



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on September 24, 2015.

Date of Meeting: January 21, 2015

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:33 p.m., on Wednesday, January 21, 2015, 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	Council Member Ward 2
Karin Uhlich	Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Steve Kozachik	Council Member Ward 6
Jonathan Rothschild	Mayor

Absent/Excused:

Richard G. Fimbres	Vice Mayor, Council Member Ward 5
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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 Rabbi Yehuda Ceitlin, Chabad of Tucson, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

- a. Mayor Rothschild recognized Parks and Recreation staff and members of the community for the KaBOOM! Community-Built Playground project at La Madera Park.
- b. Mayor Rothschild proclaimed January 21, 2015 to be “TucsonSentinel.com Day”. Dylan Smith accepted the proclamation.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Rothschild announced City Manager’s communication number 20, dated January 21, 2015, 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, Cunningham, Uhlich, and Scott. 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 21, dated January 21, 2015, 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 23, dated January 21, 2015, 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)

Note: There are no application(s) for new licenses scheduled for this meeting.

Person/Location Transfer(s)

1. Corbett Brewing Company, Ward 6
417 N. Herbert Ave.
Applicant: Scott James Cummings
Series 6, City 113-14
Action must be taken by: January 22, 2015

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

2. Unplugged, Ward 6
118 E. Congress St.
Applicant: Bessie Josie Lietzau
Series 7, City 115-14
Action must be taken by: February 1, 2015

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. Tucson Girls Chorus, Ward 3
3800 E. River Rd.
Applicant: Marcela Molina
City T175-14
Date of Event: March 15, 2015
(Fundraiser)

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

2. St. Patrick's Day Parade of Tucson, Inc., Ward 6
220 S. 5th Ave.
Applicant: Joan E. Beckim
City T176-14
Date of Event: March 15, 2015
(St. Patrick's Day Festival)

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

3. Santa Cruz Catholic Parish, Ward 5
1220 S. 6th Ave.
Applicant: Rebecca Marie Lujan
City T181-14
Date of Event: May 16, 2015 - May 17, 2015
(60th Annual Fiesta de la Familia)

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

4. Our Lady of Lavang Parish, Ward 5
800 S. Tucson Blvd.
Applicant: Julia Van Le
City T182-14
Date of Event: February 14, 2015 - February 15, 2015
(Vietnamese New Year Festival)

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

d. Agent Change/ Acquisition of Control

1. Viva El Caribe Restaurant & Lounge, Ward 3
1929 E. Grant Rd.
Applicant: Viviana Lopez-Laden
Series 12, City AC35-14
Action must be taken by: January 22, 2015

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 6 to 0 (Vice Mayor Fimbres absent/excused), to forward liquor license applications 5b1 through 5b2, 5c1 through 5c4 and 5d1 to the Arizona State Liquor Board with a recommendation for approval.

6. CALL TO THE AUDIENCE

Mayor Rothschild announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for items scheduled for a public hearing. Speakers were limited to three-minute presentations.

Mayor Rothschild also announced that pursuant to the Arizona Open Meeting Law, individual Council Members may ask the City Manager to review the matter, ask that the matter be placed on a future agenda, or respond to criticism made by speakers. However, the Mayor and Council may not discuss or take legal action on matters raised during “call to the audience.”

Comments were made by:

Valerie Hanna

Anthony Potter

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

7. CONSENT AGENDA – ITEMS A THROUGH H

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

a. APPROVAL OF MINUTES

1. Report from City Manager JAN21-15-22 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of July 8, 2014
3. Mayor and Council Study Session Legal Action Report and Summary Minutes of July 8, 2014

b. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY RELATING TO HOUSING OPPORTUNITIES FOR PEOPLE WITH AIDS

1. Report from City Manager JAN21-15-16 CITY WIDE
2. Resolution No. 22341 relating to Housing and Development; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and Pima County to accept funding for the period of January 1, 2014 through December 31, 2016, under the Housing Opportunities for people with AIDS (HOPWA) Grant; and declaring an emergency.

c. FINAL PLAT: (S14-036) GRANITE HOUSE 9 & 10, LOT 2 OF BLOCK 22

1. Report from City Manager JAN21-15-25 WARD 6
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.

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

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

1. Report from City Manager JAN21-15-17 WARDS 2 AND 4

2. Resolution No. 22342 relating to Intergovernmental Agreements (IGA); approving and authorizing the execution of Amendment No. 9 to the IGA between the City of Tucson (City) and the Regional Transportation Authority of Pima County (RTA) for the Houghton Road Corridor Project; and declaring an emergency.
- e. AGREEMENT: WITH PIMA ASSOCIATION OF GOVERNMENTS FOR A SUMMER YOUTH ART PROGRAM
1. Report from City Manager JAN21-15-18 CITY WIDE
 2. Resolution No. 22343 relating to Transportation; approving and authorizing an Agreement between the City of Tucson (City) and the Pima Association of Governments (PAG) providing funding for a continuing Summer Youth Art Program; and declaring an emergency.
- f. WATER: AUTHORIZING AND APPROVING THE PARTIAL ASSIGNMENT OF A WATER SERVICE SUBCONTRACT AND AN AMENDMENT TO THE SUBCONTRACT WITH THE UNITED STATES SECRETARY OF THE INTERIOR
1. Report from City Manager JAN21-15-19 City Wide and Outside City
 2. Resolution No. 22344 relating to Water; approving and authorizing a partial assignment of Rights and Assumption of Obligations of Central Arizona Project (CAP) Municipal and Industrial Water Service Subcontract between the Flowing Wells Irrigation District (FWID) and the City of Tucson and Amendment Number 1 to the City of Tucson's Subcontract No. 07-XX-30-W084 with the United States Secretary of the Interior and the Central Arizona Conservation District (CACD) to complete the transfer of 19 acre-feet/year of the FWID CAP allocation to the City of Tucson; and declaring an emergency.
- g. ELECTIONS: CALLING THE 2015 PRIMARY AND GENERAL ELECTIONS AS VOTE BY MAIL ELECTIONS
1. Report from City Manager JAN21-15-27 CITY WIDE
 2. Ordinance No. 11236 relating to Elections; pursuant to the provisions of Tucson Charter Chapter IV, Section 1(20) and Chapter XVI, Section 6, Tucson Code Section 12-1.2, and Arizona Revised Statutes Section 16-409, calling the August 25, 2015 City primary election and the November 3, 2015 City general election, and giving notice that these elections, and any special elections occurring on either of those dates, will be conducted as mail ballot elections supplemented by on-site voting location in each Ward; and declaring an emergency.

h. **MAYOR AND COUNCIL: AMENDING THE 2015 MAYOR AND COUNCIL MEETING SCHEDULE**

1. Report from City Manager JAN21-15-30 CITY WIDE
2. Ordinance No. 11237 relating to Administration; amending Section 1 and incorporated Exhibit A of Ordinance 11202 (adopted October 9, 2014), which approved a schedule of Mayor and Council regular meeting dates for 2015, to reschedule the regular meeting date of Tuesday, February 3, 2015 to Wednesday, February 4, 2015; and declaring an emergency.

It was moved by Council Member Scott, duly seconded, and passed by a voice vote of 6 to 0 (Vice Mayor Fimbres absent/excused), that Consent Agenda Items a – h, with the exception of Item c, which was considered separately, be passed and adopted and the proper action taken.

7. CONSENT AGENDA – ITEM C

c. **FINAL PLAT: (S14-036) GRANITE HOUSE 9 & 10, LOT 2 OF BLOCK 22**

1. Report from City Manager JAN21-15-25 WARD 6
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.

Council Member Kozachik requested clarification on what was being approved, given the property had two structures that were already completely framed out.

Ernie Duarte, Planning and Development Services Department (PDSD) Director, clarified the proposal was to split the current lot that was ten thousand square feet so the two structures that were permitted and under construction would each sit on individual lots.

Council Member Kozachik referenced Permits Plus online listed no demolition permits were posted but what was found was that a structure that was a contributing historical structure was demolished to make room for the two structures that were being built. He added there was nothing posted from the Historical Preservation Office. He questioned how staff would answer that and what notice should have preceded the construction and demolition of that historical structure.

Mr. Duarte indicated he was aware a demolition permit was issued but had no explanation as to why it was not showing on Property Research Online (PRO). He included the structure itself did not have historic implications so it did not need to go through the historic review process.

Council Member Kozachik asked what it meant when it said the structure was on a national register historic places contributing. He added that upon reviewing the documents posted online, one of them indicated it was okay to triple expedite. He inquired what that meant.

Mr. Duarte indicated he would follow up on that concern. As far as the triple expedite, he replied they had received a significant number of projects in the month of December where developers/applicants were trying to beat the impact fee effective date so quite a few people paid expedited fees to expedite the reviews.

Council Member Kozachik cited another document, signed by the owner, where the box “not intended for sale or rent within one year after completion” had been checked. He said two doors down to the east, there were identical structures where the same owner had built and posted a picture of what was being framed out and they were rentals. He stated they were two, two thousand square foot four-bedroom, units sandwiched in between a single family residence. He asked how the City was going to enforce the “not intended for sale or rent within a year after completion,” that the owner had signed and checked off on to get an exemption from licensing requirements.

Mr. Duarte stated he believed Council Member Kozachik might have been citing a state register of contractor requirement and did not believe it was a City requirement.

Council Member Kozachik indicated it was posted online that he checked he was not going to rent or sell them. He questioned how the City envisioned the property being occupied. He also stated the plat the Mayor and Council was being asked to approve was already under construction, which was surreal. He stated, in the rentals owned by the same owner two doors down, there was ongoing behavioral issues with the renters and the owner had been completely unwilling to engage on. He said, until the City received some engagement by the owner, what were implications of not approving the plat.

Michael Rankin, City Attorney, responded that under Arizona law, the Mayor and Council’s consideration of approval of a plat was considered a ministerial act and not a discretionary act. He said it was a required act in order for a plat to be approved but if the proposed plat satisfied all code requirements and staff’s report to the Mayor and Council indicated it was in compliance with all applicable code requirements, the only available option was to approve the final plat.

Council Member Kozachik asked if made better sense to approve the plat before the construction was two-thirds done.

Mr. Duarte said the two structures currently under construction did not need the plat to be recorded first.

Council Member Kozachik asked then why were they going through the process and what did the licensing deal posted online indicating the owner was not going to rent or sell the properties in a year, mean. He stated he had walked into one of the structures over the weekend and befriended some of the workers. He asked them what the plans were and was told they wanted to get it done in time for the fall semester so they could be

rented out. Again he asked if any of the documentation online had any meaning in terms of obligating the owner to not sell or rent.

Mr. Rankin responded it was in reference to tax liability and if the owner was to put it for sale or use within the year then he would be liable for the speculative builder tax. He said that information was requested up front to determine whether it was going to be subject to that tax or not and if they did engage in that activity during that time frame, they would be liable for the tax. He said there was not a prohibition from putting the properties for sale or lease.

Council Member Kozachik referenced a similar series of incidents on Country Club where an owner had already demolished a property but there was no demolition permit online. He stated they had gone through this exercise with a prospective vendor to upgrade the Permits Plus and one of the frustrations the residents voiced at the meeting, was that online there was no information there. He said now the information that was there was incomprehensible or unexplainable. He acknowledged that even though it was a ministerial duty he would not make a motion to approve a plat until the owner started to engage in the discussions and the documentation online was accurate and timely.

Council Member Uhlich questioned if this was a precedent setting motion, in the sense that, if there were comparable conditions on other properties in other neighborhoods, that the Mayor and Council were bound to approve. She said she knew there were questions about lot splits, where there was an existing structure that straddled a lot line and a desire to split those lots. She questioned if this was related to that set of conditions.

Mr. Duarte responded this instance was a person's desire to take the two lots that could legally sit on the one lot that was ten thousand square feet lot and have them sit individual lots and still meet all the City's requirements.

Council Member Uhlich requested clarification that it was not considered a lot split for the purpose of erecting additional structures.

Mr. Duarte affirmed that it was not a lot split. He said the only reason it was a plat in front of the Mayor and Council for approval was because it had already exceeded the number of lot splits allowed by Code.

It was moved by Council Member Scott to approve the plat based on the advice of counsel.

Council Member Romero asked if there were specific dates for the item to move forward or was a possibility of delay it.

Mr. Rankin indicated there was no mandated time frame in which to approve a plat. He said if there was going to be a motion to delay consideration of the plat, the appropriate way to characterize it would be to have legitimate questions if the request was in full Code compliance.

Council Member Kozachik questioned if the time delay could be used to compel the owner to engage the surrounding neighborhoods and ward office to address some of the issues they had.

Mr. Rankin reiterated the only consideration in a plat approval was with respect to the Code compliance of the structure itself. He said behavioral issues relating to other uses, other properties were not germane to the conversation.

Council Member Kozachik indicated the fact that the owner was using identical construction documents that were used two doors down had staff checked lot lines and setbacks because the sites were different sizes.

Mr. Duarte replied it was a model plan that could be used in any subdivision provided it fit on the lot. He stated they had checked and it fit on both lots that were being proposed under the plat.

Mayor Rothschild inquired if there had been a misrepresentation in the application, for the relief that the owner was asking for, could that serve as basis for subsequent denial.

Mr. Rankin responded that if the misrepresentation was such that there was actually not Code compliance but represented there was, once the plat was approved the plat would remain approved.

Mayor Rothschild asked, if the plat had already been approved, why then was it being heard by the Mayor and Council that evening. He asked for further clarification.

Mr. Rankin indicated the action requested was for plat approval. He counseled that unless there was a legitimate question of compliance with the Code, then it was a ministerial act of the Mayor and Council and advised that they would be required to approve the plat.

Mayor Rothschild questioned if there was a motion for a 30-day continuance to investigate if there was code compliance or some other issue, could that time be utilized to bring the owner to the table.

Mr. Rankin advised that whatever conversations to address the other property, he wanted to make it clear that the Mayor and Council could not continue the item in consideration of approval for the plat as a mechanism to address another issue. He said it could only be based on whether there were questions with respect to the request that it was not in compliance with Code requirements.

Mayor Rothschild indicated there was a motion and asked for a second. The motion was seconded. He then asked if there was any further discussion.

A substitute motion was made by Council Member Uhlich, duly seconded, to continue the item for thirty days. She said she had questions with regard to the relationship of the request and exceeding the allowable number of lot splits, as well as,

the implications of the density of that. She stated she needed more information. She said she did not have the approval letter from PDSO in her material that outlined the basis upon which they did their evaluation of compliance. She said it seemed that the Mayor and Council should not take action without being fully informed about some of those questions.

Council Member Romero inquired if the substitute motion fell under the necessary reasons to delay.

Mr. Rankin said he believed it did.

The substitute motion to continue Consent Agenda Item c for thirty days was passed by a roll call vote of 5 to 1 (Council Member Scott dissenting and Vice Mayor Fimbres absent/excused).

8. PUBLIC HEARING: AMENDING (CHAPTER 23B) THE UNIFIED DEVELOPMENT CODE EXTENDING THE SUNSET DATE FOR THE INFILL INCENTIVE DISTRICT TERMINATION AND REPEALING THE SUNSET DATE FOR DEVELOPMENT TIMELINES AND EXPIRATION DATES AND FOR THE ZONING COMPLIANCE FOR SITE IMPROVEMENTS

Mayor Rothschild announced City Manager's communication number 28, dated January 21, 2015, 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 extension of the sunset date for the Unified Development Code regarding Infill Incentive District Termination, the repeal of the sunset date for Development Timelines and Expiration Dates and the repeal of the sunset date for Zoning Compliance for Site Improvements.

Mayor Rothschild said the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations. He asked if there was anyone wishing to speak on the item.

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

Mayor Rothschild asked the City Clerk to read Ordinance 11238 by number and title only.

Ordinance No. 11238 relating to Planning and Zoning; amending the Tucson Code, Chapter 23B, Unified Development Code, Article 5, Overlay Zones, Section 5.12, Downtown Area Infill Incentive District (IID), Sub-Section 5.12.9, IID District Termination, thereby extending the effective date of the District, in the UDC, in full force and effect unless and until otherwise amended by the Mayor and Council; adopting the provisions of Tucson Code, Chapter 23B, Unified Development Code, Article 3, General Procedures, Sub-Sections 3.3.3.G.6 and .G.7 and Article 8, Land Division, Land Split & Subdivision Standards, Section 8.5 related to Development Timelines and Expiration Dates; adopting the provisions of Tucson Code Chapter 23B, Unified Development Code,

Article 3, General Procedures, Sub-Section 3.3.3.H related to Zoning Compliance for Site Improvements in existence on May 1, 2005; and declaring an emergency.

Council Member Kozachik indicated the item was requesting an extension of the sunset date to January 31, 2016 yet the material referenced 2019 in several places. He asked for clarification of what the Mayor and Council was being asked to approve.

Ernie Duarte, Planning and Development Services Department (PDSD) Director, clarified the correct date was 2019.

Council Member Kozachik asked, if approved, was there anything to prevent the Mayor and Council from coming back sooner to make further adjustments to the IID, if issues arose.

Mr. Duarte assured the Mayor and Council they would be able to bring back any issues or concerns earlier than 2019.

Michael Rankin, City Attorney, clarified the item extended the sunset date for the IID to 2019, but any amendments that were ultimately adopted with respect to the item would amend the provisions that were extended by the Ordinance and those would similarly have a sunset date to expire at the same time. He also clarified the 2016 date in the communication was referencing the expiration of the *Land Use Code (LUC)*, based on the transition period where both *Codes* were in effect.

Council Member Kozachik reiterated the communication stated the extension for the Ordinance was until January 31, 2016, but had been clarified it was 2019. He asked if it made more sense to not make a decision and make the sunset date four years from the effective date of the IID.

Mr. Rankin responded he did not know if that was a long enough period to make a real difference since it was taking it out four years. He said that was a good point to make if it was only being extended out six months to a year.

Mayor Rothschild stated his recollection from the Manager's recommendation earlier in the day was that they wanted to revisit the issue in thirty days to determine if adjustments were needed. He said by extending the item by thirty or forty-five days, whatever the Mayor and Council decided, was good until sometime in 2019.

It was moved by Council Member Cunningham, duly seconded, and passed by a roll call vote of 6 to 0 (Vice Mayor Fimbres absent/excused), to pass and adopt Ordinance 11238.

9. PUBLIC HEARING: AMENDING (CHAPTER 23B) UNIFIED DEVELOPMENT CODE RELATING TO DOWNTOWN AREA INFILL INCENTIVE DISTRICT

Mayor Rothschild announced City Manager's communication number 29, dated January 21, 2015, 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 the *Unified Development Code (UDC)* related to the Downtown Area *Infill Incentive District (IID) Zone*. He 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 either in support of or opposition to the amendment:

Robert Freitas	Wiley Cornell	Tom Warne
Ken Scoville	Thomas Sayler-Brown	Chris Gans
Marilyn Robinson	John Burr	Anne Lawrence
Richard Mayers	Brian Haskins	Alora Cohen

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

It was moved by Council Member Cunningham, duly seconded, to continue the public hearing to Wednesday, February 18, 2015, per the City Manager's recommendation.

Council Member Kozachik inquired if the options for the Mayor and Council were to either close the public hearing or keep it open until another date.

Michael Rankin, City Attorney, reiterated those were the options for the Mayor and Council. He verified if the intention was not to act on the Ordinance that evening, then the preferable path was to keep it open and announce the specific date when the item was continued to. He said the reason for that was so that a new notice of public hearing did not have to be prepared since it was an extensive notice in the instance of this particular Ordinance.

Council Member Kozachik said he agreed with Mr. Warne's and Mr. Sayler-Brown's comments. He also noted that the people who had been writing letters urging the Mayor and Council to delay or continue the item were not present that evening and commented on how often that happened. He stated the Mayor and Council had the final word regardless if it was now or later. He said the Mayor and Council could make some changes as many had been suggested during the Study Session, i.e., group dwellings, elimination of the 300 foot rule, dropping the heights in the SSS sub-district to 75 feet. He said with respect to the Design Review Committee (DRC), all five member and the ad-hoc members were filled and the parking and traffic mitigation issues were addressed by making them a necessary component of any design review.

Council Member Kozachik said he thought the Industrial Development Authority's (IDA's) request for proposals (RFP) would address the concerns the El Presidio constituents had with respect to the master plan idea. He urged that the Mayor and Council move forward and if any of his colleagues had changes they wanted to make then they should be made. He said he felt they should respect the process and it deserved closure.

Council Member Romero suggested the conversations continue to happen. She stated it had been a thoughtful process with opportunities for input from everyone. She added she had seen from other planning processes that, at the last minute, there were concerns. She said she did not want to pass or adopt something that had a lot of questions from stakeholders. She stated she met with the El Presidio Neighborhood, which was in her Ward, and she wanted to represent them as best as she could in the planning process. She indicated they had asked for thirty days and she thought it was proper to give them that time.

Council Member Romero acknowledged that the Metropolitan Pima Alliance (MPA) and Southern Arizona Home Builders Association (SAHBA) and other developers had other concerns. She said most of the comments she heard were positive and had an openness to continue the process for another thirty days as it was only fair, in terms of the questions El Presidio Neighborhood had, regarding the master planning process, question marks about traffic mitigation and concerns about what would be developed so near a historic neighborhood. She said she wanted to be sure that in thirty days they had the realization that, even though some of the suggestions Council Member Kozachik had put on the table had been heard before, that they were the ones they wanted to actually approve.

Council Member Romero stated it was a living document and even after thirty days, when the public hearing was closed and it was approved, there could still be some kinks in the process that could still be realized once this tool was being utilized. She advised to leave the public hearing open and have additional meetings and sessions to answer pending questions, especially from neighborhoods and then come back to approve, with solid support from different stakeholders. She admitted not everyone would be completely happy but that was what the process should be about, sometimes pushing the envelope on either side.

Council Member Cunningham thanked the committee. He said he took the item seriously, and after meeting the neighbors and talking to other stakeholders he realized it was a sensitive issue. He added Tucson was one of the greatest cities around and everyone was on the same page. Basically, the neighbors and the developers wanted to collaborate and build something awesome and historically applicable. He said he felt there was no way it could not get done by February 18, 2015, but he did not feel comfortable approving the item that evening because if it was not as accurate as it should be the first time it was passed, they would have to keep adjusting it. He cautioned when making too many adjustments, suddenly there was an adjustment made without realization that could have serious unintended consequences. He said he believed this extension closed the book and was something that would get great projects, put people to work and also preserve historical integrity. He said he wanted to be careful to limit changes made down the road to as few as possible.

Council Member Uhlich said she supported the thirty days and hoped it did not go beyond that. She stated it had taken her a while to look at it as a document that was intended to protect neighborhoods and inspire and shape infill better than the underlying zoning currently in place. She said that was the Mayor and Council's goal and believed everyone shared in that.

Council Member Uhlich stated she had one question that nagged at her regarding the different zones. She said her question, in thirty days, would be whether phasing the availability of the IID was also a mechanism to shape infill and drive it to certain areas. She indicated what was striking to her regarding the IID was that one hundred forty-three acres were being released of industrially-zoned property which was being made available for residential and commercial use. She said it seemed to be in some of the ripest areas for higher density. She said she was curious, if the document was going to be used as a tool to direct intensity, how if it was phased into certain areas first, whether that was just a tool.

Council Member Uhlich indicated if the IID was adopted as is, she was unsure everything would densify to the greatest extent possible. She said she did not know if the market or demand was there or if the truth was that by offering it in a large area, basically saying first come first serve, the City would get spotty density rather than by area and zone.

Council Member Scott said she appreciated the efforts on all parts, both the City staff that had been listening to and attending to the details but included that it was a visionary project that took into account all of the various interests that were so disparate, but also contributing to the positive outcome of the particular project. She mentioned she admired all of the constituents who had been to all the meetings and had contributed positively because it would have been easy to walk away. She said it was a new vision for an area that needed the attention of all eyes and ears.

Council Member Kozachik requested staff explain the “game plan” until February 18, 2015, as to who would be talking to whom and who would be at the table. He also urged staff not to send a draft of the item to the Mayor and Council the day before the meeting.

Mayor Rothschild said he was aware staff had a meeting with stakeholders and from the reports he had received from both sides, it had gone a long way to answer everyone’s questions. He stated his read was that it was a very complicated document and suggested different colored pages for each district so people would not think the entire document applied to them. He said he thought they had a document that was close and did not believe there would be a lot of patience for going over thirty days but if some obvious things could be corrected it should be done. He asked that Council Member Kozachik’s question about the “game plan” be answered.

Ernie Duarte, Planning and Development Services Department (PDSD) Director, assured that everyone’s concerns regarding the document had been heard by staff. He indicated the “game plan” was to regroup from the week and ensure his team was clear on the issues that could be addressed in the thirty days, as well as, make sure the issues were well clarified and articulated to the Mayor and Council in advance so that everybody had a good handle on what those items were and identify those that required more time. He said he intended on reengaging the team that worked on the project to make sure they were well informed and aware of the approach going forward. He admitted they had some work ahead of them and acknowledged the efforts of everyone who had been involved in the process over the last few years, in particular Corky Poster

for the last seven years. He said it had been an intensive but very healthy process. He said they had come too far to not continue the spirit of cooperation and engagement and it was his commitment to the Mayor and Council and the community that the engagement and process would be completed and brought back to the Mayor and Council within thirty days.

The motion to continue the public hearing to Wednesday, February 18, 2015, was carried by a voice vote of 5 to 1 (Council Member Kozachik dissenting and Vice Mayor Fimbres absent/excused).

Roger W. Randolph, City Clerk, announced the public hearing was being left open and continued to Wednesday, February 18, 2015, at or after 5:30 p.m. in the Mayor and Council Chambers at 255 West Alameda.

10. PUBLIC HEARING: AMENDING (CHAPTER 23B) THE UNIFIED DEVELOPMENT CODE RELATING TO HOSPITAL STORAGE TANKS

Mayor Rothschild announced City Manager's communication number 26, dated January 21, 2015, 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 the Unified Development Code related to Hospital Storage Tanks.

Mayor Rothschild said the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations. He asked if there was anyone in the audience wishing to be heard on the item.

There was no one.

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

Mayor Rothschild asked the City Clerk to read Ordinance 11235 by number and title only.

Ordinance No. 11235 relating to Planning and Zoning, amending the Tucson Code, Chapter 23B, Unified Development Code, Sections 4.8.5, 4.8.6, and 4.9.10; and setting an effective date.

It was moved by Council Member Romero, duly seconded, to pass and adopt Ordinance 11235.

Council Member Kozachik inquired why hospice, adult care and other similar adult health care facilities were not included and if they were considered to be major medical emergency facilities.

Ernie Duarte, Planning and Development Services Department (PDSD) Director, replied they were not considered critical emergency facilities.

Council Member Kozachik stated the intent was to make sure there was back up power in the event of a shut down but yet hospice and those types of facilities were excluded. He asked why they were not considered equally vulnerable.

Mr. Duarte replied the recommendations of the International Fire Code and the National Fire Protection Association were being followed, which identified hospitals as needing necessary back up generation that current above ground storage tanks could not provide.

Mayor Rothschild stated he assumed the item was consumer driven and was at the hospitals' request.

Mr. Duarte confirmed St. Mary's, St. Joseph's and Tucson Medical Center (TMC) Hospitals had approached the City of Tucson.

Mayor Rothschild inquired if the entities Council Member Kozachik mentioned were to request it as well, would they be considered or would they be off limits because of the Code.

Mr. Duarte replied the Code had to be amended to include those types of facilities.

Council Member Uhlich understood the point being made and without knowing where those sites were scattered in the adjacency to neighborhoods and the implications, she acknowledged maybe this was a step and if it was needed to go further to protect residents in other facilities that could be taken up at a future date.

Ordinance 11235 was passed and adopted by a roll vote of 6 to 0 (Vice Mayor Fimbres absent/excused).

11. PUBLIC HEARING: APPROVING A SUBSTANTIAL PLAN AMENDMENT FOR THE SECTION 108 5TH AND CONGRESS PROJECT

Mayor Rothschild announced City Manager's communication number 15, dated January 21, 2015, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing to approve the Substantial Plan Amendment for the Section 108 5th and Congress Project. He asked if staff wanted to make a brief presentation before beginning the public hearing.

Sally Stang, Housing and Community Development Department (HCD) Director, stated the public hearing was required by U.S. Department of Housing and Urban Development (HUD), as they were required to do a substantial amendment to the Annual Allocation Plan for the Community Development Division (CDD) programs. She said, although the Section 108 loan pool existed in the Annual Plan, once a project was identified they were required to have a thirty-day public comment period and a public hearing to submit the plan to HUD for approval, prior to the actual application for the loan being approved.

Mayor Rothschild announced the public hearing was scheduled to last no more than one hour and speakers were limited to five-minute presentations. He asked if there was anyone wishing to be heard on the item.

There was no one.

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

Mayor Rothschild asked the City Clerk read Resolution 22340 by number and title only.

Resolution No. 22340 relating to Housing and Community Development; approving a Substantial Plan Amendment to the City of Tucson FY 2015 Annual Action Plan to include the Section 108 5th and Congress Project to be implemented by the City's Department of Housing and Community Development' authorizing and directing submittal of the Substantial Plan Amendment and the application for Section 108 Loan Guarantee to the United States Department of Housing and Urban Development (HUD); and declaring an emergency.

Council Member Uhlich stated she had a couple of questions. She said the item was essentially to guarantee a needed loan for the project, which she as in support of. She said she wanted to give staff an opportunity to highlight the protections in place in case of default because the Community Development Block Grant (CDBG) allocation, which was a little less than the full amount of the loan, was on the line. She asked staff to elaborate on the specific ways the CDBG funds were being protected.

Ms. Stang stated there were a number of guarantees in place which included a second on the lien and a site specific sales tax rebate that was held in lieu of payments not received. She said it was also recommended there be an inter-creditor agreement with the first lender, The Grand Point Bank, who will provide over \$30 million towards the loan in first place on the lien. She said they would be working on an inter-creditor agreement so there would be similar responsibilities and similar recourse.

Ms. Stang said, in the long run, the property could be foreclosed if payments were not made and would be difficult in a second position. She stated there were also some basis points with the loan where funds could be held in a loan servicing account and with HUD's permission would be set aside as a loss risk reserve going forward.

Council Member Uhlich thanked staff for adding the last protection that was discussed and said it was important to hold those funds in escrow until the loan was repaid in full. She said she felt that the Mayor and Council should decide, once those funds were released, whether to enhance the CDBG program since it was tied to that or if those funds would be released to the General Fund, but the basis point differential was a source of revenue to help protect CDBG fund allocations.

Ms. Stang clarified that HUD had to approve any use of CDBG funds and would have to be negotiated up front to be used as a loan risk reserve pool. She said after the loan was satisfied, the City would go back to HUD with a request for another use.

It was moved by Council Member Uhlich, duly seconded, to pass and adopt Resolution 22340.

Council Member Kozachik stated he understood a consultant was hired to help move the item through the HUD process. He asked if that was on track with the soft deadline of moving forward by the end of March.

Ms. Stang confirmed Roger Frankoff was the consultant and had more than thirty years experience with Section 108 loans. She said the City was on track to meet the deadline. She added the consultant was working directly with the developer to answer final questions regarding the job creation requirements. She stated there would be multiple levels of underwriting associated with the project.

Resolution 22340 was passed and adopted by a roll call vote of 6 to 0 (Vice Mayor Fimbres absent/excused).

12. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Rothschild announced City Manager's communication number 24, dated January 21, 2015, was received into and made part of the record. He asked if there were any personal appointments to be made.

Council Member Cunningham announced his personal appointment of Henry "Hank" Krzysik to the Tucson-Pima County Metropolitan Energy Commission (TPCMEC).

11. ADJOURNMENT: 7:43 p.m.

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council would be held on Wednesday, February 4, 2015, 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 21st day of January 2015, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:ddl:rg