



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on July 7, 2020.

Date of Meeting: January 28, 2020

The Mayor and Council of the City of Tucson met in regular session at Fire Central Conference Room, 300 South Fire Central, Tucson, Arizona, at 5:33 p.m., on Tuesday, January 28, 2020, all members having been notified of the time and place thereof.

1. ROLL CALL

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

Present:

Lane Santa Cruz	Council Member Ward 1
Paul Cunningham	Vice Mayor, Council Member Ward 2
Paul Durham	Council Member Ward 3
Nikki Lee	Council Member Ward 4
Richard G. Fimbres	Council Member Ward 5
Steve Kozachik	Council Member Ward 6
Regina Romero	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 Larry Munguia, The S.O.B.E.R. Project.

b. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was presented by the entire assembly.

c. PRESENTATIONS:

There were no Presentations or Proclamations given.

d. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Romero announced City Manager's communication number 15, dated January 28, 2020, was received into and made part of the record. She asked if there were any personal appointments to be made.

There were none.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Romero announced City Manager's communication number 16, dated January 28, 2020, was received into and made part of the record. She also announced this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

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

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

4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Romero announced City Manager's communication number 17, dated January 28, 2020, was received into and made part of the record. She also announced this was the time scheduled to allow the City Manager to report on current events and asked for that report.

No report was given.

5. LIQUOR LICENSE APPLICATIONS

Mayor Romero announced City Manager’s communication number 18, dated January 28, 2020, was received into and made part of the record. She asked the City Clerk to read the Liquor License Agenda.

b. Liquor License Application(s)

New License(s)

- 1. Angry Crab Shack & BBQ, Ward 1
1365 W. Grant Rd.
Applicant: Jeffrey Craig Miller
Series 12, City 85-19
Action must be taken by: February 2, 2020

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

- 2. Pirata Luchi, Ward 5
4602 E. 29th St.
Applicant: Griselda Hernandez Espinoza
Series 12, City 86-19
Action must be taken by: February 2, 2020

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

NOTE: State law provides that for a new license application, “In all proceedings before the governing body of a city...the applicant bears the burden of showing that the public convenience requires and that the best interest of the community will be substantially served by the issuance of a license”. (A.R.S. Section 4-201)

Person/Location Transfer(s)

- 3. Arte Bella, Ward 6
5870 E. Broadway Blvd. #340
Applicant: Jennifer Rochelle Christiansen
Series 7, City 82-19
Action must be taken by: January 24, 2020

Staff has indicated the applicant is not compliance with city requirements.

Public Opinion: Written Argument in Support.

4. Postino Grant, Ward 6
2500 E. Grant Rd. #112
Applicant: Andrea Dahlman Lewkowitz
Series 7, City 83-19
Action must be taken by: January 25, 2020

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 the applicant's capability, qualifications, reliability and location issues. (A.R.S. Section 4-203; R19-1-102)

c. Special Event(s)

1. Arizona Opera Company, Ward 2
3231 N. Craycroft Rd.
Applicant: David Scoggins
City T142-19
Date of Event: March 28, 2020
(Fundraiser)

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

2. Arizona Historical Society Friends of Arizona History, Ward 6
949 E. 2nd St.
Applicant: Betty A. Cook
City T145-19
Date of Event: February 29, 2020
(Fundraiser)

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

3. Optimist International Foundation, Ward 1
600 W. 22nd St.
Applicant: Kenneth A. Foy
City T147-19
Date of Event: February 8, 2020 - February 16, 2020
(Fundraiser/Gem Show)

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

4. Vietnam Veterans of America - VVA 106, Ward 5
4475 S. Country Club Rd.
Applicant: Melvin Morgan
City T148-19
Date of Event: February 1, 2020 - February 9, 2020
(2020 G & LW Gem Show)

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

5. Reveille Tucson Men's Chorus, Ward 1
288 N. Church Ave.
Applicant: John Paul Consedine
City T149-19
Date of Event: February 23, 2020
(Fundraiser)

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

6. Watershed Management Group, Ward 6
151 E. Broadway Blvd.
Applicant: Lisa Shipek
City T150-19
Date of Event: February 15, 2020
(Tucson Craft Beer Crawl)

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

7. Watershed Management Group, Ward 6
180 E. 7th St.
Applicant: Lisa Shipek
City T151-19
Date of Event: February 15, 2020
(Tucson Craft Beer Crawl)

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

8. Rialto Theatre Foundation, Ward 6
318 E. Congress St.
Applicant: Curtis John McCrary
City T152-19
Date of Event: February 29, 2020
(Annual Gala)

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

9. Tucson Presidio Trust for Historic Preservation, Ward 1
993 S. Freeway
Applicant: Amy Hartman
City T154-19
Date of Event: January 31, 2020 - February 9, 2020
(22nd St. Gem Show)

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

10. Dunbar Coalition Inc., Ward 1
993 S. Freeway
Applicant: William Ponder
City T155-19
Date of Event: February 10, 2020 - February 17, 2020
(22nd St. Gem Show)

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 liquor license applications 5b1 through 5b4, and 5c1 through 5c10 to the Arizona State Liquor Board with a recommendation for approval.

6. CALL TO THE AUDIENCE

Mayor Romero 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 Romero 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:

Lisa Polito	Allyson Solomon	Rob Tomlinson
Lisa Anne Smith	Mike Leung	Michael Guymon
David Godlewski	Martha McClements	Karen Greene
John Burr	Raul Ramirez	

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 B

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

a. APPROVAL OF MINUTES

1. Report from City Manager JAN28-20-19 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of June 18, 2019
3. Mayor and Council Study Session Minutes of June 18, 2019

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

1. Report from City Manager JAN28-20-21 WARD 4
2. Resolution No. 23136 relating to Intergovernmental Agreements (IGA) and Transportation; approving and authorizing the execution of Amendment No. 12 to the IGA between the City of Tucson (City) and the Regional Transportation Authority of Pima County (RTA) for additional funding for construction efforts necessary for the Houghton Road Corridor Project; and declaring an emergency.

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

8. ZONING: (C9-19-21) ARMORY PARK HISTORIC PRESERVATION ZONE BOUNDARY AMENDMENT - 375 SOUTH STONE AVENUE - STONE AVENUE, HC-3 TO C-3, AND C-3 TO HC-3, CITY MANAGER'S REPORT, ORDINANCE ADOPTION

Mayor Romero announced City Manager's communication number 22, dated January 28, 2020, was received into and made part of the record. This is a request to amend a portion of the HPZ boundary, HC-3 to C-3 zoning. The rezoning site is located on the southeast corner of South Stone Avenue and East 14th Street. The Zoning Examiner recommends approval of C-3 and HC-3 zoning. Staff recommends approval of C-3 and HC-3 zoning and adoption of the ordinance subject to certain conditions.

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

Keri Silvyn, Lazarus, Silvyn, & Bangs, P.C., was present to represent the landowner, and stated they were agreeable to all proposed requirements.

Mayor Romero asked the City Clerk to read Ordinance 11721 by number and title only.

Ordinance No. 11721 relating to Zoning: amending zoning district boundaries in the area located near S. Stone Avenue and E. 14th Street in Case C9-19-21, 375 S. Stone Ave., HC-3 to C-3 and C-3 to HC-3; and setting an effective date.

It was moved by Council Member Kozachik, duly seconded, and passed by a roll vote of 7 to 0, to approve the request as recommended by the Zoning Examiner and pass and adopt Ordinance 11721, including the conditions attached as Exhibit A to the Ordinance.

9. FINAL PLAT: (S18-094) MOUNTAIN ENCLAVE, LOTS 1 THROUGH 76, AND COMMON AREAS "A", "B", AND "C" (CONTINUED FROM THE MEETING OF DECEMBER 17, 2019)

Mayor Romero announced City Manager's communication number 23, dated January 28, 2020, was received into and made part of the record.

Council Member Durham stated the subdivision received a lot of attention from both neighbors and staff. He said he had spent a lot of time reviewing the Flexible Lot Development (FLD) through the process and met with the neighbors four times, two of which were to ensure there was open lines of communication. He stated his staff, along with himself, has met with representatives with MVNA and listened to each allegation of non-compliance with the *Unified Development Code (UDC)*. He said he spent as much time as necessary staff in the Planning and Development Services Department to check out each allegation. He concluded that the development complied with applicable law and the *UDC*.

It was moved by Council Member Durham, duly seconded, to approve the final plat as presented.

Council Member Kozachik stated his appreciation to everyone for their attention to the development. He indicated *Plan Tucson* incorporated policies to protect established residential neighborhoods by supporting compatible development. *Plan Tucson* policies also promote compatible adequate buffering of surrounding development attractive urban vegetation, conservation and the enhancement of environmentally sensitive habitat.

Council Member Kozachik stated they are not there to respond to the speakers eliminating the FLD as a process, but whether or not this project complied with the FLD, they are not there to talk about whether or not they support infill. He said the Mayor and Council approved infill projects all the time. He referenced speaker Lisa Ann Smith mentioned the court decision, he said the court only ruled on whether or not the area plan was being complied with it did not address the *UDC* or the FLD and finally with respect to speaker Michael Guymon it was rare to challenge the final plat. He stated according to the City Attorney, the role of Mayor and Council for final plats was ministerial and by law they were to pass them.

Council Member Kozachik asked for case law to back up that law. He agreed Mountain Enclave needed functional open space but disagreed when staff indicated that it did. The notion of someone saying staff had looked at this extensively and therefore the Mayor and Council were obliged to agree but, if some of the Mayor and Council did not agree it did not mean that staff was right and that was what he was challenging.

Council Member Kozachik continued to indicate he disagreed it met the functional open space standards. He mentioned staff put together an extensive justification of their position listing several *UDC* sections but the one omitted was where it clearly stated functional open space should be “conveniently located and usable by the maximum number of residential units”. He stated detention basins were not usable by residents and the notion of putting an ADA ramp in a detention basin was silly. He went on to say there was no reference to item J of 873 which requires functional access to semi-ambulatory and non-ambulatory persons. He repeated putting an ADA ramp in a detention basin makes no sense and the Mountain Enclave basin is sloped and inaccessible. The south detention was the same way, which was over 10,000 square feet of what is being considered functional open space which it is not and the project shouldn’t be qualified based on that.

Council Member Kozachik continued with the concern of landscape buffers as being appropriate to count as functional open space but the developer indicated the parking areas were located in common areas to back out onto, private streets and all parking was on the street. It could not say they were private streets and functional open space. He went on to state his concerns regarding density and how the PDSD staff came up with their report and indicated they were not consistent in their analysis. He asked who made the determination of the area plan and the plats only need to be in general conformity.

Council Member Kozachik continued with his concerns of comments from another reviewer, David Rivera who indicated in the comment column, Section 3.3 of the *UDC* an applicant had one year from the date of the application to obtain approval of the site plan. The one-year expiration date for this project was August 17, 2019 but, was not approved until September of 2019. The engineering and zoning approvals came six weeks after the expiration date and should not be in front of the Mayor and Council. He said either the expiration dates mattered, or they did not; either the approval process was legit, or it was not. He said this project failed on privacy, functional open space and it expired six weeks of final approval.

A substitute motion was made by Council Member Kozachik to deny the final plat and send it back for further review. The substitute motion died due to lack of a second.

Mayor Romero asked for either the City Attorney or Scott Clark to fill them in with more information on what was in front of the Mayor and Council and to address the concerns from the neighbors such as the definition of functional open space, how adjacency applied to privacy mitigation and the density requirements for the FLD. She

also asked to have what was in front of the Mayor and Council explained further. She said there were a few things the neighbors had concerns about with the definition of functional open space, how adjacency applied to privacy mitigation and the density requirements for the FLD.

Scott Clark, Planning and Development Services Department Director, stated that at the December 17, 2019, Mayor and Council meeting, Mayor and Council asked for staff to go back and look at the following areas; functional open space, plant preservation, privacy mitigation, density and to state the purposes of the FLD. He further explained the different areas and the review was done with PDS staff and City Attorney's Office. He continued to go over the updated material and explained the purpose statement, mentioned the plat was reviewed by a Design Review professional, external to the City four different times and by the fourth time the reviewer approved it. He indicated the plan did not meet all of the statements of the FLD, but it did meet some and that was not uncommon. He also stated under the current *Code* this plat was in compliance.

Mr. Clark mentioned that as the Mayor and Council asked, they reached out to the neighbors on two different occasions. The first time, neighbors asked for an evening meeting, an agenda and neighbors stated their concern of the meeting not being fair and also wanted a third-party mediator to attend therefore, the neighbors declined the meeting. He stated staff reached out a second time which was accepted. After review with the staff and attorneys, they found this plat to be in compliance but there were still issues with the FLD.

Mayor Romero asked the City Attorney what the legal responsibilities of Mayor and Council were at this moment.

Mike Rankin, City Attorney stated based on the findings this was a compliant plat, the only issue in determining whether to approve a final plat for Mayor and Council is whether the plat complies and conforms with the applicable subdivision regulations. This application has been reviewed multiple times in the manner the Director just described. He also stated under Arizona law the only option is to approve the plat.

Mayor Romero asked if there was any further discussion from the Council Members.

Council Member Kozachik asked if the site plan had approved and if it was reflected on the PRO site in September of 2019.

Mr. Clark answered the site plan had been approved and was a fully functional plan. He also indicated he could not answer the part about PRO as he did not have that information with him.

Council Member Kozachik asked what it meant when it said the one year expiration date was on August 17, 2019, why were they approving something that

expired and the *UDC* states a site plan application in review for a period of one year that had not been approved is considered denied.

Mr. Clark said he had not seen that, nor could he respond to such without having the documents in front of him.

Council Member Kozachik stated maybe the City Attorney could answer his questions.

Mr. Rankin stated he did not have the ability to go through the Pro notes and respond but, what he could say was that the final plat was in conformance with the tentative plat that was previously approved. He said his advice to the Mayor and Council remained the same as he previously stated.

Council Member Kozachik asked if the comments on the Pro Site indicating the expiration of August 2019 per the *UDC* was something to ignore.

Mr. Rankin stated this was the first he saw or heard of this had being brought to his attention and the comment relates to the approval of the site plan and what was being considered was the Final Plat.

Council Member Kozachik asked if the site plan had expired six weeks before they were asked to approve the final plat then why were they approving the final plat.

Mr. Rankin stated the final plat was brought to the Mayor and Council within the time allowed of the tentative plat and the final plat remained in conformance with the tentative plat as previously approved.

Mayor Romero stated the FLD had pockets of ambiguity which led to confusion to the community members and developers. The ambiguities did not align with the goal of the City, which was to encourage community minded infill projects and smart growth in the City. She stated it was not smart growth when the *UDC* and zoning standards were not conducive to the goals and priorities of the City Council, *Plan Tucson* or to the community and neighbors.

Mayor Romero also stated one of the bigger picture challenges was how to align zoning standards, the goal of sustainability and affordability without triggering preemptive consequences.

Mayor Romero said this item posed a valuable lesson to the City about the importance of having clearly identified goals for development and supporting legal parameters to implement the vision. She stated it was not smart growth when the *UDC* and zoning standards were not conducive to the goals and priorities of the Mayor and Council, *Plan Tucson* or the community and its neighborhoods. She announced the FLD would be on the February Study Session agenda, as well as, on the Mayor and Council agenda in March. She said that would be the right time to have the conversation of the

many legitimate concerns and serious flaws the community was experiencing first hand due to the lack of direct goal setting from the FLD.

Vice Mayor Cunningham stated the legal obligation was not fair to the community and he was not happy with the end result. One of the issues brought by the community was with regard to multi-housing. Therefore, he asked what would have been allowed if it were multi-housing, what would the setbacks be and was the *UDC* looked at?

Mr. Clark responded that the setbacks were the same for multi-family and single family.

Vice Mayor Cunningham said there were many opportunities missed with this process. He concluded he thought this was a good infill project for the City and he supported the plan and the neighbors' concerns were valid. He said the FLD needed to be reviewed and it was the second time the argument about functional open space had come up. He said open space was supposed to be open space.

The original motion, to approve the final plat as presented, was passed by a roll call vote of 6 to 1 (Council Member Kozachik dissenting).

10. UPDATES ON STATE AND NATIONAL LEGISLATION AND REGIONAL COMMITTEES

Mayor Romero announced City Manager's communication number 20, dated January 28, 2020, was received into and made part of the record. She also asked if there were updates on State and National Legislation or Regional Committees.

Andrew Greenhill, Intergovernmental Relations Manager, provided handout materials to the Mayor and Council. He also reminded the Mayor and Council of the answers he provided to Council Member Fimbres about the US Postal Service, PFAS issues, and Clean Water Act rules.

Mr. Greenhill stated there were about one thousand one hundred bills that were introduced in the State Legislature. He said he had presented fifty bills with recommendations to the Mayor and Council and was seeking approval to act on them.

Mayor Romero asked Mr. Greenhill if direction was needed on the bills.

Mr. Greenhill indicated it would benefit in getting direction since committees were starting to hear bills at the Legislature. He said in order for representation on behalf of the Mayor and Councils argument of bills whether it be for or against them, he needed some direction.

Mayor Romero asked if there were any bills that Mr. Greenhill would like to highlight.

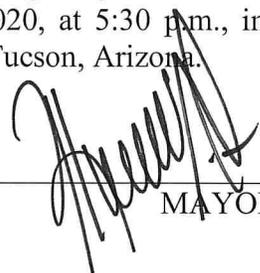
Mr. Greenhill stated they had seen many of the bills in front of them such as 2686 at which he discussed individually with members of the Council known as the Southwest Gas Bill. He said it would take away the ability of Cities to pass any kind ordinances regulating utilities, choosing between utilities with the denial of permits. Staff is recommended denial of the bill.

It was moved by Council Member Fimbres, duly seconded and carried by a voice vote of 7 to 0, to support and oppose the bills as recommended in the handout material, with the correction of supporting House Bill 2558, related to the restoration of voting rights to felons.

Vice Mayor Cunningham stated the Gila River Bridge was one of the situations in multiple jurisdictions and continued to have bottleneck of traffic. He also said the safety record of that road had decreased and a large majority of Tucsonans utilize that road. He also stated it was a huge item to support.

11. ADJOURNMENT: 6:49 p.m.

Mayor Romero announced the next regularly scheduled meeting of the Mayor and Council would be held on February 4, 2020, at 5:30 p.m., in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.



MAYOR

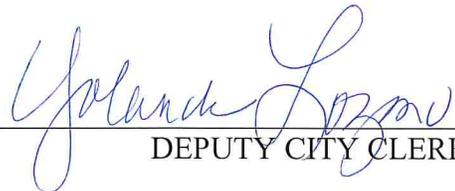
ATTEST:



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 28th day of January 2020, and do hereby certify that it is an accurate transcription.



DEPUTY CITY CLERK

RWR:rg:ds:bb