



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on June 19, 2018.

Date of Meeting: December 19, 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 5:49 p.m., on Tuesday, December 19, 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	Council Member Ward 1
Paul Cunningham	Vice Mayor, Council Member Ward 2
Paul Durham	Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Richard G. Fimbres	Council Member Ward 5
Steve Kozachik	Council Member Ward 6
Jonathan Rothschild	Mayor

Absent/Excused:

None

Staff Members Present:

Michael J. Ortega	City Manager
Michael Rankin	City Attorney
Roger W. Randolph	City Clerk

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

a. INVOCATION

The invocation was given by Pastor Roy Tullgren, Gospel Rescue Mission.

b. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was presented by the entire assembly.

c. PRESENTATIONS:

No presentations were made.

d. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Rothschild announced City Manager's communication number 404, dated December 19, 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 Scott, duly seconded, and carried by a voice vote of 7 to 0, to approve the appointments of Ashley Pedersen to the Landscape Advisory Committee (LAC); William Wojciechowski to the Veterans' Affairs Committee (VAC); Michael Means, Stephen T. Grede, and William P. O'Brien to the Armory Park Historic Zone Advisory Board (APHZAB); Georgia Armstrong to the Environmental Services Advisory Committee (ESAC); Katherine Cooper, Allison Dumka, Alma Hernandez, Christa Steiner, and Olivia Lundin to the Pima County/Tucson Women's Commission (PCTWC); Ronald J. Beckwith and Carol Maywood to the Fort Lowell Historic Zone Advisory Board (FLHZAB); and Robert Page to the Design Review Board (DRB).

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

There were none.

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

Mayor Rothschild announced City Manager's communication number 405, dated December 19, 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 Mayor Rothschild, Vice Mayor Cunningham and Council Members Romero, Durham, and Fimbres.

Current event report was provided 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 406, dated December 19, 2017, was received into and made part of the record. He also announced this was the time scheduled to allow Boards, Committees and Commissions to report on their activities during the past year, as well as, anticipated future activities.

Report was provided by Joe Barkenbush, City Employees Deferred Compensation Plan Management Board (CEDCMB) Chair.

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 407, dated December 19, 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. Years Asian Bistro, Ward 3
625 E. Wetmore Rd. #109
Applicant: Kevin Arnold Kramber
Series 12, City 83-17
Action must be taken by: December 22, 2017

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

2. Dollar General Store #19051, Ward 5
2032 E. Irvington Rd.
Applicant: Thomas Gene Luman
Series 10, City 84-17
Action must be taken by: December 21, 2017

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

Public Opinion: Written Argument Opposed Filed

This item was considered separately.

3. La Indita, Ward 6
622 N. 4th Ave.
Applicant: Denise Michelle Schafer
Series 12, City 85-17
Action must be taken by: December 22, 2017

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

4. Lovin' Spoonfulls, Ward 3
2990 N. Campbell Ave. #120
Applicant: May Endora Gilley
Series 12, City 87-17
Action must be taken by: December 24, 2017

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

5. New Empire Market, Ward 6
536 E. 9th St.
Applicant: Anne M. Lee
Series 10, City 89-17
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 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)

6. Chihuahua Market, Ward 1
4870 S. 12th Ave.
Applicant: Kevin Arnold Kramber
Series 9, City 91-17
Action must be taken by: January 5, 2018

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

Public Opinion: Written Argument Opposed Filed

This item was considered separately.

7. Midtown Tavern, Ward 3
3620 N. 1st Ave.
Applicant: Frank Martin Silverman
Series 6, City 92-17
Action must be taken by: January 5, 2018

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

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

Person/Location Transfer(s)

8. Craft, A Modern Drinkery, Ward 6
4603 E. Speedway Blvd.
Applicant: Travis Harley Miller
Series 7, City 86-17
Action must be taken by: December 23, 2017

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

9. Hotel McCoy, Ward 1
720 W. Silverlake Rd.
Applicant: Ryan Witner Anderson
Series 7, City 90-17
Action must be taken by: January 4, 2018

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)

Remote Tasting Room(s)

10. Series 19, Ward 1
13 N. Stone Ave.
Applicant: Christopher Brian Dudding
Series 19, City 78-17
Action must be taken by: December 8, 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. 2nd Saturdays, Inc., Ward 6
220 S. 6th Ave.
Applicant: Fletcher McCusker
City T162-17
Date of Event: December 28, 2017 - December 29, 2017
(AZ Bowl Block Party)

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

2. Tucson Rodeo Parade Committee, Inc., Ward 5
4823 S. 6th Ave.
Applicant: Diane Lorene Culin
City T163-17
Date of Event: January 20, 2018
(Fundraiser)

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

3. Museum of Contemporary Art Tucson, Ward 6
265 S. Church Ave.
Applicant: Alexis Page Smith
City T164-17
Date of Event: January 13, 2018
(Spring Exhibition Opening)

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

4. Museum of Contemporary Art Tucson, Ward 6
265 S. Church Ave.
Applicant: Alexis Page Smith
City T165-17
Date of Event: January 18, 2018
(Third Thursday)

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

5. TD4Tucson dba Arizona Bowl, Ward 6
1303 E. University Blvd.
Applicant: Allyson Tofel
City T166-17
Date of Event: December 29, 2017
(AZ Bowl Game Tailgate)

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

6. TD4Tucson dba Arizona Bowl, Ward 6
1 National Championship Dr.
Applicant: Allyson Tofel
City T167-17
Date of Event: December 29, 2017
(AZ Bowl Game)

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 Vice Mayor Cunningham, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b1, 5b3 through 5b5, 5b7 through 5b10, and 5c1 through 5c6 to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

- b. Liquor License Application(s)

New License(s)

2. Dollar General Store #19051, Ward 5
2032 E. Irvington Rd.
Applicant: Thomas Gene Luman
Series 10, City 84-17
Action must be taken by: December 21, 2017

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

Public Opinion: Written Argument Opposed Filed

Roger W. Randolph, City Clerk, announced the first item to be considered separately was Item 5b2, Dollar General Store #19051, located in Ward 5.

Council Member Fimbres stated two letters were submitted in opposition of the application. He asked if there was anyone present from Dollar General in support of the application. Hearing no one, he asked Yolanda Herrera and Josefina Cardenas if they would come up and say a few words.

Yolanda Herrera, Sunnyside Neighborhood Association President, spoke in opposition to the application request stating her concerns and reasons why the application should be denied. She said alcohol had a negative impact on young lives, to the point where some were suicidal, raped or molested. She stated she had concerns regarding

safety as well and who would actually be on site and responsible. She asked if time permitted, she wanted to give another constituent who lived in the area an opportunity to speak.

Jamal Givens stated he worked and lived in the south side for over the last twenty years. He said he was a youth advocate and was concerned about over-saturation of liquor licenses in the south side. He said he was also concerned about the location of the Dollar General as it was in an area that was not well lit or monitored. He stated he worked with at-risk youth, some of which already had behavioral challenges. He asked that the Mayor and Council not add any more places that offered liquor that were not currently in existence.

Josefina Cardenas stated she agreed with Yolanda Herrera. She said the Mayor and Council needed to look at their streets; homelessness; substance abuse and mental illness, and asked when those issues would be addressed.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license application 5b2 to the Arizona State Liquor Board with a recommendation for denial.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Application(s)

Person Transfer(s)

6. Chihuahua Market, Ward 1
4870 S. 12th Ave.
Applicant: Kevin Arnold Kramber
Series 9, City 91-17
Action must be taken by: January 5, 2018

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

Public Opinion: Written Argument Opposed Filed

Mayor Rothschild announced the next item to be considered separately was Item 5b6, Chihuahua Market, located in Ward 1.

Council Member Romero asked if the applicant was present and to come forward.

Joe Flores, Applicant, stated he was a native of Tucson and thanked the Mayor and Council for the opportunity to speak regarding the person to person transfer of the liquor license at Chihuahua Market. He said he had received and reviewed the Sunnyside Neighborhood Association's written protest and immediately reached out to Yolanda Herrera to discuss in person either with herself and/or with the Neighborhood

Association. He said there was no response to his email request and understood her hesitation and recommendations regarding the transfer, but as he stated earlier, it was nothing more than a person to person transfer of the license. He said they were not adding an additional liquor license or outlet in the community, but only a transfer of ownership of one that currently existed in the area and the one that had existed there since 2010.

Mr. Flores said he appreciated the relationship the Sunnyside Neighborhood Association had with the previous owner. He said being that Chihuahua Market was within the Rose Neighborhood Association and as a member of the Rose Neighborhood Association, he stated he had always been a participant and a supporter of their surrounding neighbors. He stated he has been the owner of the real estate property and check-cashing business next door for twenty-three years, and also had other invested interests in businesses in the area for fifty years. He said it was important for him, not only the success of these businesses, but the appearances and upkeep of the properties. He further stated that the Tucson Police Department (TPD) had submitted a memo of “in-compliance” in regards to his and his daughter’s background and respectfully requested the Mayor and Council’s approval and thanked them for their time.

Council Member Romero asked Kevin Kramber to address the Mayor and Council.

Kevin Kramber, Agent on the Application, thanked the Mayor and Council for the opportunity to speak. He said he agreed with Mr. Flores’ earlier comments in that the application was for a person to person transfer of the liquor license and they were not impacting the neighborhood or the area by anyway, shape or form with any additional liquor licenses.

Mr. Kramber said, according to Arizona Revised Statutes, (A.R.S. § 4-203), the Mayor and Council could only review the applicant’s personal qualifications. He said in Ms. Herrera’s letter, she indicated there was a lack of training. Mr. Kramber stated he was a certified Title 4 trainer for the State and Mr. Flores had taken the training from him and Mr. Flores’s daughter would complete the training prior to the final issuance of the license.

Council Member Romero asked if Mr. Flores and his daughter would be running the business and if they would actually be on-site and supervising.

Mr. Kramber replied they would. He also stated they had another speaker in the audience that could attest to the personal qualifications of the applicant.

Dan Santa Maria stated he was a real estate broker in business since 1965, had done a lot of work with Mr. Flores and never had any problems. He commented he was familiar with several of Mr. Flores’ businesses. He said what Mr. Flores failed to say was that he owned the entire property and had maintained it in every compliance issue there was with the zoning and different activities that had gone on there.

Yolanda Herrera said she had been in Tucson for the last six decades and was familiar with the location and former owners, where one of the businesses had to be shut down by the State, and the other one for selling spice. She commented on how a property owner could not know when businesses on their property were being shut down for negative and wrongful activity. She said she tried to reach out to Mr. Flores, but because of her schedule she was not able to get a hold of him. She questioned the application at that time, because it did not indicate he or his daughter had gone through the training and it did not indicate who was actually going to be on-site during store hours.

Ms. Herrera commented that when TPD states the applicants are in compliance, it did not mean they are recommending “anything”, only that they had not found “anything”. She said she was aware that it was a person to person transfer, but if not granted, it would be nice if they were able to get rid of another Series 9 in their neighborhood. She stated the area was a high-stressed area and had issues with traffic and public drinking, especially with new development west of the area.

Ms. Herrera stated she had known Mr. Flores for a long time and did not have a problem with him personally, but had problems with the location and the negative business that took place in the past.

Council Member Romero stated it had been a problem area in the past and there were thirty-five other possible places to consume and purchase alcohol in the mile area. She said she wanted to ask what the possible reasons were in order to deny a liquor license because of over-saturation and if it was applicable in this case.

Mike Rankin, City Attorney, stated it was not. He said those issues would be relevant for consideration when it was an application for a new location and this application involved a person to person transfer. He said the sole basis for consideration was capabilities, qualifications and reliability of the applicant.

Council Member Romero asked if a no recommendation was possible.

Mr. Rankin said a no recommendation could be made.

It was moved by Council Member Romero, duly seconded, to forward liquor license application 5b6 to the Arizona State Liquor Board with no recommendation.

Mayor Rothschild said it was clear that on a person to person transfer, the only basis for denial was a disqualification of a person on the basis indicated by the City Attorney. He asked how a neutral recommendation would play out.

Mr. Rankin stated in moving forward it would be as if the Mayor and Council took no action at all. He said it would then be forwarded to the Arizona State Liquor Board and he expected that the Liquor Board would approve the person transfer.

The motion to forward Item 5b6 to the Arizona State Liquor Board with no recommendation was carried by a voice vote of 5 to 2 (Council Member Kozachik and Mayor Rothschild dissenting).

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:

Edward Cizek
Yolanda Herrera

Daniel Porzio

Ed Beshure

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 O

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 DEC19-17-408 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of April 19, 2017
3. Mayor and Council Study Session Legal Action Report and Minutes of April 19, 2017

b. BOARDS, COMMITTEES AND COMMISSIONS: TERMINATING THE BOND PROJECT ADVISORY COMMITTEE

1. Report from City Manager DEC19-17-409 CITY WIDE
2. Resolution No. 22843 relating to Boards and Commissions; dissolving the Bond Project Advisory Committee (BPAC); and declaring an emergency.

- c. BOARDS, COMMITTEES AND COMMISSIONS: AMENDING TUCSON CODE (CHAPTER 10A) DISSOLVING THE RESOURCE PLANNING ADVISORY COMMITTEE
 - 1. Report from City Manager DEC19-17-410 CITY WIDE
 - 2. Ordinance No. 11509 relating to Boards and Commissions; dissolving the Resource Planning Advisory Committee (RPAC); repealing Tucson Code Sections 10A-200 through 10A-204; and declaring an emergency.

- d. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH MARC CARGILL, OWNER OF PARCEL 205-35-088L, FOR WATER SERVICE
 - 1. Report from City Manager DEC19-17-411 WARD 2 AND OUTSIDE CITY
 - 2. Resolution No. 22844 relating to Pre-Annexation and Development Agreements; authorizing and approving the execution of a Pre-Annexation and Development Agreement between the City of Tucson and Marc Cargill, Owner of Parcel No. 205-35-0088L.

- e. INDUSTRIAL DEVELOPMENT AUTHORITY: APPROVING AMENDMENTS TO THE JOINT REVOLVING TAXABLE SINGLE FAMILY MORTGAGE PROGRAM OF 2012
 - 1. Report from City Manager DEC19-17-416 CITY WIDE
 - 2. Resolution No. 22845 relating to Finance; a resolution of the Mayor and Council of the City of Tucson, Arizona approving amendments to the \$40,000,000 the Industrial Development Authority of the City of Tucson, Arizona and the Industrial Development Authority of the County of Pima Joint Revolving Taxable Single Family Mortgage Program of 2012 approving the addition of Forgivable 2nd Mortgage Loan to replace the Homebuyer Grant; approving the Amended & Restated Standards & Requirements; approving the Amended & Restated Intergovernmental Agreement; approving amendments to program documents related thereto; and declaring an emergency.

- f. FINANCE: WRITE-OFF OF UNCOLLECTIBLE ACCOUNTS RECEIVABLE
 - 1. Report from City Manager DEC19-17-417 CITY WIDE
 - 2. Resolution No. 22847 relating to Finance; Authorizing the write-off of certain uncollectible accounts; and declaring an emergency.

- g. TUCSON CODE: AMENDING (CHAPTER 10) MODIFICATIONS TO THE ANNUAL COMPENSATION PLAN FOR FISCAL YEAR 2018 AND AMENDING ORDINANCE 11464
1. Report from City Manager DEC19-17-418 CITY WIDE
 2. Ordinance No. 11511 relating to Compensation Plan; Tucson Code Chapter 10, Civil Service - Human Resources, Article II, Compensation Plan, Section 10-31, amending Ordinance No. 11464 to approve revised Compensation Schedule F Non-Permanent Classifications to comply with the minimum wage increase, approve the discretionary wage changes to maintain a 5% differential between classifications; otherwise reaffirming the provisions of Ordinance No. 11464; setting an effective date; and declaring an emergency.
- h. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR SEWER BILLING SERVICES
1. Report from City Manager DEC19-17-412 CITY WIDE AND OUTSIDE CITY
- (This item was continued at the request of Staff.)
- i. FINAL PLAT: (S17-033) STONE LANE HOMES, LOTS 1 THROUGH 12, AND COMMON AREAS "A", "B" AND "C"
1. Report from City Manager DEC19-17-419 WARD 3
 2. Staff recommends that the Mayor and Council approve the 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 Durham)
- j. FINAL PLAT: (S17-038) COMMERCIAL BUSINESS PARK, LOTS 1 THROUGH 3, COMMON AREA "A" AND TRAIL EASEMENT
1. Report from City Manager DEC19-17-420 WARD 4
 2. Staff recommends that the Mayor and Council approve the 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.
- k. FINAL PLAT: (S17-047) THE BRIDGES - BLOCK 14, LOTS 1 THROUGH 2
1. Report from City Manager DEC19-17-421 WARD 5

2. Staff recommends that the Mayor and Council approve the 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.
1. FINAL PLAT: (S17-061) SORRENTO SQUARE RETAIL CENTER - BLOCK 1, COMMON AREAS "A" AND "B"
 1. Report from City Manager DEC19-17-422 WARD 4
 2. Staff recommends that the Mayor and Council approve the 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.
 - m. TUCSON CODE: AMENDING (CHAPTER 20) RELATING TO ON-STREET PERMIT PARKING FEES IN AND NEAR THE 4TH AVENUE SHARED PARKING AREA
 1. Report from City Manager DEC19-17-415 WARD 6
 2. Ordinance No. 11513 relating to Parking; amending the on-street parking fee schedule; and declaring an emergency.
 - n. RESOLUTION: SUPPORTING NATIONAL LEGISLATION TO ENACT A CARBON FEE AND DIVIDEND PROGRAM TO REDUCE POLLUTING AND CLIMATE-CHANGING CARBON EMISSIONS
 1. Report from City Manager DEC19-17-414 CITY WIDE
 2. Resolution No. 22848 relating to supporting National Legislation to enact a carbon fee and dividend program to reduce polluting and climate-changing carbon emissions; and declaring an emergency.
 - o. TUCSON CODE: AMENDING (CHAPTER 22) RATIFICATION OF CERTAIN RETIREMENTS FROM THE TUCSON SUPPLEMENTAL RETIREMENT SYSTEM
 1. Report from City Manager DEC19-17-427 CITY WIDE
 2. Ordinance 11515 relating to Tucson Supplemental Retirement System; Tucson Code Chapter 22, Pensions, Retirement, Group Insurance, Leave Benefits and other Insurance Benefits, Article III, Tucson Supplemental Retirement System, Division 1, Types of Retirement and benefits; Amending Section 22-37(a)(1), types of retirements; and declaring an emergency.

It was moved by Vice Mayor Cunningham, duly seconded, and passed by a roll call vote of 7 to 0, that Consent Agenda Items a – o, with the exception of Item i, which was considered separately, and Item h, which was continued at the request of staff, be passed and adopted and the proper action taken.

7. CONSENT AGENDA – ITEM I

i. FINAL PLAT: (S17-033) STONE LANE HOMES, LOTS 1 THROUGH 12, AND COMMON AREAS "A", "B" AND "C"

1. Report from City Manager DEC19-17-419 WARD 3

2. Staff recommends that the Mayor and Council approve the 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 Durham stated jobs and a strong economy in Ward 3 and City-Wide was a top priority for him. He also said the need to improve access to housing was an important part of this goal. He said he had learned of some problems that occurred on one of the developer's previous projects, the Hacienda's at Wrightstown Road. He commented that the details were not important, but he would be keeping a close eye on the new project; Stone Lane Homes. He said he felt it was a good project, but did not want the same problems or any new problems to occur. He asked staff to advise the Mayor and Council on the options available to them with regards to the project.

Mike Rankin, City Attorney, stated what was before the Mayor and Council on the evening's agenda was the approval of the final plat. He said a final plat required approval by the Mayor and Council but was a ministerial act and under Arizona Law, it was not an act like a rezoning or other legislative acts where they had discretion one way or another. He said what the Mayor and Council were doing was making the ministerial findings that confirmed staff's determination that the plat was in fact in compliance with the City's codes, regulations and requirements.

Mr. Rankin stated approval of the plat was appropriate and required as a ministerial act. He said the final plat was accompanied by an assurance agreement that was connected to the plat and provided protection and assurances of the assurable items the *Code* required to be carried out. He said if they were not successfully carried out, the assurance agreement established a trust from where the City could draw resources and use those resources to complete the assurable items.

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

8. PUBLIC HEARING: GRANT-ALVERNON AREA PLAN AMENDMENT (PA-17-01), ALVERNON/FORT LOWELL ROAD, TO ALLOW COMMERCIAL USE

Mayor Rothschild announced City Manager's communication number 423, dated December 19, 2017, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on a request to amend the *Grant-Alvernon Area Plan*. He said 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 Nancy Strickler and Robert Olson in favor of the *Grant-Alvernon Area Plan Amendment*.

Mayor Rothschild asked if the applicant or representative was present. He asked the applicant to please come forward. He said it appeared they were voting on an amendment to the planned area development and it seemed everyone was in support of the project, but at the same time there were concerns of traffic flow.

Brian Underwood, Planning Center, stated he was present. He said they were currently requesting an amendment to the *Grant-Alvernon Area Plan* to allow commercial uses on the property. He said they held a meeting with the surrounding neighbors back in June 2017, and heard the message from neighbors of the existing traffic issues being unsafe and not having the ability to turn out onto the center lane.

Mr. Underwood said they were following up on the plan amendment with the rezoning and had a traffic engineer review the proposed uses and the existing conditions and with the results of those findings, they would need to widen out that section of roadway from the development to allow for the center turn lane.

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 Resolution 22846 by number and title only.

Resolution No. 22846 relating to Planning and Zoning: amending the Grant-Alvernon Area Plan (*GAAP*) - PA-17-01, south side of Fort Lowell Road approximately 700 feet east of the Alvernon/Fort Lowell Road intersection - to allow commercial land uses and restricting maximum building height to 40 feet; and setting an effective date.

Council Member Romero asked what the intended use was for the area and if it had been discussed with the neighbors.

Mr. Underwood said they went ahead and showed the neighbors a proposed site plan. He said their clients had multiple conversations with brokers around town to figure out if there was a need for commercial and retail uses, and it turned out there were needs for retail and restaurants. He said they also had a market study done for the property that

revealed self-storage units was also a deficient use in the area, and were thinking of more nicer climate control self-storages that would not include the roll up doors.

Council Member Romero asked if they would have some retail, restaurants and towards the back would they have the self-storage.

Mr. Underwood said the way the site was laid out, it had a lot of areas, that did not have a lot of exposure from Fort Lowell Road and there were worries there about the feasibility of the uses in the back.

Council Member Romero asked if the neighbors were fine with that.

Mr. Underwood replied they were.

It was moved by Council Member Durham, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Resolution 22846.

9. PUBLIC HEARING: ZONING: (SE-17-86) VERIZON – UNIVERSITY BOULEVARD, C-3 ZONE, WIRELESS COMMUNICATION FACILITY, SPECIAL EXCEPTION LAND USE, ORDINANCE ADOPTION

Mayor Rothschild announced City Manager’s communication number 425, dated December 19, 2017, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on a special exception land use request for a wireless communication tower located north of University Boulevard, west of Stone Avenue. He said the Zoning Examiner recommends denial of the request and staff was recommending approval. He asked if the applicant or representative was present.

Michelle Lamoureux, Pinnacle Consulting, Inc. on behalf of Verizon Wireless was present.

Mayor Rothschild said he was going to continue with the public hearing and then allow the applicant/representative to comment on any of the concerns constituents had. 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:

Chieko Nakano
Karen Greene

Elizabeth Upham

Natasha Winnik

Mayor Rothschild stated that the law did not allow for the Mayor and Council to consider any evidence on health-related issues. He asked the Council to disregard Ms. Nakano’s testimony and said the two bases for potential denial of the request were either that alternative sites had not been appropriately considered or that there was not appropriate gap in service.

Mayor Rothschild called on Ms. Lamoureux stating that she had the opportunity to hear the objections relating to looking at alternative sites, potential mitigation on the existing site and gap in service. He asked her to address those issues.

Ms. Lamoureux stated as proposed, the particular site filled a significant gap in coverage and capacity for Verizon Wireless. She said they felt it was the least intrusive means and referred to information in the Mayor and Council packets that they had reviewed several other locations. She stated she also did a brief history of the site that was submitted to the Planners, showing they had tried working with the neighborhoods. She said the original proposal was across the street and it was a sixty-five foot monopole that was not stealthed; it was a full twelve antenna array and obviously did not work.

Ms. Lamoureux said that particular site was Merle's Automotive Supply. She said they went back to Merle's to see if they could get more space to place a stealth facility like a water tower. She said the parking at Merle's was very tight and the spaces were very small; the owners were receiving so much push back from the neighbors, and at that point the owner decided he did not want a water tower design and just wanted to go with a monopole. She said with so much push back from the neighbors, Verizon decided to explore other options which allowed them about an eight to nine month break and they looked at other sites.

Ms. Lamoureux said that was when they found the apartment complex and moved it across the street so it would not be visible when one turned into the neighborhood. She said they lowered the height and were co-locating on an existing verticality and were stealthing it. She stated Verizon, at that point, felt they had made concessions to the neighborhoods and were trying to do their due diligence and followed all Federal Communications Commission (FCC) guidelines. She said she asked the Radio Frequency (RF) Engineers to provide updated propagation maps and had copies for the Mayor and Council, but the original ones that were included in their packets.

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 Romero said her office had been working closely with the neighborhoods and Pinnacle Consulting, Inc., on this project. She said Pinnacle Consulting had made the process very difficult on everyone, more than it needed to be. She said from her perspective, it seemed like Pinnacle Consulting was trying to see how much they could get away with in terms of not meeting the needs of the neighbors and several examples of bad faith negotiations had lead them to where they were today; with thirty-five protests and zero approvals.

Council Member Romero said back in September 2017, her staff arranged a meeting at the Ward 1 Office, where all parties came to a tentative agreement as to the particulars of the cell tower. She stated that several days later, after no conversations with the neighborhood or the Ward 1 Council Office, Pinnacle Consulting re-filed the

original application that did not reflect any of the recent conversations with the neighbors.

Council Member Romero said Pinnacle Consulting showed a lack of regard for the neighborhoods and the Zoning Examiner (ZE) by not providing updated plans in advance of the most recent ZE hearings. She said at the previous hearing reports, one could see that neighborhood leaders, the ZE and Pinnacle Consulting had discussed at great length the importance of providing the neighborhoods with updated plans in advance of the second ZE hearing and in time for the Dunbar Spring Neighborhood meetings. She said Pinnacle submitted materials three hours prior to the ZE hearing and ten days after the neighborhoods needed them.

Council Member Romero commented that there was an email that was sent that explained the individual representing Pinnacle was out of the office and could not access email or forward them to discuss with neighbors. She said she was going to vote to deny the application, not because she was opposed to a cell tower in the Dunbar Spring Neighborhood, but because she felt Verizon could have done better.

Council Member Romero stated she wanted Pinnacle Consulting to go back to the neighborhoods and negotiate in good faith this time and bring something back in a few months that everyone could live with. She said negotiations were tough and everyone had to give something. She stated the neighbors did not want the tower at all, but were willing to come to the table and negotiate in good faith. She commented that Pinnacle was getting paid a consultant fee for this project and could drive home to Phoenix at the end of the day.

Council Member Romero said she wanted to make a motion to remand the application back to the Zoning Examiner or to the Design Review process to give the applicant another opportunity to work with the neighborhoods and reach a mutually acceptable resolution. She said as the agenda materials pointed out, the Mayor and Council had to take action on the application this evening in order to satisfy the shot clock required under Federal Law.

It was moved by Council Member Romero, duly seconded, to deny the application. She said the motion was based on the fact that the applicant had not demonstrated that the installation as proposed was needed in order to fill a current existing significant coverage gap. She said because it seemed to the extent that there might be a coverage gap now or in the future, the applicant had reasonable and viable alternatives to address the coverage gap. She stated the motion was further based on the fact that the application did not adequately address the negative impacts on aesthetics that the installation would have on the community, which were exactly the kinds of concerns that the City's zoning regulations were intended to address.

Council Member Romero continued that this was made evident by the protests received and the testimony on record which showed this particular application was different than others that had previously gone through the process. Finally, she said, she

moved that in the event that the motion was approved, that City staff place this motion and its findings into writing and provide it to the applicant as soon as possible together with the Legal Action Report from this meeting.

Ms. Lamoureux stated the Dunbar Spring Neighborhood had stated firmly from the beginning that even if they worked with them, they would still be in opposition of the application and the site. She said she understood they did not want the site; however, there was a significant gap in coverage. She said they had provided propagation maps showing there was a gap in coverage and were following the *Tucson Code*, co-locating on an existing verticality. She stated they had tried to communicate with the neighborhoods and even in the meetings they attended with the representatives, one of the representatives from the neighborhoods stated they did not care what they had to do in order to delay the site from going up.

Ms. Lamoureux said at this point, it was very difficult for Verizon to say; let us concede to all of your points when the neighborhoods had made it very clear to them that they would do whatever they could to delay it. She said she appreciated the Mayor and Council's concerns and believed that Verizon had made many efforts in working with the neighborhoods, although it might not have been to their satisfaction, which she respected completely, but they had worked with them.

Council Member Durham said he was not pleased with the timing of the application. He further stated the materials provided insufficient evidence that the proposal was the least intrusive means of filling the coverage gap or whether there were alternative sides that would fill coverage gaps. He was not convinced on either of those facts and that was why he would vote to deny.

Vice Mayor Cunningham asked why there was an inconsistency between staff and the Zoning Examiner.

Scott Clark, Planning & Development Services Department Interim Director, stated that when staff reviewed the denial provided by the ZE, it was a dispassionate review of two findings and all the appropriate measures should be taken to conceal, design or disguise a tower antenna. He said in the review, it was in fact disguising the antenna and providing the wrap that covered the array, but he did not feel it got to the substantial coverage gap. He said the other findings that the ZE pointed out were the proliferation of towers and since that array was going to an existing site where they replaced the tower to accommodate the weight, they were not proliferating the towers and that was the basis of staff's approval. He said staff did not take a look at the other issues, because those were not the reasons for the denial.

Vice Mayor Cunningham asked Steve Shell, Zoning Examiner, why he denied the application.

Steve Shell, Zoning Examiner, stated he had heard the case and although he was not aware of any prior locations that had been looked at, it was previous to anything he

had heard. He said he was dealing with the facts that were brought before him and when he began to review the case, he was made aware of the thirty-two to thirty-five protests and zero approvals and he was basically seeing a cell tower that would be in the middle of a parking lot where Verizon made no effort in trying to hide or disguise it based on what the neighbors had been asking for and submitted in their letters and documentations.

Mr. Shell said when he realized no agreements would be made during the initial hearings; he was able to see some vital pieces of information that needed to be brought further to him. He wanted to hear from their engineers about the gap coverage and what had been done in looking at alternative locations and the options he and the neighbors had proposed. He indicated, as the ZE, he felt part of the responsibilities they relied on was his design expertise in trying to come up with solutions, and when he envisioned a cell tower that was close to a tall buildings, he said the logical conclusion would be to integrate it into the building and not make it a stand alone feature in the middle of a parking lot.

Mr. Shell said everything he was hearing, indicated the landlord would not approve it, so he had requested the landlord attend the next continued public hearing so he could hear from the landlord and have a chance to speak with him and see if there was some common ground they could mutually agree to. He said there was also the idea of Verizon coming back with some alternatives; taking into account what had been presented at the hearings and what he had suggested. He said what they received at the last public hearing was an RF engineer that still made no real comments as to the gap coverage.

Mr. Shell said he knew they submitted drawings that indicated there was a gap, but it was never presented to him at the hearings or brought out as a substantial piece of evidence that he should have looked at. He stated that when asked the applicant what would happen if the application was denied, the applicant stated they would look for smaller alternative locations. He said he felt it was a reasonable solution and asked himself why this was even looked at. He said for those reasons, he recommended denial.

Vice Mayor Cunningham stated the Mayor and Council had gone through this a couple of years ago where they made very stringent set of rules so those towers could be built without the Mayor and Council's approval, and there were specific procedures when it came to heights and everything else. He said if it was coming to the Mayor and Council, it probably meant it had not been done right and the bottom line was it was based on what the ZE has said, he did not feel that Verizon acted in good faith.

Vice Mayor Cunningham said he felt they were legally within their province and obviously Verizon did not consider what the Zoning Examiner had stated and Verizon did not follow the procedures that were in place, and for those reasons, he would recommend denial as well.

The motion to deny the request was carried by a voice vote of 7 to 0. Ordinance 11514 failed.

(Note: Council Member Kozachik departed at 7:37 p.m.)

10. ECONOMIC DEVELOPMENT: AUTHORIZING RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT TO PROVIDE GOVERNMENT PROPERTY LEASE EXCISE TAX (GPLET) PROPERTY TAX ABATEMENT FOR CATERPILLAR SURFACE MINING AND TECHNOLOGY DIVISION HEADQUARTERS

Mayor Rothschild announced City Manager's communication 426, dated December 19, 2017, was received into and made part of the record. He asked the City Clerk to read Resolution 22849 by number and title only.

Resolution No. 22849 relating to Economic Development Incentives and Rio Nuevo Multipurpose Facilities District (Rio Nuevo); approving an eight-year tax abatement to be included in the Government Property Lease Excise Tax (GPLET) Lease Agreement between Rio Nuevo and Caterpillar Global Mining, LLC (Caterpillar) for construction of Caterpillar's Surface Mining and Technology Division headquarters on the City of Tucson's (City) west side.

It was moved by Council Member Romero, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Kozachik absent/excused), to pass and adopt Resolution 22849.

11. CITY MAGISTRATE: APPOINTMENT OF CITY MAGISTRATE AND FIXING COMPENSATION

Mayor Rothschild announced City Manager's communication 413, dated December 19, 2017, was received into and made part of the record. He asked the City Clerk to read Ordinance 11510 by number and title only.

Ordinance No. 11510 relating to City Magistrates; appointing Jeffrey A. Klotz as City Magistrate of the City of Tucson; fixing compensation; and declaring an emergency.

It was moved by Council Member Scott, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Kozachik absent/excused), to pass and adopt Ordinance 11510.

12. TUCSON CODE: AMENDING (CHAPTER 9) CREATING THE PUBLIC SAFETY COMMUNICATIONS DEPARTMENT (CONTINUED FROM THE MEETING OF DECEMBER 5, 2017)

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

Mayor Rothschild announced City Manager's communication 424, dated December 19, 2017, was received into and made part of the record. He asked the City Clerk to read Ordinance 11512 by number and title only.

Ordinance No. 11512 relating to Public Safety Communications; establishing the Public Safety Communications Department and its director; and describing purpose and duties; by repealing Tucson Code Sections 9-1 through 9-3 relating to the “Tucson-Pima County Emergency Service Commission” and adding new Sections 9-1 through 9-3 relating to the Public Safety Communications Department; and declaring an emergency

It was moved by Council Member Fimbres, duly seconded, to pass and adopt Ordinance 11512.

Michael Ortega, City Manager, said the correspondence the Mayor and Council received on this topic was self explanatory. He said when speaking about efficiencies in government, they were speaking about various programs, ideas and power points that showed the consolidation, he said the magnitude of that was very significant when it came to this particular project of 911. He also recognized those sitting in the audience that worked day in and day out in consolidating both the fire and police dispatch center.

Mr. Ortega said it served well from the response time and all the things that went along with it. He further said the State had mandated they upgrade the system right in the middle of the consolidation. At three in the morning on December 13, 2017, they had switched to the new system and he was very proud and pleased to report there were no glitches which were due to the people in the audience who worked for over a year in coordinating and making sure the switchover went off without a hitch. He said that was the caliber of people with the City’s Public Safety Communications Department and therefore wanted them recognized.

Mr. Ortega said he also wanted the Mayor and Council to know it the best type of 911 consolidation was the stuff no one ever heard about and those people at the 911 Communications Center were a testament to the energy and proof that was put forward by those City employees. He said it involved over one hundred seventy employees; seven different agencies; including outside vendor, and it impacted over a million people in the valley. He said it was a very high risk upgrade and a testament again to the quality of employees the City had. He said with that, he recommended approval of the consolidation and the establishment of the Public Safety Communications Department.

Vice Mayor Cunningham voiced his congratulations and said it was a long time coming. He further stated there would be discussions about the efficiencies and the actualized savings the departments would have as the result of this program; the TC3 and all the cutting edges that would be done with both the Fire and Police Departments. He hoped the Mayor and Council considers with those savings, they could be reinvested in personnel, because it was a long time coming.

Council Member Romero said she had concerns about people leaving because of the City of Tucson salaries compared to other City’s in the region. She indicated in the Mayor and Council Communication it stated; for the next fiscal year, there may be a potential request of fourteen additional communications specialist and one supervisor which equates to about nine hundred-twenty thousand dollars. She asked why the City

was waiting for the next fiscal year and when and if the pay equity adjustment taken place.

Mr. Ortega said reasons for people leaving were because of pay and working conditions and part of those working conditions were the ability and inability to fill positions and keep them, so employees were not able to take leave; working long hours, and many hours of overtime. He said they had started, with the first phase of the equity adjustment, which they had already gone through, and they were also recruiting to fill those positions that were currently vacant. He said he had expectations of being able to fill those vacancies and also look at filling the positions that were listed in the memo as well. He said they were working very diligently in providing the resources that were needed to those City employees.

Mr. Ortega stated that staff was watching very closely, both the chemistry of the dispatchers, making sure they had what they needed. He said several months ago, several employees had expressed their concerns to the Mayor and Council and staff had been working very diligently as part of the consolidation to address some of those issues. He said, although pay was mentioned, one of the biggest issues was additional staff for help.

Council Member Romero asked if all the vacant positions had been filled.

Mr. Ortega replied they had not. He said they were currently recruiting and training but still had some vacancies and were pushing hard to get those filled.

Council Romero asked how the first phase of the pay equity adjustment worked.

Mr. Ortega said there was differential pay between Fire and Police in terms of dispatch and communication specialist roles. He said they had compression and market issues as well. He stated they were dealing with each of those three over time and were not yet finished but trying to do the best they could. He further stated that some of the dollars included in the memorandum had addressed pieces, but they still had some work to do across the board.

Mr. Ortega said they had some compression issues that were causing them grief in terms of moving dispatchers to sit next to those that had less time that were either paid the same or slightly more. He said they were dealing with all of those issues as time went on and part of it was a budgetary issue, but the first order of business was to bring on the additional staff and make sure they had adequate resources.

Council Member Kozachik reiterated that the short answer for the consolidation would result in a pay increase for employees.

Mr. Ortega responded that was correct for most of everyone there.

Council Member Kozachik asked an operational question. He said when someone called in; they are asked what the nature of the emergency is. Then the call was sent to

whatever side it pertained to, Fire or Police. He asked if with the consolidation, this would be a one touch call so that the person taking the call is qualified to deal with either side, police or fire and eliminates the first step of the call.

Mr. Ortega replied that was the goal and ultimately would result in about thirty seconds of savings in time.

Council Member Kozachik asked if this was the first step, precursor, in moving forward with the 311 system which would further reduce the load on the center.

Mr. Ortega replied absolutely and the goal was to stand up both the 911 in this configuration and ultimately move to a customer service portal calling it 311 and hoping would take off the non-emergency 911 calls they were currently receiving, which would increase the speed for the emergency dispatch.

Ordinance 11512 was declared passed and adopted by a roll call vote of 7 to 0.

13. ADJOURNMENT: 7:50 p.m.

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, January 9, 2018, 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 19th day of December 2017, and do hereby certify that it is an accurate transcription.


DEPUTY CITY CLERK

RWR:ds:dp