor Cunningham.

Vice Mayor Cunningham asked staff that, if by approving the Resolution, was there a soft start date they could put on the record with the engineering and the project moving forward.

Daryl Cole, Transportation Department Director, stated approval of the item enters into an agreement to finish the railroad, utility relocations, and purchase of one remaining right-of-away, that would build a separate bridge near 1-10 and Houghton. He said this construction was estimated to begin in June or July of 2016.

Vice Mayor Cunningham clarified he was asking if the 2016 date included engineering and pre-work not the actual construction start date. He asked why the City was seventeen months out on the project.

Mr. Cole answered the engineering was ninety-five percent complete, environmental was complete but there was one parcel right-of-way left to build and permits with the railroad yet to purchase for all of the railroad issues. He also clarified that the construction would not begin sooner because it takes that long to obtain the environmental and railroad permitting.

It was moved by Vice Mayor Cunningham, duly seconded, and passed by a roll call vote of 7 to 0, that Consent Agenda Item i be passed and adopted and the proper action taken.

## **7. CONSENT AGENDA – ITEM J**

- j. INTERGOVERNMENTAL AGREEMENT: WITH THE CITY OF PHOENIX FOR STORAGE, RECOVERY & EXCHANGE OF CENTRAL ARIZONA PROJECT WATER
  1. Report from City Manager SEP09-14-277 CITY WIDE AND OUTSIDE CITY
  2. Resolution No. 22283 relating to Intergovernmental Agreements; approving and authorizing execution of an Intergovernmental Agreement between the City of Phoenix and the City of Tucson for Storage, Recovery, and Exchange of Central Arizona Project Water (CAP); and declaring an emergency.

Mayor Rothschild announced the final item to be considered separately was Consent Agenda Item j, at the request of Vice Mayor Cunningham.

Vice Mayor Cunningham questioned the shortage of the two hundred sixty-one thousand acre feet of water and why the City was obligated to firm anything with the Arizona Water Bank.

Alan Forrest, Water Department Director, responded the Arizona Water Bank stored excess Central Arizona Project (CAP) water for municipal and industrial customers. He said in the Tucson Active Management Area, they projected that the Water Bank would fall two hundred sixty thousand acre feet short of their goal for firming for Tucson Active Management Area. He advised they felt Tucson Water needed to build infrastructure to firm Tucson's supply using the City's allocation. The shortage was not the City and was not shorting on the City's ability to firm water.

Vice Mayor Cunningham stated that it sounded odd to him that they could characterize the City for falling short when really the City was the one doing a better job of banking water than everyone else. He stated he wanted to make sure the community knew that the City was doing a better job storing water and was bailing Phoenix out of this issue.

It was moved by Vice Mayor Cunningham, duly seconded, that Consent Agenda Item j be approved and proper action taken.

Council Member Fimbres asked what the financial benefits were for the City.

Mr. Forrest explained that this was Phase I was a pilot of a projected project that would have a much larger Phase II. He continued with that under the pilot, the revenues the City would receive was a per acre foot charge, from the City of Phoenix, of sixteen dollars per every acre foot stored in the facility under the pilot program. He stated there would be no out-of-pocket cost other than staff time to work through the arrangements and accounting, but that was covered under the sixteen dollar per acre foot charge. He also stated there were no infrastructure costs associated with Phase 1 and the City of Phoenix would cover all of the infrastructure costs as well as operation and maintenance fees for Phase II.

Consent Agenda Item j was declared passed and adopted and the proper action taken by a roll call vote of 7 to 0.

**8. PUBLIC HEARING: AMENDING TUCSON CODE (CHAPTER 19) RELATING TO BUSINESS PRIVILEGE TAX AND OCCUPATIONAL LICENSE FEES**

Mayor Rothschild announced City Manager's communication number 287, dated September 9, 2014, 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 City Code and the Model City Tax Code.

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

Sheldon A. Fishman, Certified Public Financial Planner, and member of the Small, Minority, and Women-Owned Business Commission (SMWBC) stated he worked as the sub-committee chair who worked on the issue of the City's sales tax collection fee and offered himself as a resource on the issue.

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 11198 by number and title only.

Ordinance No. 11198 relating to the Business Privilege Tax and the Occupational License Fees; amending Tucson Code (TC) sections 19-39 and 310; repealing TC regulation section 19-310-1; amending business license fees; and setting an effective date.

Council Member Uhlich asked about any conflict between staff's recommendation and the Commission's recommendation.

Silvia Amparano, Finance Department Director, stated the recommendation from the SMWBC was to set the rate at ten dollars annually until a review of the item eighteen months later to go over whether the cost for the new program would be covered by that amount. She stated there were many unknown factors which is why staff's recommendation was to proceed with the setting the municipal tax license at twenty dollars and the business license at fifty dollars.

Council Member Uhlich asked if there would be a review at the end of the eighteen month period to assess if costs were recovered.

Ms. Amparano stated the City would be tracking all of the expenditures that were new to the Revenue Division because of this program.

Council Member Uhlich expressed concern over some of the issues arising out of the state system in terms of accuracy and how it was reflected in the City's cash flow and revenue projections. She stated based on this it seemed prudent to go ahead with the twenty dollar fee in order to account for real costs associated with the program.

It was moved by Council Member Uhlich, duly seconded, to pass and adopt Ordinance 11198.

Council Member Kozachik asked if the SMWBC was told the ten dollars would more than cover the costs to administer the program. He asked, as the costs break down, how much was attributed to ramp up versus the long term cost or what percentage went away.

Ms. Amparano responded the amounts that were given to the SMWBC were based on the projected costs for staff time to process multi-jurisdictional audits as well as the City audits they were currently processing, but based on the anticipated unknown costs the estimates were not concrete. He said the majority of the identified cost was current staff cost. She also stated productivity would be decreased with the multi-jurisdictional audits because they took longer to process.

Council Member Kozachik stated he would not support staff's recommendation because the fee was regressive and hit small local businesses more severely than large businesses and the SMWBC did their due diligence and was able to make a recommendation that was half of what staff recommended.

Council Member Fimbres asked what City department would enforce the collection of the municipal tax license fee.

Ms. Amparano responded the municipal tax license fee would be collected by the Arizona Department of Revenue, submitted to the City by the State Treasurer, and the City Finance Department Revenue Division would work with the Department of Revenue to ensure compliance with the fee.

Vice Mayor Cunningham stated he noticed the comparison with eleven other cities that showed Tucson as the fourth highest in the total cost. He said in those same eleven cities, ten of them had a food tax rate and eleven had a residential rental rate, which Tucson did not have. He said he felt this was a wash and was very critical of the message the City sent to the business community by raising the forty-five dollar fee by five dollars and then having to come back and raising it another twenty dollars.

Vice Mayor Cunningham said, compared to eleven other cities who had a food tax and/or residential tax, he believed the twenty dollars was a low rate and agreed with Council Member Kozachik's point that a ten dollar increase could cover it but was also willing to go with the recommendation if there was going to be an amendment. He commended staff on their work and the material brought in, which showed the City preferred a lower tax rate contrary to popular belief.

Council Member Uhlich stated most cities were charging a flat dollar amount versus a percentage of the Transaction Privilege Tax (TPT) tax charged or collected. She asked if it was possible, recognizing the need for a half a million dollars to cover the cost of the new system, if half a percent of the TPT collected or charged sales tax was what was needed. She also asked if that issue had not been contemplated, could it be explored with the SMWBC to see if there was a way to have it reflected more based on revenues generated.

Kelly Gottschalk, Assistant City Manager/Chief Financial Officer, asked if Council Member Uhlich was suggesting that the City just do the analysis and set the rate at that level or was she suggesting a business-by-business basis percentage. She said if that was the case, it could not be done because the State set that rate.

Mayor Rothschild stated he had concerns over the costs to the City in the next year due to the transition to state administration. He said he was going to vote yes but he wanted to ensure there was a review of the system after eighteen months.

Ordinance 11198 was declared passed and adopted by a roll call vote of 6 to 1 (Council Member Kozachik dissenting).

**9. PUBLIC HEARING: DEVELOPMENT (IMPACT) FEES FOR STREETS, PARKS AND RECREATION, POLICE AND FIRE FACILITIES**

Mayor Rothschild announced City Manager's communication number 269, dated September 9, 2014, 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 Development Impact Fees for Streets, Parks and Recreation, Police and Fire facilities.

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 individuals spoke at the public hearing:

Connie McMahan, Metropolitan Pima Alliance, spoke in opposition of the presented impact fees.

David Godlewski, Southern Arizona Home Builders Association, spoke in opposition of the impact fees due to the fees making it difficult for new homebuyers to purchase homes.

Chris Gans, West University Neighborhood Association, spoke in support of the proposed impact fees which benefit infrastructure development improving the quality of life within neighborhoods.

Suzanne Schafer spoke in support of the impact fees to sustain existing infrastructures.

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 staff to give the Mayor and Council and the public a presentation on staff's recommendation and an explanation of what that meant going forward.

Nicole Ewing-Gavin, Office of Integrated Planning (OIP) Director, stated OIP wanted the Mayor and Council to provide direction on the impact fee rates and what those rates should be set at. She said an Impact Fee Ordinance, containing the rate schedule, would be ready for presentation to the Mayor and Council on October 9, 2014. She said in the materials, reference is made as to how staff responded to stakeholder

comments and what changes have been made and how the City's proposed fees compare to other jurisdictions.

Ms. Ewing-Gavin stated staff had a three part recommendation. The first was that the Mayor and Council adopt the rates based on the Infrastructure Improvement Plans (IIP) and if desired, adopt a phase-in period at lower rates until July 1, 2016. She said staff chose this date because it would ensure developers paid the same or lower rate as they had in the past. The impact of the phase-in period would be foregone revenue of approximately \$2 million depending on development activity. She said, OIP felt it was a fair compromise so that rates did not escalate immediately and based on the IIPs, some of the rates must be decreased.

Ms. Ewing-Gaving said the second recommendation was that the Mayor and Council review the impact fee project list each year as part of the budget process to ensure expenditures were benefiting new development and were in compliance with State Statutes. She stated the third recommendation, due to the challenging nature of the impact fee state law, was that the City should explore alternatives to infrastructure funding to replace impact fees including added construction sales tax and additional bonding capacity, both requiring voter approval.

Mayor Rothschild summarized that staff's recommendation was for the Mayor and Council to adopt the rates based on the current IIP, adopt a phase-in period going into effect by July 1, 2016, review the impact fee project list with each budget year, and explore alternatives to impact fees which required voter approval. He said his concern was, between now and July 1, 2016, what was the process to ensure the City "got it right".

Ms. Ewing-Gavin replied the review of the project list would make sure that impact fees were being invested in projects that were relevant and benefited new development. She said it did not effect the fee rates. She stated the fees would automatically go to their full rate on July 1, 2016, unless the Mayor and Council remanded the item back for reconsideration and decided to either delay or speed up the date.

Mayor Rothschild asked, if it was sent back for reconsideration, what procedures would be required so that the City had the flexibility to raise rates as appropriate and not have to get to the maximim rate.

Michael Rankin, City Attorney, stated the annual review with the project list was critical to ensure the projects were on track to be completed within the ten years as consistent with the statute. He stated it was also an opportunity to provide the Mayor and Council with the revenues coming in, what revenues were being generated by the fees pursuant to the schedule they had fixed, and the time frames for realizing sufficient revenue for the projects on the list.

Mr. Rankin advised that the recommendation for the Mayor and Council to review the project list allowed for continued monitoring of the overall impact fee program, what the revenues and expenditures were by service area to see where growth was occurring and where the fees were being generated. He said, based on that, if the Mayor and Council adopted a phase-in period, where the IIP base rates were adopted and provided for some period of time which the City was agreeing to collect at a lower rate, allowed for the ability to change the phase-in date if necessary without having to go through the entire IIP process all over again.

Mayor Rothschild confirmed if the projects were building out quicker or slower than anticipated, the date could be moved forward or backward.

Mr. Rankin said this was correct.

Vice Mayor Cunningham stated some of the fee changes were beneficial to the business community but some fee reductions compromised the neighborhoods. He also stated it was too soon to make a decision given that the updated materials were just recently distributed. He stated the Mayor and Council was currently in a situation of cutting retail impact fees and then in a year or two, raising them two thousand dollars. He said he was not sure that was the appropriate direction to go.

Vice Mayor Cunningham stated the cost for single family residences was not decreasing, but increased in four of the five areas. He said there were different types of projects that had different impacts, scopes, and some being beneficial to the neighborhoods.

Ms. Ewing-Gavin said the information presented was already adopted by Mayor and Council on August 5, 2014. She said what she had done was to try and highlight a recommendation of the fees that had already been set as the maximum. The IIP based rates were the ones incorporated in the August 5, 2014, and already approved. She said the phase in rates were the lower of the previous existing fees and the new IIP fees.

Ms. Ewing-Gavin stated the fees were set from the study. The industrial and office fees were decreasing because they had less of an impact on infrastructure and retail was on the rise because the study said they had a greater impact on roads. She said the rates were set based on the study and state law. She stated the Mayor and Council could not raise the IIP based rates but phase-in rates could be decreased where no fees would increase for a developer.

Vice Mayor Cunningham asked what the July 1, 2016, date did for the phase-in rates.

Ms. Ewing-Gavin said the IIP based rates were the highest rates the Mayor and Council could set, which was what was being recommended. She said if the Mayor and Council chose to do a "phase-in" to make it a little easier on development, the phase-in rates were being recommended, which capped the fees where they were previously and

then would go to the full rate on July 1, 2016. She stated the Mayor and Council could choose a different phase-in plan if they wanted.

Mayor Rothschild clarified the Mayor and Council could change the phase-in date at any point in time.

Ms. Ewing-Gavin stated this was correct.

Council Member Romero clarified the new fees would not actually be phased-in, they would be implemented on July 1, 2016.

Ms. Ewing-Gavin answered this was correct.

It was moved by Council Member Uhlich, duly seconded, to approve staff's recommendation to adopt the IIP rates without a phase-in period at the lower rates until July 1, 2016, to provide the Mayor and Council with a review of the impact fee project list annually as part of the budget/CIP process, and to explore alternatives to infrastructure funding that could replace impact fees.

Council Member Uhlich stated staff had done the best they could with the current laws in place although she believed the impact fee system was not the best way to go. She stated she was concerned about the possibility of losing \$2 million if the Mayor and Council delayed adopting the impact fees.

A substitute motion was made by Council Member Scott, duly seconded, to approve the staff's recommendation with a phase-in period.

Council Member Uhlich asked if the statutes changed, what impact would that have on the City's ability to move forward.

Mr. Rankin answered it was difficult to say without knowing what the changes might be. He stated it would be difficult for the legislature to make changes that were retroactive.

Council Member Romero stated she wanted to include a real phase-in process as opposed to an implementation date and suggested adding another step in the process.

Mayor Rothschild clarified the Mayor and Council could only look at the phase-in period during the annual review.

Ms. Ewing-Gavin advised that the phase-in plan was modeled after the Impact Fee Plan originally adopted by the Mayor and Council in 2004.

Council Member Kozachik stated the Plan was adopted with the intent of being punitive to jurisdictions. He asked if the Mayor and Council changed their project list, did they have to subtract projects on a dollar-per-dollar basis.

Mr. Rankin responded that under the statutes, if the Mayor and Council changed their IIP it would have an impact on fees by five percent or more and would need to go through the amendment process and reset the fees accordingly. He said the most likely adjustments to the project list were going to be substitutions of comparable sized projects due to the fees being based off the project list and the project list forecasted revenues in order to fund projects.

Council Member Kozachik asked if the City was locked into a five percent increase without restarting the process.

Mr. Rankin responded that was correct. He also clarified that the Mayor and Council would be approving the fee at a higher right and agreeing to assess it at a lower amount until the phase-in period expired if a phase-in period was chosen.

Council Member Kozachik asked how much would the Mayor and Council need to change the construction sales tax above the current two percent in order to achieve “par” if the impact fee program was “dumped” completely.

Mr. Rankin stated he was not confident in the exact number and needed closer analysis but understood the construction sales tax annual amount in the previous fiscal year was \$17 million, fluctuating similar to impact fee revenues. He said under the prior impact fee program the City collected about \$8 million. He stated using that model, it increased from two to three percent of construction sales tax.

Mr. Rankin said, going forward, the assumption was that the impact fee program would produce a larger revenue because the fees justified by the IIPs were somewhat higher unless the Mayor and Council chose to cap them. He stated it was also because the City was forecasting more construction based on the prior year. He commented that the current two percent construction tax was bringing in about \$15 million a year.

Council Member Kozachik asked if there was dispute with the industry and the Mayor and Council chose to adopt the impact fees, was litigation was an option for the industry and would it stop the process dead in its tracks.

Mr. Rankin responded litigation was always a possibility. He said, if a legal challenge was brought forward, he did not think a court would enjoin or prevent the City from collecting the fees. He advised the courts would ask the City to keep the fees collected separated in the event of needing to refund.

Council Member Kozachik asked if the fees imposed for a Community Facility District (CFD) had to be set high to fully offset the cost of impact fees.

Mr. Rankin responded, if a CFD was set up, the revenues generated within the CFD would be a direct offset against any impact fees and any properties therein would have to pay. He said the same was true for a construction sales tax increment if a Charter change was approved by the voters to lift the two percent cap.

Council Member Kozachik stated his purpose for adopting the Charter change for the construction sales tax was to get rid of the impact fees and not have both.

Mr. Rankin stated he understood it was Council Member Kozachik's intent but also clarified it was a legal requirement in the statutes.

Council Member Kozachik asked if there was an inconsistency between the draft ordinance and the Arizona Revised Statutes regarding the requirement to update the land use assumptions and Infrastructure Improvement Plan (IIP) at least every five years.

Mr. Rankin responded he would check.

Council Member Kozachik stated it was important to know what the change in the construction sales tax would be and if the City's CIP complied with the requirements of the statutes in terms of the data required.

Mr. Rankin responded the City used it as part of the CIP process and to the extent, as part of the process, identified changes in the IIP that should be made and updated in the IIP to incorporate all of the details referenced in the statutes.

Council Member Kozachik stated the public needed to know there were significant administrative burdens the Statute placed on the City which required auditing and an annual review. He said it was intended to have the jurisdiction either comply with the onerous requirements or look for alternatives, which the City should be looking for alternatives.

Vice Mayor Cunningham asked for typical thresholds other municipalities had initiated that triggered new rates and the phase in date.

Ms. Ewing-Gavin responded they looked at some economic projection data and the University of Arizona and others talked about anywhere between 2015-2017 for more recovery. She said typically a developer would not be in the development pipeline which took about eighteen months for a complicated development. She said staff looked at the projections of economic improvement and the length of time a developer would want some certainty about what their fees would be and not go up which was two years from now or eighteen months from when the impact fees were initiated.

Vice Mayor Cunningham stated if the Mayor and Council did not adopt the Plan, time was of the essence, and the City would not collect any fees. He said he was comfortable with the phase-in rates but wanted to be able to put thresholds on the fees that could trigger them for a longer period or perhaps some not at all. He said he agreed with Council Member Kozachik regarding the construction sales tax creating burdens on staff in the City. He asked if amendments were possible after the Mayor and Council adopted the impact fees.

Mr. Rankin responded the Mayor and Council could incorporate language in the ordinance to allow for flexibility.

Vice Mayor Cunningham stated he wanted the City's fees to be competitive with Marana.

Council Member Scott suggested both an impact fee and a construction fee but offer the alternative of either taking advantage of the construction fee or the impact fee depending on which ever was greater.

Council Member Fimbres stated the Charter Review Committee (CRC) was an opportunity to look at alternatives to bring to the voters in 2015 regarding impact fees.

Council Member Romero said she preferred to have language in the ordinance to phase-in the impact fees and was concerned with the State making it so difficult on jurisdictions to implement impact fees without providing additional funding for services that are impacted by the loss. She said in order to compete with Marana, Sahuarita and Oro Valley, the City needed good, healthy infrastructure.

Council Member Romero commented that that idea behind impact fees was to be able to improve infrastructure. She said she wanted to be able to have language added, if a phase-in was approved, that could be reviewed earlier than 2016 to change as they saw fit.

Mayor Rothschild announced a motion and second was on the table.

Council Member Romero asked for clarification if the motion included the added language.

Council Member Uhlich stated it sounded to her that the offer to amend the motion was to direct the City Attorney to include in the ordinance some degree of flexibility with regard to when the implementation date would be.

Council Member Scott, agreed to the amended motion.

The substitute motion, to approve staff's recommendation with the phase-in allowing for additional flexibility with regard to the phase-in date, was carried by a roll call vote of 6 to 1 (Council Member Kozachik dissenting).

Mr. Rankin announced the Charter Review Committee was meeting on September 15, 2014, and have been provided a summary of the provisions of the Charter including sections the Mayor and Council highlighted.

**10. PUBLIC HEARING: TUCSON AIRPORT AUTHORITY 1 ANNEXATION DISTRICT FOR WATER SERVICE**

Mayor Rothschild announced City Manager's communication number 265, dated September 9, 2014, 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 Tucson Airport Authority 1 Annexation District.

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 anyone in the audience wishing 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.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 7 to 0, to proceed with the Tucson Airport Authority 1 Annexation District.

**11. PUBLIC HEARING: TUCSON AIRPORT AUTHORITY 2 ANNEXATION DISTRICT FOR WATER SERVICE**

Mayor Rothschild announced City Manager's communication number 266, dated September 9, 2014, 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 Tucson Airport Authority 2 Annexation District.

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 anyone in the audience wishing 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.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 7 to 0, to proceed with the Tucson Airport Authority 2 Annexation District.

**12. PUBLIC HEARING: AERO PARK ANNEXATION DISTRICT**

Mayor Rothschild announced City Manager's communication number 267, dated September 9, 2014, 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 Aero Park Annexation District.

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 anyone in the audience wishing 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.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 7 to 0, to proceed with the Aero Park Annexation District.

Vice Mayor Cunningham congratulated Council Members Fimbres and Scott for their leadership on the project which created another aerospace sector for the City of Tucson.

Council Member Kozachik asked why the City of Tucson would not automatically annex City-owned property that was adjacent to the City boundaries.

Chris Kaselemis, Economic Initiatives Director, replied the City tries to annex property owned by the City of Tucson which were mostly Tucson Water properties. He advised sometimes it was strategic to wait and annex the City-owned properties with other properties to create a larger annexation district. He also stated they were going through the properties and seeing which properties they would be able to be annex.

Mayor Rothschild stated the City of Tucson annexed critical property to the economic development of the City, which allowed the incentive programs to continue. He complimented staff and the Council in getting the property annexed.

Council Member Romero stated this was important for economic development and job creation in the City of Tucson. The annexations also help the City partner with private partners to obtain federal grants, or the Global Economical Development District which could be used as an additional incentive for any manufacturing logistics, transportation, warehousing etc. She also thanked her colleagues on the Council and the Economic Initiatives staff.

**13. PUBLIC HEARING: AERONAUTICAL ANNEXATION DISTRICT FOR WATER SERVICE**

(NOTE: This item was taken out of order and discussed after Item 14.)

**14. PUBLIC HEARING: AMENDING (CHAPTER 23B) THE UNIFIED DEVELOPMENT CODE RELATING TO MEDICAL MARIJUANA**

Mayor Rothschild announced City Manager's communication number 286, dated September 9, 2014, 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 text amendments to various Unified Development Code regulations related to Medical Marijuana.

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 text amendments to the Unified Development Code:

Jean-Paul Genet	Linda Morales	Tim Sultan
Nicole Pinkerman	Robert Clark	Gordon Hamilton
Kimberly Haslet	Vicky Puchi-Saavedra	

Josefina Cardenas spoke in opposition of the text amendments because of the lack of communication of dispensaries with the neighborhoods.

Misty Lorient spoke in regards to not being able to use medical marijuana in her apartment due to her lease.

Michael Rankin, City Attorney, stated a restriction in a lease was not reflective of City policy or requirement . He said he provided information to the Ward 1 office to be passed on to the speaker with regards to the relevant portion of the Medical Marijuana Act.

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 11199 Option A and Option B by number and title only.

Option A

Ordinance No. 11199 relating to Planning and Zoning; amending certain portions of the Unified Development Code, Chapter 23B, Article 4, Zones; Section 4.9, Use Specific Standards, Subsection 4.9.9, Retail Trade Group; Article 7, Development Standards, Section 7.4, Motor Vehicle and Bicycle Parking, Subsections 7.4.4, required number of motor vehicle parking spaces; Use Table 7.4.4-1 and 7.4.8, required number of bicycle parking spaces, Use Table 7.4.8-1, declaring a sunset date; and declaring an emergency.

## Option B

Ordinance No. 11199 relating to Planning and Zoning; amending certain portions of the Unified Development Code, Chapter 23B, Article 4, Zones; Section 4.8, Use Tables, Subsection 4.8.6, Permitted Uses: Commercial and Mixed Use Zones, Table 4.8-4; Section 4.9, Use Specific Standards, Subsection 4.9.9, Retail Trade Use Group, Article 7, Development Standards, Section 7.4, Motor Vehicle and Bicycle Parking, Subsections 7.4.4, required number of motor vehicle parking spaces; Use Table 7.4.4-1 and 7.4.8, required number of bicycle parking spaces, Use Table 7.4.8-1, declaring a sunset date; and declaring an emergency.

Vice Mayor Cunningham stated there had been a change in the national perception of the way marijuana was being used and its medicinal value. He also said he thought it was unacceptable that patients in Tucson were getting their medical marijuana in Phoenix when it could be grown in Tucson.

Council Member Fimbres stated a lot of effort had been put into the proposal for the text amendments to the Unified Development Code (UDC). He thanked the Mayor and Council and the business community, and the City staff for their work on the proposal.

It was moved by Council Member Fimbres, duly seconded, to pass and adopt Ordinance No. 11199 Option A.

Council Member Romero gave a brief history about how Proposition 203 was approved by the voters in November 2010. She recapped the process the city went through to update the UDC to allow for medical marijuana dispensaries and the benefits for the City. She said she believed the new industrial zoning would produce high wage jobs for Tucsonans. She also stated that the recommendations were appropriate, vetted by the Planning Commission and believed it was a progressive step for Tucson.

Council Member Kozachik asked if the Mayor and Council should be concerned with the size limit exceeding 10,000 square feet and if Phoenix had cultivation sites exceeding 20,000 square feet.

Mr. Rankin responded the administrative enforcement policies of the Federal Administration changed over time. He stated position statements from the U.S. Attorney's Office have indicated they would not prioritize enforcement of federal law with respect to marijuana cultivation and sales, they reserved the right to do so for larger grow facilities and it was something for the industry to be mindful of. He said Phoenix had cultivation sites exceeding 20,000 square feet.

Council Member Kozachik asked what the parking requirements were for the cultivations sites.

Jim Mazzocco, Planning and Development Services Department, Planning Administrator, responded staff used typical warehouse standards assuming there was not a lot of traffic to and from the facility.

Ernie Duarte, Planning and Development Services Department Director, said the requirement was one parking space per 300 square feet, which was typical for warehouse industrial use.

Council Member Kozachik wanted clarification that a 10,000 square foot area would require 30 parking spaces.

Mr. Duarte apologized stating the information he just relayed was for a dispensary. He stated that for cultivation sites, it was one space per 40,000 square feet of gross floor area. He said the minimum requirement was two spaces and the maximum was ten spaces.

Council Member Kozachik asked if it was true that there were some anomalies built in as a result of dispensaries being a land use of its own and did not involve retail uses. He asked if there were issues with respect to landscaping, setbacks, etc., and how were those being addressed in the ordinance. He wanted to know if those issues in C-1 or C-2 zonings would be sent back to the Planning Commission for discussion.

Mr. Duarte responded most dispensaries utilized existing buildings and facilities and did not have to deal with additional parking/landscaping requirements. He said in the event of a new dispensary it would be subject to the typical setbacks.

Council Member Kozachik asked about I-1 and I-2 zoning.

Mr. Duarte responded it would be subject to the same development regulations as an I-1 and I-2 zones.

Council Member Kozachik stated the current Ordinance had requirements for the size of the storage and waiting areas. He said he wanted to get out of the business of stipulating to a builder what their tenant improvements and floor plan should look like. He asked if that was required by State law.

Mr. Rankin responded there were certain distinctions with respect to having a waiting and storage area but did not know about the specific size limitations.

Council Member Kozachik reiterated that staff's recommendation was for a couple of text amendments to put a cap on the number of city-wide permissible dispensaries and to increase the permitted size of off-site cultivation, C-2 and C-3. He asked that was part of the motion.

Council Member Kozachik made a friendly amendment to the motion to include directing the Planning Commission to initiate the process of the text amendments to

include a cap on the amount of City wide permissible dispensaries, increase the permitted size of offsite cultivation site of C-2 and C-3 zones, and firm up the language with respect to the conditions surrounding retail uses in C-1, C-2, I-1 and I-2 zones.

Vice Mayor Cunningham asked whether Mr. Kozachik's motion could be a separate motion or if it needed to be included with Mr. Fimbres' motion.

Mr. Rankin responded it could be a separate motion if the Mayor and Council preferred it.

Council Member Fimbres stated he preferred a separate motion for Mr. Kozachik's direction.

Ordinance 11199, Option A, was passed and adopted by a voice vote of 7 to 0.

It was moved by Council Member Kozachik, duly seconded, to send back to the Planning Commission the proposed text amendments to include a cap on the amount of City wide permissible dispensaries, increase the permitted size of offsite cultivation sites in C-2 and C-3 zones, and firm up the language that pertains to the retail land use conditions in C-1, C-2, I-1 and I-2 zones.

Council Member Romero asked what the staff's recommendations were based on regarding placing a cap on the number of City-wide permissible dispensaries and increasing the permitted size of off-site cultivation.

Mr. Duarte responded that capping the number of dispensaries was an issue brought up during the August 5, 2014, Study Session where staff brought forward the additional recommendations the Planning Commission suggested. He stated the Mayor and Council indicated a concern about the number of dispensaries and possibly capping those in the City to match the State regulations. He said because those discussions were not appropriately noticed, they could not be included in the evening's discussion.

Mr. Duarte said on the issue of C-2 and C-3, removing the square footage limitations on cultivation sites, there may be an anomaly in the Ordinance where there could be unlimited square footage of potential cultivation sites in I-1 and I-2 not C-2 or C-3. He said staff could go back and review the possibility of removing the square limitation in C-2 and C-3 by remanding it back to the Planning Commission for discussion and public hearing.

Council Member Kozachik asked if the maximum number parking spaces could be changed if a cultivation site required less than ten.

Mr. Duarte responded it was subject to a variance.

The motion to send back to the Planning Commission the proposed text amendments to include a cap on the amount of City wide permissible dispensaries, increase the permitted size of offsite cultivation sites in C-2 and C-3 zones, and firm up the language that pertains to the retail land use conditions in C-1, C-2, I-1 and I-2 zones was declared passed by a roll call vote of 7 to 0.

**13. PUBLIC HEARING: AERONAUTICAL ANNEXATION DISTRICT FOR WATER SERVICE**

(NOTE: This item was taken out of order.)

Mayor Rothschild announced City Manager's communication number 268, dated September 9, 2014, 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 Aeronautical Annexation District.

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

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, duly seconded, and carried by a voice vote of 7 to 0, to proceed with the Aeronautical Annexation District.

**15. PUBLIC HEARING: ZONING (C9-09-11) SLILATY - FORT LOWELL ROAD, R-2 AND R-3 TO O-3, FIVE-YEAR TIME EXTENSION**

Mayor Rothschild announced City Manager's communication number 272, dated September 9, 2014, 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 request for a five-year extension for the completion of rezoning conditions for the property located on the south side of Fort Lowell Road, east of Alvernon Way. He said staff recommend approval of the request subject to the conditions.

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

Linda Morales, The Planning Center, stated she was agreeable to the proposed requirements.

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 anyone in the audience wishing to speak on the item.

There was no one.

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

It was moved by Council Uhlich, duly seconded, and carried by a voice vote of 7 to 0, to approve the requested five-year time extension and change of conditions as recommended by staff.

**16. ZONING: (C15-14-02) ESTABLISHING ORIGINAL CITY ZONING FOR THE EMPIRE VISTA ANNEXATION DISTRICT, COUNTY CR-3 AND CB-2 TO R-1 AND C-2, CITY MANAGER'S REPORT AND DIRECT ORDINANCE ADOPTION**

Mayor Rothschild announced City Manager's communication number 273, dated September 9, 2014, was received into and made part of the record. He also announced this was a request to establish original City Zoning for property located east of Interstate 10 and south of Valencia Road and Littleton Road. He said the Zoning Examiner and staff recommend authorization of the rezoning, the extension of the water course, Amenities, Safety and Habitat Ordinance for Julian Wash and Airport Environs Zone with the annexation district.

Mayor Rothschild asked the City Clerk to read Ordinance 11196 by number and title only.

Ordinance No. 11196 relating to Zoning: establishing original City zoning in the area located east of Interstate 10 and south of Valencia Road and Littleton Road in case C15-14-02, Empire Vista Annexation District, County CR-3 and CB-2 to City R-1 and C-2; and setting an effective date.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 7 to 0, to approve the request as recommended by the Zoning Examiner and pass and adopt Ordinance 11196.

**17. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH TLCC TWO, LLC, OWNERS OF THE MOLINO CANYON ESTATES PARCELS, FOR WATER SERVICES**

Mayor Rothschild announced City Manager's communication number 264, dated September 9, 2014, was received into and made part of the record. He asked the City Clerk to read Resolution 22281 by number and title only.

Resolution No. 22281 relating to Pre-Annexation and Development Agreement; authorizing and approving the execution of a Pre-Annexation and Development Agreement between the City of Tucson and TLCC Two, LLC, owners of the Molino Canyon Estates Parcels.

It was moved by Vice Mayor Cunningham, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Resolution 22281.

**18. BOARDS, COMMITTEES AND COMMISSIONS: APPOINTMENT TO THE CIVIL SERVICE COMMISSION**

Mayor Rothschild announced City Manager's communication number 285, dated September 9, 2014, was received into and made part of the record. He asked the City Clerk to read Resolution 22288 by number and title only.

Resolution No. 22288 relating to the Civil Service Commission; appointing Max B. Parks as a Civil Service Commissioner, for a term expiring on March 26, 2019; fixing annual compensation; and declaring an emergency.

It was moved by Vice Mayor Cunningham, duly seconded and passed by a roll call vote of 7 to 0, to pass and adopt Resolution 22288.

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

Mayor Rothschild announced City Manager's communication number 289, dated September 9, 2014, 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 roll call vote of 7 to 0, to approve the appointment(s) of Catherine Schladweiler to the Environmental Services Advisory Committee (ESAC), and the reappointment(s) of Brian Wong to the Citizens' Water Advisory Committee (CWAC), Eric Barrett to the Design Review Board (DRB) and Casey Condit to the Tucson Commission on Gay, Lesbian, Bisexual, and Transgender Issues (GLBT).

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

Vice Mayor Cunningham announced his personal appointment of Shannon McBride-Olson to the Planning Commission.

**20. ADJOURNMENT:** 8:46 p.m.

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, September 23, 2014, 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 9th day of September 2014, and do hereby certify that it is an accurate transcription.

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DEPUTY CITY CLERK

RWR:am:dd