



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on June 5, 2018.

Date of Meeting: December 5, 2017

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:32 p.m., on Tuesday, December 5, 2017, all members having been notified of the time and place thereof.

1. ROLL CALL

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

Present:

Regina Romero
Paul Cunningham
Paul Durham
Shirley C. Scott
Richard G. Fimbres
Steve Kozachik
Jonathan Rothschild

Council Member Ward 1
Vice Mayor, Council Member Ward 2
Council Member Ward 3
Council Member Ward 4
Council Member Ward 5
Council Member Ward 6
Mayor

Absent/Excused:

None

Staff Members Present:

Michael J. Ortega
Michael Rankin
Roger W. Randolph

City Manager
City Attorney
City Clerk

2. INVOCATION AND PLEDGE OF ALLEGIANCE AND APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

a. INVOCATION

The invocation was given by Pastor Ashley Evans, 22nd Street Baptist Church.

b. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was presented by the entire assembly.

c. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Rothschild announced City Manager's communication number 390, dated December 5, 2017, 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 Fimbres, duly seconded, and carried by a voice vote of 7 to 0, to approve the appointment(s) of Jesus Lopez del Castillo to the Landscape Advisory Committee (LAC), Katherine E. Williams to the Tucson Commission on Gay, Lesbian, Bisexual and Transgender Issues (GLBT) and Rory Juneman to the Citizens' Water Advisory Committee (CWAC) and the reappointment(s) of Jackie Lyle, Katie Gannon, and Ellen Alster, to the Landscape Advisory Committee (LAC).

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

Council Member Fimbres announced his personal reappointments of Michael Lundin to the Tucson Convention Center Commission (TCCC), Sandee Brooke to the Tucson-Pima County Historical Commission (TPCHC), Jesse Lugo to the 2012 Bond Oversight Commission (BOC), Roxanne Torres to the Commission on Disability Issues (CODI), Gael Sladky to the Tucson Commission on Gay, Lesbian, Bisexual, and Transgender Issues (GLBT), Emily Verdugo to the Human Relations Commission (HRC), Willie Blake to the Tucson Parks and Recreation Commission (TPRC), Bobby Jaramillo and Nick Pafford to the Planning Commission, (PC), Alma Gallardo and Ronnie Reyna to the Small, Minority, and Women-Owned Business Commission (SMWBC), Eddie Flores to the Citizens' Transportation Advisory Committee (CTAC), Jeovanna MacKean to the Pima County/Tucson Women's Commission (PCTWC), and Yolanda Herrera to the Environmental Services Advisory Committee (ESAC).

3. MAYOR AND COUNCIL/CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Rothschild announced City Manager's communication number 391, dated December 5, 2017, 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 and the City Manager to report on current events and asked if there were any reports.

Current event reports were provided by Vice Mayor Cunningham and Council Members Romero, Scott, and Fimbres.

Current event report was given by Michael J. Ortega, City Manager.

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

4. BOARDS, COMMITTEES AND COMMISSIONS: REPORTS TO MAYOR AND COUNCIL

Mayor Rothschild announced City Manager's communication number 392, dated December 5, 2017, 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.

Reports were provided by Michael Lundin, Tucson Convention Center Commission (TCCC) Chairperson, and Brent Woods, Tucson-Pima County Joint Consolidated Code Committee (TPCJCCC) Chairperson.

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 393, dated December 5, 2017, 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. University of Arizona - McKale Center, Ward 6
1721 E. Enke Dr.
Applicant: Joel Scott Hauff
Series 5, City 80-17
Action must be taken by: December 10, 2017

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

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

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)

2. Louis Market, Ward 5
4009 S. 12th Ave.
Applicant: Hesham Adam Ibrahim
Series 9, City 81-17
Action must be taken by: December 16, 2017

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)

Remote Tasting Room(s)

3. Sierra Bonita Vineyards, Ward 2
6720 E. Camino Principal #101
Applicant: Gerald Kendall Smith
Series 19, City 88-17
Action must be taken by: December 28, 2017

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

NOTE: State law provides that for a Tasting Room license application “In all proceedings before the governing body of a city...the applicant bears the burden of showing the capability qualifications and reliability of the applicant and 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 4-203)

c. Special Event(s)

1. Sonoran Art Foundation dba Sonoran Glass School, Ward 1
633 W. 18th St.
Applicant: Lynn Kathryn Davis
City T161-17
Date of Event: February 2, 2018
(Fundraiser)

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

d. Agent Change/Acquisition of Control/Restructure

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

It was moved by Council Member Kozachik, duly seconded, and carried by a voice vote of 7 to 0, to forward Items 5b2, 5b3, and 5c1, to the State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Application(s)

1. University of Arizona - McKale Center, Ward 6
1721 E. Enke Dr.
Applicant: Joel Scott Hauff
Series 5, City 80-17
Action must be taken by: December 10, 2017

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

Mayor Rothschild announced this item was being considered separately at the request of Council Member Kozachik.

Vice Mayor Cunningham stated he had a couple of questions for the applicant. He said he had a couple inquiries from constituents. He asked the applicant if the University of Arizona (UofA) was going to be the only team in the Conference, or in the National College Athletic Association (NCAA) serving alcohol at basketball games.

Joel Scott Hauff, Applicant, stated they were not. He said there were a handful of institutions currently serving alcohol at basketball games. He stated that for Division I comparisons, some of those schools included Oregon, Villanova, West Virginia, New Mexico, UNLV (University of Las Vegas), Syracuse, and Louisville; they all provided alcohol at basketball games and was either at a university or municipality-owned stadium.

Vice Mayor Cunningham asked if there was a national trend going on where a lot of schools were beginning to discuss and shift into this process because of attendance, or what brought this trend about.

Mr. Hauff stated it was a national trend that was started in 2013, there were six schools selling alcohol at men's football games and in 2017 there were forty Divisions I schools that were doing it. He said this was in part a response to sales, but many of these places were places like Miami and other large schools that did not have attendance or sales problems. He stated another part was in response to fan experience where fans had been asking for the ability, similar to going to a professional sporting event or other events in large venues, to purchase a beer and/or wine while at the event.

Vice Mayor Cunningham asked if alcohol was already being sold at other sporting events.

Mr. Hauff stated alcohol was currently being sold at men's baseball games at High Corbett Field, hockey program at the Tucson Convention Center, and in the club sections, such as the Sam's Club Section at Arizona Stadium for men's football games.

Vice Mayor Cunningham asked if alcohol was being sold through the end of the game, because he was not sure if he wanted people drinking all the way through the end of the game.

Mr. Hauff stated they did not want that either. He said they had good practices in place which were national benchmark practices for these kinds of national events. He said for baseball, sales stop at the top of the seventh inning, hockey stops at the beginning of the third period and for basketball they anticipated stopping sales after the first time out in the second period. He commented that for those who were familiar with men's basketball, timeouts ran in four minute increments on a natural stoppage in play. This meant that somewhere between the sixteen and twelve minute mark when there was a natural stoppage of play and the sales of alcohol at the McKale Center would cease.

Judith Blair, Constituent, spoke against alcohol being served at the basketball games at McKale Center and gave a brief autobiography of the inventor of the basketball game James Naismith. She stated how she felt about alcohol sales at McKale Center.

Vice Mayor Cunningham thanked Ms. Blair for her comments and thought what she had said made sense on several levels. He said perhaps what the Mayor and Council needed to do was to allow the UofA to take a look at this policy and if there were any issues they could roll it back. He stated the Mayor and Council needed to allow the UofA to create an environment that was competitive and try to enhance the fan experience. He commented he understood where the UofA was coming from. He said he thought, in the two-hour time period and the consideration they were going to serve alcohol for only part of the game it was prudent to recommend to approval of the request.

It was moved by Vice Mayor Cunningham, duly seconded, to forward Items 5b1, to the State Liquor Board with a recommendation for approval.

Council Member Scott asked if there had been an increase in the number of calls for police service as a result of serving alcohol.

Mr. Hauff stated on the events being held at High Corbett Field and the Tucson Convention Center there had not resulted in any additional demands for police services or security teams at those sites. He said, similarly, for the club areas at Arizona Stadium, again they did not have any problems. He commented that on a national scale there were some good articles and research being done that showed when generally alcohol was being provided at a collegiate event, there was typically no change in the pattern of the number of alcohol related incidents or a slight decline. He said it was certainly not something that was generating a large increase or extra demand. He said as a part of Arizona Athletics, they would have the appropriate number of police officers and A-Team Security personnel to correspond with the increased requirements to monitor and enforce any of the State and University policies around on the provision of alcohol.

The motion to forward Item 5b1, to the State Liquor Board with a recommendation for approval was carried by a voice vote of 5 to 1 (Council Member Romero dissenting and Council Member Kozachik recused due to a conflict of interest).

6. CALL TO THE AUDIENCE

(Note: Council Member Kozachik departed at 6:08 p.m. and returned at 6:10 p.m.)

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 and speakers were limited to 3-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:

| | | |
|-------------------|----------------|--------------|
| Felicia Chew | Dan Porzio | Edward Cizek |
| Collette Altaffer | Elizabeth Soto | Beryl Baker |

Mayor Rothschild requested staff to respond to Ms. Soto’s comments regarding increasing recycling in the community.

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 – ITEM A

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 DEC05-17-394 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of April 5, 2017
3. Mayor and Council Study Session Legal Action Report and Minutes of April 5, 2017

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

8. PUBLIC HEARING: (C8-16-09) AMENDING (CHAPTER 23B) THE UNIFIED DEVELOPMENT CODE RELATING TO THE SIGN CODE REVISION PROJECT

(Note: Council Member Fimbres departed at 6:34 p.m., and returned at 6:36 p.m.)

Mayor Rothschild announced City Manager's communication number 395, dated December 5, 2017, was received into and made part of the record. He stated this was the time and place legally advertised for a public hearing on the proposed *Unified Development Code* text amendment to revise the sign standards to address the Reed v. Town of Gilbert Supreme Court Case.

Mayor Rothschild stated this public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations and to state their name, whether they lived in the City and whether or not they were a paid speaker.

Comments were made by:

| | | |
|-------------------|----------------|--------------------|
| Amber Smith | Casey Wills | Rory Juneman |
| Grace Gegenheimer | Jason Wong | Ben Bueller-Garcia |
| Mike Addis | Brent Davis | James Carpenter |
| Craig Masters | William Kelley | Emily Rockey |
| Priscilla Storm | | |

Mayor Rothschild asked if there was anyone else wishing to be heard on this item.

There was no one.

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

Mayor Rothschild asked the City Clerk to read Ordinance 11508 by number and title only.

Ordinance No. 11508 relating to Sign Regulation and Planning and Zoning; amending the Tucson Code Chapter 23B, Unified Development Code (UDC), by adding a new Article 7A, Sign Standards and amending UDC Article 2, Review Authorities, Article 3, General Procedures, Article 4, Zones, Article 9, Non-Conforming Uses, Buildings, and Structures, Article 10 Enforcement and Penalties, and Article 11 definitions; Repealing and Reserving Tucson Code Chapter 3, Sign Code in its entirety; amending Tucson Code Chapter Two, Administration, *Cross References; Tucson Code Chapter 10A, Community Affairs, Article XIII; Tucson Code Chapter 11B, Planning and Development Services Department, Sec. 11B-3; and setting an effective date.

Mayor Rothschild stated there had been further conversations with staff and stake holders; he asked who the appropriate person was that could walk the Mayor and Council through, very quickly, on any amendments to the "Draft" that staff thought were

appropriate, such as 7A.6.9, 7A.7.1.F, and 7A.7.1.G. He said there was also discussion regarding 11.4.7 which was the Tier system.

Michael J. Ortega, City Manager, stated he wanted to point out three documents; two of which he thought were the main ones that were presented to the Mayor and Council. He said the first one was an analysis dated November 30, 2017, which actually contained the Metropolitan Pima Alliance (MPA), Southern Arizona Home Builders Association (SAHBA), and Tucson Metro Chamber of Commerce (TMCC) letter along with staff's recommendations. He stated, subsequent to that, the Mayor and Council received another piece of correspondence dated December 4, 2017, which was a function of conversations held with the Mayor and Council during the last couple of months and comments received along with the recommendations, some of which were referenced back to the MPA/SAHBA/TMCC letter.

Scott Clark, Planning and Development Services Department Interim Director, reviewed the additional staff recommendations presented in the memorandum to the Mayor and Council dated November 30, 2017. He said staff concurred that changes could be made to the *Code* in 7A.6.9, which allowed for a process to shift signs from one frontage to the other and would be administered by the Zoning Administrator (ZA). He said it appeared that the request might impact residential neighborhoods where maybe transferring a sign from an arterial to a residential neighborhood, the ZA had the option of seeking consultation from the Sign Design Review Committee (SDRC).

Mr. Clark commented that if someone was looking for an appeal process, the ZA's appeals currently went to the Board of Adjustments (BAJ) which was a longer and more complex process. He said staff was still sticking with the recommendation that the ZA would review the request for changes on frontage and if there was a project where there might be significant public input, due to that change, it would go to the SDRC.

Mr. Clark stated that on the Master Sign Program (MSP) and Best Practice Option (BPO), staff was supporting the MSP and also supported the BPO. He said the discussion for best practices was that the City currently used this technique within the City, on the Infill Incentive District's (IID's) in the Main Gate and used in other master sign programs.

Mr. Clark said, as an example, if there was a sign in Oro Valley that met rigorous design standards, was an attractive design and the owner of that business brought it to Tucson stating they wanted to use the BPO process for the sign, and then the Design Review Professional would compare the sign with the City's findings and purpose statement. If those were met, that would expedite the permitting process which was what the BPO allowed for. He said it also allowed for reference to professional literature to expedite innovation.

Mayor Rothschild said one of his concerns was that the City had an *Outdoor Lighting Code (OLC)*, which was good and pretty clear. He said that when comments were made about adopting best practices, it seemed to open things up to more

interpretation and maybe more interpretation to the better, but would it not make more sense to just simply say, if there was a new best practice, to have it included in the *OLC*. He said he was concerned about a subjective versus an objective standard in creating arguments where there might not otherwise be some. He asked how staff would react to that.

Mr. Clark stated the current *OLC* did not regulate free standing signs as staff anticipates them coming through the MSP. He said to arrive to some interim guidelines; staff accompanied electrical outdoor lighting engineers and astronomers and went out to observe sights. He reported they had come up with a set of interim guidelines which he believed could be used during this eighteen month period that did not violate the intent of dark skies, but allowed for the signage at the site. He said the issue with the *OLC* was that it typically looked at lighting capacity for an entire site. He stated they needed something to guide them to the MSP for at least the next eighteen months.

Council Member Durham stated he had some thoughts on this item, but could wait to comment after more discussion.

Mayor Rothschild stated we would come back to that.

Mr. Clark stated there were some concern and perhaps confusion regarding applicable findings. He said there were currently nine findings in the MSP. He said what was meant by applicable was applicable to the site so that if only six of the nine findings were applicable they could continue the process without trying to accomplish all nine. That was why the additional language “applicable to the site” was added and should take care of the confusion; provide clarity for both the sign design community and staff looking at regulating it.

Mr. Clark commented that was the summary of things they were currently supporting. He said removal of dark skies protection was in essence finding item “I” in the MSP. He stated the way they ended up in these compromises, in regards to MSP and outdoor lighting was to ensure finding item “I” was in there and evaluating these sites based on dark skies. He said given the coalition of people in the industry and in the community that support dark skies, all agreed on this and staff did not recommend removing the finding at this time.

Mr. Clark said he believed the definitions that allowed large signs around the City should come back to this over the next eighteen months. He said there was confusion where freeways and interstates were used. He said currently, the understanding of the interstate/intercity signage was for I-19 and I-10. He commented that if they started switching language back and forth between freeways, state routes, and interstates there would be confusion on where the larger signs could go.

Mr. Clark stated he believed, over the next eighteen months, language could be refined and made more specific. He said he thought the Mayor and Council would learn a lot about the flexibility in the MSP, which were currently being used around the United

States and were resulting in very elegant, creative signs that were in context with the sight and businesses proposing them. He said, for the interim, he suggested not making any rapid changes for the definition until there was a better understanding of what the City was trying to do and have more data on the MSP within the eighteen month period.

Council Member Durham commented that it was a strongly held principle of his that businesses benefited when government processes were predictable. He said he believed that introducing subjective elements had to be limited and carefully considered. He questioned whether 7A.6.9 changes introduced subjective elements that allowed the ZA to decide whether the issue of multiple frontage lots and signs per street frontage should be sent to the SDRC or decided by ZA alone. He said he discussed with various people the possibility of an appeals process and was now convinced that staff's recommended language was more time efficient.

Council Member Durham said regarding the question on BPO, he did not want to wait eighteen months, he wanted it to be a fairly quick six month process such as a memo from staff reviewing these issues, and then decide whether or not it was appropriate for a study session agenda item. He stated he wanted to keep the momentum going.

Mayor Rothschild clarified with Council Member Durham that he wanted to keep the objective standards of the *OLC* and come back in six months to see what the BPOs were.

Council Member Durham stated that was correct. He said he wanted to expand on the interim guidelines. He said the ultimate goal was to fold the interim illumination guidelines into the *OLC* so that the latter reflects the former. He understood that was the ultimate goal but asked staff to confirm that for him.

Mr. Clark stated he was correct and that the Outdoor Lighting Code Committee (OLCC), which consisted of electrical engineers, astronomers, sign developers, and citizens, was the appropriate committee to take it up to and they could provide feedback on a very informed, educated *Code*.

Council Member Durham stated some business groups had complained to him about not having an opportunity to review the interim illumination guidelines. He asked if the interim illumination guidelines could be more widely circulated over the next few months in order to have more constructive dialogue. He said the three tier proposal was going to involve a lot more study and was too big a step for the Mayor and Council to take on that evening. He asked if staff could report back to the Mayor and Council within six months, he was ready to support the item.

Mayor Rothschild stated he wanted to make sure he understood Council Member Durham's comments since there were three issues he was asking about. He reiterated that Council Member Durham was supporting staff's recommendation regarding Section 7A.6.9, wanted a staff report within six months on Section 7A.7.1 and stay away from

Section 11.4.7 for the time being. He advised that could be a motion if Council Member Durham wished.

It was moved by Council Member Durham to pass and adopt Ordinance 11508, incorporating the additional staff recommendation regarding Exhibit A to the Ordinance, Section 7A.6.9. Street and Building Frontages, and directing staff to follow up in six months with a report on the recommendations related to Exhibit A to the Ordinance, Section 7A.7.1.F Master Sign Program Best Practice Option.

The motion died due to lack of a second.

Council Member Kozachik stated he agreed with staff recommendations on 7A.6.9. He said with respect to change of copy, he asked staff to clarify that the only time someone needed to go and get a change of copy was if it required a permit for some electrical components or some other non-copy related permit.

Mr. Clark responded in the affirmative. He said the change in copy currently was discussed as ten square feet and they were looking to changing it to fifty square feet because going from Gus Balons Restaurant to Alice's Restaurant should not trigger a review and additional fees.

Council Member Kozachik asked if the real estate signs, right-of-ways signs, home for sale signs and the open house signs would be allowed under the portable MSP.

Mr. Clark stated, with the draft that was worked out with the Tucson Association Realtors, that was correct.

Council Member Kozachik asked staff to explain, under the MSP, how it resolved the home builders concerns about the reduction of square footage allowed.

Mr. Clark stated, the intent in the development of the Ordinance, was that no one would lose any signage rights they currently had. He said they would be able to come in and submit for their templates which provides them with what signage they currently have and then considers beyond the two mile radius what additional signs they need under the General Sign Program. He said they would get what they need to advertise their signs, be able to apply for a template, apply for their membership and result in only one fee with no annual renewal being required.

Council Member Kozachik asked, as far as changing fees, how much time did staff need to make changes in this area.

Mr. Clark stated they had two new fees that needed to be added that did not convert over from the old code. He commented that Arizona State law required that a sixty day notice be given on new fees. He said one fee being considered was the implementation fee of permanent signs which was one hundred and forty-five dollars, a one-time fee, that replaced the annual renewal fee currently in place referred to in the

community as the sign tax. Another was a one hundred seventy-six dollar fee to fund the SDRC, which was a new fee and needed to be advertised, and a fifty-five dollar portable sign approved for the MSP. He said that was for when a broker came in to apply for the signage they received under the template; they would pay the one-time fee of fifty-five dollars.

Mr. Ortega commented staff needed until March for implementation of the fees and if the Mayor and Council wanted to see the item come back, he suggested bringing it back six months from the actual implementation to get a full six months review.

Council Member Kozachik confirmed the six months was for the fee portion. He stated he was supportive of the eighteen months for the rest of the item because these things were not just going to pop out of the ground; they were going to need some time for people to make applications and start showing up around the City. He said to truncate the sunset or review time; he was not going to be supporting that.

Council Member Kozachik asked, with the MSP findings, item number three, was staff supportive of that, but not supportive of removing item "I" because of its potential impact on dark Skies.

Mr. Clark stated that was correct.

Council Member Kozachik asked to go to back the BPO. He commented that nothing could be done in the *Sign Code* revision that would diminish the protection of the dark skies guidelines. He said, in the materials, it stated that all signs were currently required to meet the *OLC* and would continue to be required to meet the *OLC* under the proposed sign standards. He asked what it was with the BPO that made the dark skies protection, the astronomy industry, vulnerable, because he was not clear on this. He said the astronomy industry was fundamentally important to the community and it needed to be protected and preserved. He stated the action taken by the Mayor and Council on the item could not be one that would diminish that.

Mr. Clark stated the interim guidelines that were developed with an outdoor sign engineer and astronomer, he believed provided the protections during the BPO. He said this required additional study and final incorporation into the *OLC*, but in the interim they had a solution because they went out and did some field testing to see what they could live and concur with.

Mr. Ortega stated he thought there were mixing up a couple of things and said 7A.71F was the BPO. He said if he understood it correctly the request was simply to expand the area from which the design standard for the best practice alternatives could be considered. He said basically, all they were asking for, instead of it being in the incorporated limits, to include it in the Metropolitan Statistical Area (MSA). He said second was 7A.7.1.G which were the findings. He said staff was in agreement with the language change to findings applicable to the site and second was the *OLC* which was

referenced as changing “T” to either delete or revising it. He was staff was not supportive of that at this time.

It was moved by Council Member Kozachik, duly seconded, to pass and adopt Ordinance 11508, and incorporate the additional staff recommendations regarding Exhibit A to the Ordinance, Section 7A.6.9, 7A.7.1.F, and 7A.7.1.G, as presented in the memorandum to Mayor and Council dated November 30, 2017.

Council Member Romero asked for clarification if the motion included the six month review requested by Council Member Durham.

Council Member Kozachik commented that he was not sure what Council Member Durham wanted reviewed in six months and how did it relate to the eighteen months listed in the communication.

Council Member Durham stated he was not proposing truncating the eighteen month period; it would stay in place. He said he was asking for a six month report from staff on the implementation of the *Sign Code*, any issues with the interim guidelines and best practices.

Council Member Kozachik commented they were already asking to put an eighteen month sunset and then to turn around and ask for a report to come back one third of way through, that was adding an extra burden on staff which he did not think it was needed.

Mayor Rothschild stated he was in agreement with the eighteen months on the full *Code*, and thought what Council Member Durham was stating was in regards to the particular issue of the BPO versus the *OLC* to have staff come back with a report in six months.

Council Member Durham stated that was correct and said at this point that was the most important issue.

Council Member Romero stated for clarity that maybe an update to the Mayor and Council stating what was working versus what was not.

Council Member Durham stated he agreed to limit the focus on the report to the issue of interim standards versus the *OLC*.

Mayor Rothschild stated it was still the eighteen months, however on that one particular issue staff would provide a report/update in six months.

Mr. Ortega stated staff could do this any way the Mayor and Council wanted them to in any manner they wanted. He said he had some things that Mayor and Council should take into consideration, which was the timing for the implementation. He said staff and stakeholders wanted to see this item move forward knowing there were some

key factors that needed to be addressed, which were implementing the *Code* before the fees, because of the timing for the advertising and moving on establishing, appointing, and notifying the advisory committee. He said he understood that the Ordinance would go into effect within thirty days and staff wanted to start implementation at the thirty day mark knowing there were pieces that still needed to be implemented. He suggested, once it was fully implemented, at that point, they could provide a report/presentation to the Mayor and Council outlining key areas.

Council Member Kozachik requested clarification on the PowerPoint, page 11, which was the slide on Promotional or Special Event signage. He said one bullet point said it was a temporary sign, no area sign limit, 180 days. He asked if the limit being referred to was for the number of days and not the sign area. He also asked about the fixed balloons signs.

Mr. Clark responded that was correct. He stated the discussion around temporary signs was if the ninety days was enough or should it be doubled to hundred and eighty days and currently staff had a work around where they use both sides as a temporary sign and allow them to display it for 180 days. He said the time limit for hot air balloon signs was forty-five days.

Council Member Romero said the current draft of the Ordinance had Feather Banners as prohibited. She asked if that was in line with Council Member Kozachik's motion.

Mayor Rothschild said he too wanted clarification on Feather Banners, but to allow them only four to a certain distance with compatible colors.

Council Member Romero stated she believed that was optional language and the recommendation was that Feather Banners were prohibited.

Council Member Kozachik acknowledged that was the recommendation.

Mayor Rothschild thought the recommendation allowed the Feather Banners with a certain distance and certain color.

Mr. Clark stated based on feedback they received that Feather Banners were fun and desired; staff looked into allowing four Feather Banners, two colors with an additional portable sign. He said what you ended up with was a uniform attractive frontage versus clutter, so staff supported Feather Banners, but the Planning Commission (PC) and Citizen Sign Code Committee (CSCC) did not, but it was a matter of compromise in the matter of their discussion.

Mayor Rothschild stated so that former Council Member Davis did not go apocalyptic; it was a very limited Feather Banner. He said the recommendation was for a limited four banners within a certain area with consistent color. He stated he thought that was part of what they would be voting on.

Council Member Kozachik stated that was not included in his motion but said if someone wanted to add it they could.

Council Member Scott stated she thought Council Member Fimbres would be including that in a motion. She asked if it was being assumed or did it need to be stated in the motion that City staff would continue to work with stakeholders and those already working on this as time went on. She said there seemed to be some “fuzzy” areas that needed more study or attention such as the freeway discussion, big signs, *OLC*, Best Practices. She said those were still in need for further definition.

Mr. Clark responded that could be assumed to occur. He said he viewed the eighteen month period evaluation as the opportunity to take a look at all of it and refine it to the best possible *Sign Code*.

A friendly amendment to the motion was made by Council Member Fimbres, accepted by the motion-maker, to include the proposed language regarding Feather Banners as presented in Attachment B to the Mayor and Council Communication.

Mr. Ortega stated he wanted to be clear on Council Member Fimbres’ amendment, and that was for the language that was included in attachment B, which was Feather Banners to 7A.10.3.C.2 which outlined the colors and so forth.

Vice Mayor Cunningham stated he understood the amendments, but asked if the three things in Council Member Kozachik’s original motion could be restated for the record.

Mr. Ortega stated he could go over them in detail, but they were basically the first three items of the MPA letter with the exception of the deletion of “I” not number four in that letter, and attachment B, which was the Feather Banners language.

Vice Mayor Cunningham stated he did not want to delete letter “I” and asked if it could be reworded. He asked if Dark Skies actually had best practices in the *Code*.

Mayor Rothschild stated what they had agreed on with regard to letter “I” was that it would be truncated in the six month review report to see what best practices might be. He said the intent would be to strengthen it.

Vice Mayor Cunningham asked if currently there was no reference to Dark Skies in the *OLC*.

Council Member Kozachik stated no.

Vice Mayor Cunningham asked if they could not reword letter “I”.

Mr. Ortega stated his recommendation was not to reword letter “I” at this time, but it did not preclude them from having that discussion. He said this was an ongoing conversation and could be addressed in the future.

Mayor Rothschild stated there was no intent to remove “I”. He said the only question was should it be reviewed in six months to find out what best practices might look like which would actually strengthen “I”.

Council Member Durham stated part of the problem was that the *OLC* did not apply to free standing signs and did not work with the MSP which was part of the problem they were struggling with.

The motion, to pass and adopt Ordinance 11508, incorporating staff’s recommendations regarding Exhibit A , Section 7A.6.9, 7A.7.1.F and 7A.7.1.G, as presented in the memorandum to the Mayor and Council dated November 30, 2017, and include the feather banner language in Attachment B, was passed by a roll call vote of 7 to 0.

9. PUBLIC HEARING: ZONING (C9-07-27) HEIGHTS PROPERTIES - BROADWAY BOULEVARD, SR TO C-1, REACTIVATION, FIVE-YEAR TIME EXTENSION, CHANGE OF CONDITIONS, ORDINANCE ADOPTION

(Note: Council Member Kozachik departed at 7:42 p.m. and returned at 7:44 p.m.)

Mayor Rothschild announced City Manager's communication number 396, dated December 5, 2017, was received into and made part of the record. He said this was the time and place legally advertised for a public hearing on a request to reactivate the rezoning case, grant a time extension until March 25, 2018, amend zoning conditions and adopt an ordinance, for property located at the southwest corner of Broadway and Harrison.

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

Jim Eagen, Heights Properties, stated they were agreeable to the proposed requirements.

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

Matt Stewart stated he did not need to speak because his representative was present.

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

Mayor Rothschild asked the City Clerk to read Ordinance 11504 by number and title only.

Ordinance No. 11504 relating to Zoning: amending zoning district boundaries in the area southwest corner of E. Broadway Boulevard and S. Harrison Road in case C9-07-27, SR to C-1; and setting an effective date.

It was moved by Vice Mayor Cunningham, duly seconded, and passed by a roll call vote of 7 to 0, to approve the request and pass and adopt Ordinance 11504

10. PUBLIC HEARING: ZONING (C9-14-04) CORNERSTONE HOMES –MONTE VISTA DRIVE, R-1 TO R-2, CHANGE OF CONDITIONS AND PRELIMINARY DEVELOPMENT PLAN, CITY MANAGER'S REPORT

Mayor Rothschild announced City Manager's communication number 397, dated December 5, 2017, was received into and made part of the record. He said this was the time and place legally advertised for a public hearing on a request to increase the maximum building height to 25 feet for the front of the buildings and to reduce the number of lots by two, for property located on the south side of Monte Vista Drive, approximately 500 feet west of Columbus Boulevard.

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

Erin Harris, Star Consulting of Arizona, on behalf of the property owner of Cornerstone Homes, stated they were 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 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.

Council Member Kozachik stated as he read the material it appeared that any of the increases in height did not have any adjacency issues since they were all on the interior of the site.

Ms. Harris state that was correct and the project had gone through a metamorphosis over the last several years. She said one of those changes was to position all of the homes with their front towards the inside of the development and the additional architectural variation only affected the front and the sides; the rear of the home stayed at the previous condition of twenty feet.

It was moved by Council Member Kozachik, duly seconded, and carried by a voice vote of 7 to 0, to approve the request as presented.

11. PUBLIC HEARING: SUNSET DATE OF URBAN AGRICULTURE TEXT AMENDMENT, AMENDING ORDINANCE 11328

(Note: Council Member Scott departed at 7:48 p.m., and returned at 7:50 p.m.)

Mayor Rothschild announced City Manager's communication number 398, dated December 5, 2017, was received into and made part of the record. He said this was the time and place legally advertised for a public hearing to consider the extension or removal of the sunset date for the adopted Urban Agriculture Text Amendment. He announced the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations.

Comments were made by:

Beryl Baker

Dennis Mizer

Mayor Rothschild asked if there was anyone else wishing to be heard on the item.

There was no one.

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

Mayor Rothschild asked the City Clerk to read Ordinance 11506 by number and title only.

Ordinance No. 11506 relating to Planning and Zoning; amending Ordinance No. 11328 by deleting the sunset date; and setting an effective date.

It was moved by Council Member Durham, duly seconded, to pass and adopt Ordinance 11506.

Council Member Romero stated the Planning Commission (PC) voted 8 to 0 to remove the sunset date, but also wanted to get feedback and direction from the Mayor and Council as it relates to expanding and allowing use of larger animals in areas along the Santa Cruz River where historically large animals had been allowed. She said there was a grandfather clause that allowed for large animals, but had been grandfathered to the owners that were currently there. Any new building did not have the same grandfathered clause or opportunity. She said she wanted to make sure that was further investigated and try to have direction to find an agreement that the community could agree upon in this particular issue.

Mayor Rothschild asked staff what was the City Attorney's direction was in regards to Council Member Romero's suggestion.

Michael Rankin, City Attorney, stated as pointed out it was in the recommendations already and staff was intending to look at those issues.

Council Member Romero reiterated and wanted confirmation that the recommendations already included researching the future expansion of allowed uses to include larger animals in areas where those had been historically allowed.

Michael J. Ortega, City Manager, stated staff would seek their direction, but it was his recommendation that it be included in the Council's recommendation.

It was moved by Council Member Durham, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance 11506.

12. ZONING: (C9-16-16) PIMA MEDICAL INSTITUTE - CRAYCROFT ROAD, R-1 TO OCR-1, ORDINANCE ADOPTION

Mayor Rothschild announced City Manager's communication number 399, dated December 5, 2017, was received into and made part of the record. He asked the City Clerk to read Ordinance 11505 by number and title only.

Ordinance No. 11505 relating to Zoning: amending zoning district boundaries in the area located at 2120 North Beverly Avenue, approximately 600 feet south of Grant Road and bounded by Craycroft Road to the east and Beverly Avenue to the west, in case C9-16-16, Pima Medical Institute - Craycroft Road, R-1 to OCR-1; and setting an effective date.

It was moved by Council Member Kozachik, duly seconded, and passed by a roll call vote of 7 to 0, to approve the request and pass and adopt Ordinance 11505.

13. TUCSON CODE: AMENDING (CHAPTER 21) INCREASING TENNIS COURT USE FEES

Mayor Rothschild announced City Manager's communication number 400, dated December 5, 2017, was received into and made part of the record. He requested the City Clerk to read Ordinance 11507 by number and title only.

Ordinance No. 11507 relating to Parks and Recreation fees, tennis courts; amending the Tucson City Code (TCC), Chapter 21 Article 10, Section 21-10, fees for tennis courts at the Jim Reffkin Tennis Center, Ft. Lowell Park, and Himmel tennis courts to increase fees; and declaring an emergency.

It was moved by Council Member Scott, duly seconded, to pass and adopt Ordinance 11507.

Council Member Kozachik asked why youth, senior and veterans discounts were offered during the day, but not at night.

Ronny Smith, Jim Reffkin Tennis Center Director, stated night time play was their primetime play and they were a lot busier during that time; courts were often completely full. He said that was the rationalization of the previous management which he chose to continue to keep in place.

Council Member Kozachik commented that the charge was sixteen dollars per court. He asked if the City was responsible for court maintenance and if not, who was.

Mr. Smith replied the City was not. He said regarding maintenance and cleaning of the courts, the Center was responsible; but in terms of resurfacing the courts and capital improvements, the City was responsible. He said the City was also responsible for the benches and electrical maintenance.

Council Member Kozachik asked who received the revenues from the concessions and merchandise sales.

Mr. Smith said the management company received the revenues.

Council Member Kozachik inquired about the six dollar price increase and asked if the increase was being justified by the minimum wage increase and the paid time off, because that was the way the material read. He asked staff what the break down was on the increase and did any of it go to help offset the cost for resurfacing, capitals needs and courts. He said the University of Arizona was about to pay nearly a hundred thousand dollars to get their courts resurfaced on campus and he knew this was a significant cost item. He said the City needed to find a funding source to maintain the courts instead of turning all of these dollars over to the management company.

Albert Elias, Assistant City Manager, stated the existing agreement with the vendor, defined the way the percentages were shared. He said 3% of the revenue came to the City. He said with regard to capital improvements, the issues at the tennis center were similar to all of the City's park facilities in that there was not adequate funding to do the capital improvements and repairs that were needed. He said this contract was not set up in a way that those capital improvements were to be covered by the vendor.

Council Member Kozachik asked when the contract was up for renegotiations.

Mike Hayes, Parks and Recreation Interim Director, indicated the contract expires in 2025; it was extended due to the fact that Mr. Reffkin put over two hundred thousand dollars of work on the courts themselves and resurfaced eight courts on the north side of the center with concrete overlay.

Mayor Rothschild asked when that happened.

Mr. Hayes replied in it was done in 2009.

Mayor Rothschild commented that was about a decade ago, and the City was only getting three percent on this deal. He asked who approved the contract and fees that were in place.

Mr. Hayes stated the Mayor and Council approved the contract in 2009. He said the fees have not been increased since 2009 and this was the first time the management company brought forward the increase in fees.

Mayor Rothschild stated that the materials show that the fees were already in place.

Mr. Elias clarified that the language in the agreement states the change in fees had to be approved by the Mayor and Council. He said there was some miscommunication in the past with previous operators, but to clarify the existing fees were only what the Mayor and Council had approved. He said the charges remained at ten dollars for adult night use. He stated that if the Council wanted to approve the proposed changes that would allow the proposed fees outlined in the communication to be collected.

Council Member Scott asked when the last time was that any fees were adjusted.

Mr. Hayes stated that was done by the Mayor and Council in 2009. He said, unfortunately, at two different times during the length of the contract the prices were increased. He commented that about six months ago, when he was put in charge of the contract, he read the contract as it stood and reminded the management company they had to come back to the Mayor and Council for this approval. He said he had them go back to the original fees from 2009 and they were here today to request the increase.

Mayor Rothschild reiterated that the fees had been increased without the Mayor and Council's approval.

Mr. Hayes stated that was correct.

Mayor Rothschild stated that was problem number one. He said problem number two was that this contract was originally awarded to Jim Reffkin, LLC.

Mr. Hayes stated that was correct and said he believed in May 2016, Mr. Reffkin had to step away from the contract due to health issues.

Mayor Rothschild commented he assigned the contract.

Mr. Hayes stated staff went through the procurement office and Mr. Smith absorbed the fee the City had to pay to buy out Mr. Reffkin for the work and improvements he had made.

Mayor Rothschild stated the assignment was never approved the Mayor and Council.

Mr. Hayes stated that the procurement process did not call for the assignment of the contract to come back to the Mayor and Council.

Vice Mayor Cunningham stated he wanted to table the item; he did not want to vote on this item and directed the attorney to set up an executive session to know what their legal standing was to get out of this contract.

Council Member Kozachik clarified with Vice Mayor Cunningham if he wanted to continue the item and not table the item.

Vice Mayor Cunningham stated he was looking for a second, and what he was moving was that the Mayor and Council go into executive session, before they even start negotiating anything to have a discussion about this and figure out what their legal rights were to get out of the contract.

Michael J. Ortega, City Manager, stated they could schedule an executive session on next month's Study Session agenda.

A substitute motion was made by Vice Mayor Cunningham, duly seconded, and carried by a voice vote of 7 to 0, to continue the item and schedule an Executive Session for the City Attorney to provide legal advice regarding the management contract.

14. FINANCE: AUTHORIZING A LEASE PURCHASE AGREEMENT FOR FUNDING ENERGY CONSERVATION PROJECTS

Mayor Rothschild announced this item was continued at the request of Staff.

15. TUCSON CODE: CREATING THE PUBLIC SAFETY COMMUNICATIONS DEPARTMENT

Mayor Rothschild announced this item was continued at the request of Staff.

16. ADJOURNMENT: 8:08 p.m.

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council would be held on December 19, 2017, 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 December, 2017, and do hereby certify that it is an accurate transcription.


DEPUTY CITY CLERK

RWR:agj:eg