



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on May 19, 2015.

Date of Meeting: November 5, 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 5:32 p.m., on Wednesday, November 5, 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 Pastor Beth Rambikur, First United Methodist, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

- a. Mayor Rothschild recognized Joseph Chitty, Paul Carter, and Pamela Foley of the Paralyzed Veterans of America who participated in the National Veterans Wheelchair Games.
- b. Mayor Rothschild presented a retirement plaque to Fire Code Review Committee member Burt Wright. (Item was not held.)
- c. Mayor Rothschild recognized Lizabeth Feria, Leonardo Vega, and Jaime Fatas for their work with the Translation of the City of Tucson Immigrant Welcoming City website.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Rothschild announced City Manager's communication number 347, dated November 5, 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 Council Members Romero, Uhlich, Scott, Fimbres, Kozachik, and Vice Mayor Cunningham. 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 348, dated November 5, 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 given 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 357, dated November 5, 2014, was received into and made part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. Liquor License Applications

New License(s)

1. Pionic Pizza & Pasta, Ward 3
2643 N. Campbell Ave. #105
Applicant: Thomas Robert Aguilera
Series 12, City 69-14
Action must be taken by: October 5, 2014

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

2. Baja Cafe, Ward 2
7002 E. Broadway Blvd. #A & B
Applicant: Kimberly R. Scanlan
Series 12, City 87-14
Action must be taken by: November 9, 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/Location Transfer(s)

3. Bear Track U, Ward 6
943 E. University Blvd. #101
Applicant: Ricky Lynn Riddle
Series 7, City 86-14
Action must be taken by: November 3, 2014

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

4. Gee's Garden Restaurant, Ward 6
1145 N. Alvernon Way
Applicant: Yiu Hong Lau
Series 7, City 89-14
Action must be taken by: November 15, 2014

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

NOTE: State law provides that for a person and location transfer, Mayor and Council may consider both the applicant's capability, qualifications, reliability and location issues. (A.R.S. Section 4-203; R19-1-102)

c. Special Event(s)

1. Bootstraps to Share of Tucson dba BICAS, Ward 6
33 S. 6th Ave.
Applicant: Matthew Harmon
City T145-14
Date of Event: December 5, 2014 - December 6, 2014
(Fundraiser)

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

2. The University of Arizona, Arizona Athletics, Ward 6
1 National Championship Dr.
Applicant: Lacey P. John
City T148-14
Date of Event: November 28, 2014
(Tailgate)

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

This item was considered separately.

3. Sonoita Vineyards, Ward 6
1030 S. Randolph Way
Applicant: Gordon Dutt
City T152-14
Date of Event: November 21, 2014
(Wine Festival)

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

4. Easter Seals Blake Foundation, Ward 6
119 E. Toole Ave.
Applicant: Carrie R. Durham
City T153-14
Date of Event: December 7, 2014
(Fundraiser)

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

5. Bear Track Bistro Winery, Ward 6
3400 E. Zoo Court
Applicant: Ricky Riddle
City T154-14
Date of Event: November 21, 2014
(Wine Festival)

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

6. El Grupo Youth Cycling, Ward 1
610 N. 9th Ave.
Applicant: Paul W. Durham
City T155-14
Date of Event: November 16, 2014
(Fundraiser)

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

- d. Agent Change/Acquisition of Control

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

It was moved by Council Member Romero, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b1 through 5b4, 5c1, and 5c3 through 5c6 to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

- c. Liquor License Application(s)

Special Event(s):

2. The University of Arizona, Arizona Athletics, Ward 6
1 National Championship Dr.
Applicant: Lacey P. John
City T148-14
Date of Event: November 28, 2014
(Tailgate)

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

Roger W. Randolph, City Clerk, announced the item to be considered separately was Item 5c2, The University of Arizona, Arizona Athletics, at the request of Council Member Kozachik.

Council Member Kozachik recused himself from voting due to a conflict of interest.

It was moved by Council Member Scott, duly seconded, and was carried by a voice vote of 6 to 0 (Council Member Kozachik recused himself, due to conflict of interest), to forward Item 5c2 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:

Cynthia Ayala
Fausto Valencia
Robert Melvin

Tim McCann
Bernice Vanover

Gloria Munoz
Victor Dousten Jr.

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 AND B

Mayor Rothschild announced the reports and recommendations from the City Manager on the Consent Agenda were received into and made part of the record. He asked the City Clerk to read the Consent Agenda.

- a. TUCSON CODE: AMENDING (CHAPTER 1) RELATING TO PRECINCTS WITHIN WARDS
 - 1. Report from City Manager NOV05-14-355 CITY WIDE
 - 2. Ordinance No. 11209 relating to City Wards; amending Tucson Code Section 1-19 so that its listing of the precincts comprising each City ward reflects the most recent consolidation and renumbering of precincts by the Pima County Board of Supervisors in November 2013; and declaring an emergency.

- b. ECONOMIC DEVELOPMENT: NOTICE OF INTENT TO ENTER INTO A RETAIL TAX INCENTIVE DEVELOPMENT AGREEMENT FOR THE MISTER CAR WASH HEADQUARTERS RELOCATION PROJECT
 - 1. Report from City Manager NOV05-14-356 WARD 6

2. Resolution No. 22313 relating to Economic Development; approving a notice of intent to enter into a retail Tax Incentive Development Agreement ("Agreement") with Mister Car Wash for its Headquarters Relocation Project ("Project"); making certain findings with respect to that Agreement; and adopting an Independent Economic Analysis relating to the Agreement.

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

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

7. CONSENT AGENDA – ITEMS B

b. ECONOMIC DEVELOPMENT: NOTICE OF INTENT TO ENTER INTO A RETAIL TAX INCENTIVE DEVELOPMENT AGREEMENT FOR THE MISTER CAR WASH HEADQUARTERS RELOCATION PROJECT

1. Report from City Manager NOV05-14-356 WARD 6
2. Resolution No. 22313 relating to Economic Development; approving a notice of intent to enter into a retail Tax Incentive Development Agreement ("Agreement") with Mister Car Wash for its Headquarters Relocation Project ("Project"); making certain findings with respect to that Agreement; and adopting an Independent Economic Analysis relating to the Agreement.

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

Council Member Uhlich noted that Mister Car Wash had recently been purchased by another company and asked staff to provide assurances that the agreement would be kept regardless of the ownership or leasing status.

Michael Rankin, City Attorney, explained it would be shared in the form of agreements that would be brought before Mayor and Council. The criteria that were the basis for the Government Property Lease Excise Tax (GPLET) and other incentives remain binding upon the party that operates the property.

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

8. ZONING: (C9-12-10) VALENCIA (GALINDO) - 36TH STREET, C-1 TO C-2, ONE-YEAR TIME EXTENSION

Mayor Rothschild announced City Manager's communication number 351, November 5, 2014, was received into and made part of the record. He also announced this was a request for reactivation and a one-year time extension for the completion of the rezoning conditions for the property located at the northwest corner of 36th Street and Campbell Avenue. He said staff recommended denial of the requested reactivation and one-year extension.

Council Member Fimbres stated this was a tough decision because it was a business, but he understood the neighborhood association's concerns with the safety issues they had brought up. He moved to approve the request as presented.

Mayor Rothschild clarified the appropriate motion was to deny the request as was presented.

Council Member Fimbres asked if staff could shed light on this.

Mayor Rothschild asked staff to explain the basis for the denial.

Ernie Duarte, Planning and Development Services Director, stated when a rezoning case has resulted from a zoning violation it had been Council's policy to give the applicant one year to abate those violations. Inspection records have indicated there had been no real effort to deal with the violations that were brought up and were brought up in the Zoning Examiner's public hearing on this matter. He said that was the basis for the recommendation of denial.

Mayor Rothschild asked what were the consequences to the property owner if the requests were denied and how could the property owner go about asking for a rezoning in the future.

Michael Rankin, City Attorney, stated the effect of denying the extension was upon the expiration of the extension. The city would be able to proceed with code enforcement for the zoning violation. Staff would go through the standard code enforcement procedure via a "Notice of Violation" followed by a hearing in court. If the court agreed the use of the property was in violation of the zoning, the court would order to abate all violations including the unauthorized use. Then the property owner would have the ability to pursue rezoning and to appropriately zone the property for the ongoing use.

Vice Mayor Cunningham stated it was a tough decision and that he had been to the Galindo Tire Shop to have his tires fixed. He understood the business had tried to work hard but it seemed they had been given all the opportunities they needed. Therefore, at this point he was going to support Council Member Fimbres' motion.

Council Member Kozachik stated he would also support Council Member Fimbres. He said it was a tough call because they all wanted to support small local businesses, yet they also wanted to support the issue of quality of life within the neighborhoods. Galindo Tire Shop indicated they had just hired someone to do the cleanup which could have happened twelve months ago. He would encourage them to step up to the plate and correct the deficiencies and work with City code enforcement people and respect the people who live in the neighborhood. They had a right to see the tire shop jump on board and deal with the Zoning Examiners suggested conditions.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 7 to 0, to deny the requested reactivation and one-year time extension.

9. ZONING: (C9-13-15) JETTS – 22ND STREET, C-1 AND RX-1 TO C-2, CITY MANAGER'S REPORT

Mayor Rothschild announced City Manager's communication number 350, dated November 5, 2014, was received into and made part of the record. He also announced this was a request to rezone the property located at the northwest corner of 22nd Street and Pantano Road. He said the Zoning Examiner and staff recommend approval subject to certain conditions.

Mayor Rothschild asked if the applicant or representative was present.

David Garcia, Architectural Design Group, stated he was the architect on the project and wanted to note that staff had recommended approval of this project and they have had no written or verbal protest against the project. He also said they had been working with city staff throughout the development and plan process to make all the modifications and hoped to get approval of the rezoning.

Mayor Rothschild asked if the applicant agreed to the proposed requirements.

Mr. Garcia said they were.

It was moved by Vice Mayor Cunningham, duly seconded, and carried by a voice vote of 7 to 0, to authorize the request as recommended by the Zoning Examiner.

10. ZONING: (C9-13-09) GIRL SCOUTS - BROADWAY BOULEVARD, R-1 AND P TO C-1, ORDINANCE ADOPTION

Mayor Rothschild announced City Manager's communication number 349, dated November 5, 2014, was received into and made part of the record. He asked the City Clerk to read Ordinance 11207 by number and title only.

Ordinance No. 11207 relating to Zoning: amending zoning district boundaries in the area located at the southeast corner of Broadway and Columbus Boulevard in case C9-13-09, Girl Scouts - Broadway Boulevard, R-1 and P to C-1; and setting an effective date.

Council Member Kozachik stated he did not believe the applicants could be present tonight, however they have had a lot of good, broad community support for the proposal and they would approve of it.

Vice Mayor Cunningham stated his grandmother, mother and sister, representing three generations of Girl Scouts, snapped the ribbon for that building about twenty five years ago and it was nice to see the Girl Scouts move forward.

It was moved by Council Member Kozachik, duly seconded, and carried by a roll call vote of 7 to 0, to pass and adopt Ordinance 11207.

11. ZONING: (C9-14-07) SENTINEL PEAK RECREATIONAL VEHICLE PARK PLANNED AREA DEVELOPMENT - GRANDE AVENUE, R-2 TO PAD, CITY MANAGER'S REPORT, DIRECT ORDINANCE ADOPTION

Mayor Rothschild announced City Manager's communication number 352, dated November 5, 2014, was received into and made part of the record. He said this was a request to rezone 1.38 acres located on the east side of Grande Avenue, south of St. Mary's Road. He said the Zoning Examiner and staff recommend approval subject to certain conditions and adoption of the ordinance. He asked the City Clerk to read Ordinance 11208 by number and title only.

Ordinance No. 11208 relating to Zoning: amending zoning district boundaries located on the east side of Grande Avenue approximately 400 feet south of St. Mary's Road in case C9-14-07 Sentinel Peak RV Park PAD - Grande Avenue, R-2 to Planning Area Development (PAD) zone; and setting an effective date.

Council Member Romero stated Mr. Todd Spenser from Sentinel Peak RV Park was there and the proposal had been greatly supported by the Menlo Park Neighborhood.

It was moved by Council Member Romero, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance 11208.

12. ZONING: (C15-14-03) ESTABLISHING ORIGINAL CITY ZONING FOR THE GHOST RIVER RANCH ANNEXATION DISTRICT, COUNTY CR-1 TO CITY RX-1, CITY MANAGER'S REPORT AND DIRECT ORDINANCE ADOPTION (CONTINUED FROM THE MEETING OF OCTOBER 21, 2014)

Mayor Rothschild announced City Manager's communication number 354, dated November 5, 2014, was received into and made part of the record with the City Attorney's correction. This was a request to establish original City zoning for the Ghost

River Ranch Annexation District. The district included approximately 17.5 acres located on the west side of Bear Canyon Road north of Tanque Verde Road. The Zoning Examiner and staff recommended approval of RX-1 zoning and extension of the *Major Streets and Route Plan* and *Scenic Corridor Zone* designations on Bear Canyon Road.

Michael Rankin, City Attorney, stated the Mayor and Council communication and the Zoning Examiner's report identified the date of the approval of the annexation ordinance as being April 23, 2013, but it was actually April 23, 2014.

Mayor Rothschild asked the City Clerk to read Ordinance 11205 by number and title only.

Ordinance No. 11205 relating to Zoning: establishing original City zoning in the area located on the west side of Bear Canyon Road approximately 3,000 feet north of Tanque Verde Road in case C15-14-03, Ghost River Ranch Annexation District, County CR-1 to City RX-1; and setting an effective date.

It was moved by Vice Mayor Cunningham, duly seconded, and carried by a roll call vote of 7 to 0, to pass and adopt Ordinance 11205.

13. DEVELOPMENT AND PURCHASE AGREEMENT: APPROVING THE BROADWAY AND FIFTH DEVELOPMENT AGREEMENT WITH 5 NORTH FIFTH, LLC FOR THE DEVELOPMENT OF A HOTEL AND RELATED USES (CONTINUED FROM THE MEETING OF OCTOBER 21, 2014)

Mayor Rothschild announced City Manager's communication number 353, dated November 5, 2014, was received into and made part of the record. He asked the City Clerk to read Resolution 22314 by number and title only.

Resolution No. 22314 relating to Development; authorizing and approving the Broadway and Fifth Development Agreement with 5 North Fifth, LLC for the development of a hotel and related uses; and setting an effective date.

Council Member Kozachik said the title pages stated it was for the development and purchase agreement and asked if it was for the development agreement only.

Mike Rankin, City Attorney, stated that was correct and said when it was presented at a prior meeting there was an associated agreement for property at the Depot Plaza Project. At that time it became clear it was more appropriate for this agreement to proceed on its own. He said Mayor and Council were only approving the development agreement with respect to the Broadway and 5th hotel project.

Council Member Kozachik stated Arizona Avenue needed more discussion regarding the trash issues.

It was moved by Council Member Kozachik, duly seconded, to pass and adopt Resolution 22314

Council Member Uhlich stated she was in support of the project related to the second agreement with the Depot Plaza and she wanted to make sure there was not a benefit to the City in terms of negotiating and resolving all issues, keeping the two coupled. She just wanted some assurance they would be able to proceed and resolve the projects in their entirety.

Mr. Rankin, stated he felt confident that would be the case. He went on to say the reason the projects were coupled was to resolve all outstanding issues and tie up the remaining issues with respect to the Depot Project, but it also became clear that by doing so actually they were compromising their position and needed to separate the Depot Plaza agreement out and negotiate the resolution of those terms based on their own merits rather than have it directly related to this agreement. He said by decoupling the agreements it allowed staff to focus on bringing forth this development agreement using terms that were consistent and true with the terms the Mayor and Council had previously approved after the review of the financial analysis, the inclusion of the Government Property Lease Excise Tax (GPLET), how the construction sales tax and sales tax incentives would apply to this property and including the requirement to satisfy of all the payments and reporting requirements under the HUD 108. These were required contingencies for any of the incentives that were provided under this agreement. Decoupling those two agreements made it clearer and made sure they were remaining true to the prior direction given by the Mayor and Council.

Resolution 22314 was passed and adopted and the proper action taken by a roll call vote of 7 to 0.

14. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Rothschild announced City Manager's communication number 358, dated November 5, 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 Uhlich, duly seconded, and carried by a voice vote of 7 to 0, to approve the appointments of David Wald-Hopkins, Special Qualifications, to the El Presidio Historic Zone Advisory Board (EPHZAB), John-Peter Wihite, to the Tucson Commission on Gay, Lesbian, Bisexual, and Transgender Issues (GLBT) and Henry "Dan" Santa Maria to the Sign Code Advisory and Appeals Board (SCAAB).

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

Council Member Fimbres announced his personal appointments of Tim Bacchus, Cherry Avenue Neighborhood Association and C. J. Battle, Tucson Urban League, to the City Manager Appointment Advisory Committee.

15. ADJOURNMENT: 6:35 p.m.

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, November 18, 2014, at 5:30 p.m., in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 5th day of November 2014, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR: mz:dp