Minutes of SPECIAL MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on October 6, 2020.

Date of Meeting: June 30, 2020

MEETING NOTE: Due to the impacts of the COVID-19 pandemic, which prompted declarations of a public health emergency at the local, state and federal levels, this meeting was conducted using measures to protect public health. This meeting was held remotely through technological means, as permitted under Arizona law.

The Mayor and Council of the City of Tucson met virtually in regular session using Microsoft TEAMS, at 5:52 p.m., on Tuesday, June 30, 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, PLEDGE OF ALLEGIANCE, AND APPOINTMENTS TO BOARDS, COMMITTES AND COMMISSIONS

a. INVOCATION

The invocation was given by Ana Marrufo, Management Assistant, City Clerk's Office.

b. PLEDGE OF ALLEGIANCE

c. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Romero announced City Manager's communication number 169, dated June 30, 2020, was received into and made part of the record. She asked for a motion to approve the appointments in the report.

It was moved by Council Member Santa Cruz, duly seconded, and carried by a voice vote of 7 to 0, to approve the appointment of Nathan Kappler, to the Design Review Board (DRB).

Mayor Romero 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 170, dated June 30, 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 Council Members Lee 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 171, dated June 30, 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 172, dated June 30, 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)
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)

1. Iron John's Brewing Company, Ward 6
   City 26-20, Series 3
   555 E. 18th St.
   Applicant: Kevin Arnold Kramber
   Action taken by June 16, 2020

c. **Special Events(s)**
NOTE: There are no application(s) for Special Events scheduled for this meeting.

d. **Sampling Privileges**
NOTE: State law allows an unlimited number of sampling events for licenses of liquor store (series 9) and beer and wine store (series 10) establishments. The review and approval by Mayor and Council are conducted under the same procedure for the issuance of a spirituous liquor license. (A.R.S. 4-206.01)

1. Safeway #2060, Ward 3
   City 30-20, Series 9WS
   1767 E. Prince Rd.
   Applicant: Nicholas Carl Guttilla
   Action must be taken by July 19, 2020

e. **Agent Change/Acquisition of Control/Restructure**
NOTE: The local governing body of the city, town or county may protest the acquisition of control within sixty days based on the capability, reliability and qualification of the person acquiring control. (A.R.S. Section 4-203.F)

1. Falora, Ward 6
   City AC9-20, Series 12
   3000 E. Broadway Blvd.
   Agent: Thomas Robert Aguilera
   Action must be taken by June 30, 2020

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, 5d1 and 5e1, to the Arizona State Liquor Board with a recommendation for approval.

6. CALL TO THE AUDIENCE

Due to impacts of the COVID-19 pandemic, call to the audience is cancelled. Constituents may submit comments by email to the City Clerk's Office email address at cityclerk@tucsonaz.gov

7. CONSENT AGENDA – ITEMS A THROUGH M

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 (CITY WIDE) JUN30-20-173

b. TUCSON CODE: AMENDING (CHAPTER 10) FISCAL YEAR 2021 COMPENSATION PLAN SCHEDULES (CITY WIDE) JUN30-20-174

Ordinance No. 11761 relating to Compensation Plan; Tucson Code Chapter 10, Civil Service-Human Resources, Article II, Compensation Plan, Section 10-31, adopting salary schedules for Fiscal Year 2021; implementing Section 10-31; ratifying, reaffirming and reenacting Section 10-31(7), providing percentages for calculation of compensation from salary schedules for employees in specified assignment positions; Section 10-31(8), payment for uniform maintenance; Section 10-33, Language Communication Compensation; Section 10-33.1, proficiency pay for commissioned police personnel certified as bilingual users of American Sign Language (ASL) or Spanish; Section 10-34, Incentive Pay for fire prevention inspectors; Section 10-34.1, assignment and incentive pay for maintaining paramedic certification and working as paramedics; Section 10-35, Fire Battalion Chief call back shift pay; Section 10-47, recruiting referral compensation for commissioned personnel; Section 10-48 supplement to Military Pay; Section 10-49, holiday and BOI pay for commissioned officers of the Tucson Police Department for the position of Lieutenant and assignment positions of Captain and Assistant Chief; Section 10-52, Longevity Compensation Plan; Section 10-53, Pipeline Protection Program; compensation; Section 10-53.1, permanent and probationary city civil service employees and elected officials and appointed employees downtown allowance; Section 10-53.2, Maintenance Management Program; assignment and incentive pay compensation; Section 10-53.3, Career Enhancement Program (CEP) incentive pay for commissioned police personnel through rank of Captain; Section 10-53.4, additional compensation for certain public safety command staff; Section 10-53.5, Honor Guard assignment pay for Fire Commissioned personnel; Section 10-53.7, certified crane operator assignment and incentive pay program; and Section 10-53.8, certified compressed natural gas inspector assignment and incentive pay program; Section 10-53.9, tool enhancement allowance; all as part of implementation of Annual Compensation Plan for Fiscal Year 2021; and declaring an emergency.

c. LABOR AGREEMENT EXTENSION: WITH THE COMMUNICATIONS WORKERS OF AMERICA (CITY WIDE) JUN30-20-177

Resolution No. 23188 relating to Employee Relations; authorizing and approving the Memorandum of Understanding between the City of Tucson and the Communication Workers of America ("CWA") extending the 2018-2019 labor agreement for an additional one-year period; and declaring an emergency.

d. AGREEMENT AMENDMENT: WITH THE TUCSON PRESIDIO TRUST FOR HISTORIC PRESERVATION FOR OPERATION AND MAINTENANCE OF THE PRESIDIO SAN AGUSTIN DEL TUCSON (WARD 1) JUN30-20-198

Resolution No. 23193 relating to Parks and Historic Tucson; authorizing and approving an amendment to the agreement for the operation and maintenance of Presidio San Agustin del Tucson (amendment) between the City of Tucson (City) and the Tucson Presidio Trust for Historic Preservation (Trust); and declaring an emergency.

e. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH CALGARY CANYON TRUST, OWNER OF PARCEL 114-03-3500, FOR WATER SERVICE (WARD 2 AND OUTSIDE CITY) JUN30-20-175

Resolution No. 23190 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 Calgary Canyon Trust, owners of Parcel No. 114-03-3500.

(This item was continued at the request of staff.)

f. REAL PROPERTY: APPROVING A GROUND LEASE WITH NEW CINGULAR WIRELESS PCS PUBLIC SAFETY TRAINING ACADEMY, WIRELESS COMMUNICATION FACILITY (WARD 4) JUN30-20-183

Ordinance No. 11763 relating to Real Property; authorizing and approving the ground lease agreement between New Cingular Wireless PCS, LLC (AT&T) and the City of Tucson (City) for Telecommunications Facility at the Public Safety Training Academy, and declaring an emergency.

g. FINAL PLAT: (S19-057) THE BRIDGES SUB-AREA B-IV, BLOCK 10, LOTS 1 THROUGH 10, AND COMMON AREAS "A" AND "B" (WARD 5) JUN30-20-181

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.

h. FINAL PLAT: (S19-004) MOHAVE STONE, LOTS 1 THROUGH 3 (WARD 3) JUN30-20-182

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.

i. TUCSON CODE: AMENDING (CHAPTER 23B) THE UNIFIED DEVELOPMENT CODE, EXTENDING THE SUNSET DATE RELATING TO THE SIGN CODE (CITY WIDE) JUN30-20-180

Ordinance No. 11760 relating to Sign Regulation and Planning and Zoning; extending the sunset date contained in Chapter 23B, Unified Development Code (UDC), to expire on August 31, 2021; and setting an effective date.

j. FINANCE: SALE OF GENERAL OBLIGATIONS BONDS, SERIES 2018-A (2020) (CITY WIDE) JUN30-20-187

Ordinance No. 11751 an Ordinance Relating to Finance; authorizing the issuance and sale of the City of Tucson, Arizona, General Obligation Bonds, Series 2018-A (2020), as tax-exempt or taxable bonds, in a principal amount not to exceed $57,000,000 (the "Series 2020 Bonds"); providing for sale thereof and the levy and collection of ad valorem taxes for the payment of the principal and interest on the Series 2020 Bonds; providing for the application of a portion of the proceeds therefrom for the acquisition and construction of certain municipal improvements and for the payment of principal and interest thereon; providing certain terms, covenants and conditions relating to the Series 2020 Bonds; authorizing the execution and delivery of a bond Purchase Agreement, or similar agreement providing for the sale and purchase of the Series 2020 Bonds, and a continuing disclosure undertaking with regard to the Series 2020 Bonds; appointing a Bond Registrar, Transfer Agent and Paying Agent for the series 2020 bonds; authorizing the preparation and delivery of an official statement with respect to the Series 2020 Bonds, if necessary; and declaring an emergency.

k. FINANCE: PROPOSED SALE OF WATER SYSTEM REVENUE OBLIGATIONS, SERIES 2020 (CITY WIDE) JUN30-20-188

Ordinance No. 11750 an Ordinance relating to Finance; authorizing the Finance Director or Chief Financial Officer of City of Tucson, Arizona, to cause the sale and execution and delivery pursuant to an Obligation Indenture of Water System Revenue Obligations, in one or more series, evidencing proportionate interests of the holders thereof in installment payments of the purchase price to be paid by the City of Tucson, Arizona, pursuant to a Series 2020 City Purchase Agreement; authorizing the completion, execution and delivery with respect thereto of all agreements necessary or appropriate for the financing of costs of acquiring improvements to the storage, treatment and distribution facilities of the Water

System of the City and related financing costs including the delegation to the Finance Director or Chief Financial Officer of certain authority with respect thereto; authorizing the preparation and delivery of an official statement with respect to such Series 2020 Obligations; ordering the sale of such Series 2020 Obligations; authorizing the execution and delivery of a continuing disclosure undertaking with respect to such obligations; authorizing the Finance Director or Chief Financial Officer to expend all necessary funds therefor and declaring an emergency.

l. REAL PROPERTY: PURCHASE AND TERMINATION OF LEASE AGREEMENT WITH THE TUCSON METROPOLITAN CHAMBER OF COMMERCE, CITY-OWNED PROPERTY LOCATED AT 465 WEST ST. MARY'S ROAD (WARD 1) JUN30-20-190

Ordinance No. 11764 relating to Real Property; authorizing and approving a Purchase Agreement and Lease Termination with Tucson Metropolitan Chamber of Commerce for the real property located at 465 West St. Mary's Road; and declaring an emergency.

m. INTERGOVERNMENTAL AGREEMENT: WITH ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION (AHCCCS) FOR FEDERAL MATCHING FUNDS FOR GRADUATE MEDICAL EDUCATION AT TUCSON MEDICAL CENTER (CITY WIDE) JUN30-20-189

Resolution No. 23192 relating to Intergovernmental Agreements (IGA); approving an IGA between Arizona Health Care Cost Containment System Administration (AHCCCS) and the City of Tucson (City) to allow the City to provide funding to secure federal matching funds for supplemental payments for Graduate Medical Education (GME) Programs at Tucson Medical Center (TMC); and declaring an emergency.

It was moved by Council Member Durham, duly seconded, and passed by a roll call vote of 7 to 0, that Consent Agenda Items a – m, with the exception of Item e, which was continued at the request of staff, be passed and adopted and the proper action taken.

11. ZONING: (C9-19-17) PANTANO VOYAGER ROAD, RX-1 TO MH-2, CITY MANAGER'S REPORT (WARD 4) JUN30-20-179

(This item was taken out of order.)

Mayor Romero, announced City Manager's communication number 179, dated June 30, 2020, was received into and made part of the record. She said this was a request by Lexy Wellott of The Planning Center on behalf of the property owner, Voyager Kolb Land, LLC, to rezone approximately 64 acres from RX-1 to MH-2 zoning. The rezoning site is located on the southwest corner of Pantano Road alignment and the Voyager Road alignment, approximately 2,000 feet east of Kolb Road and 2,000 feet south of Interstate 10.

The Zoning Examiner and staff recommend approval of the MH-2 zoning, subject to certain conditions.

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

Council Member Lee said in discussions she had with the applicant, it was pointed out that there were about thirty two-story homes in Sycamore Park, immediately abutting the southern boundary of the property. She said while she supported the intent of condition number fourteen, in making sure the project was compatible with the surrounding homes, this condition resolves on the proposed development being more restricted in the existing development next door. She proposed a small modification to this condition, allowing them to have two-story homes, only where the lot adjacent to an existing two-story home and while continuing to restrict the lot next to a single story to a single story. She said the applicant offered to extend the conditions to apply to the westside which was not addressed in the original wording, she supported the change because it maintained the entire northern boundary as a single story, where it was next to a single story Voyager Resort Development and matched up, like to like, to the homes in Sycamore Park.

It was moved by Council Member Lee, duly seconded, authorize the rezoning as recommended by the Zoning Examiner with modifications to Condition #14 to read as follows, "along the north, south and west boundaries, lots in the first tier of homes shall be restricted to single story except where the lots abuts an existing two-story home."

Lexy Wellott, The Planning Center, stated she was the project manager and that the applicant was agreeable to the proposed conditions.

The motion was carried by a voice vote of 7 to 0.

13. TUCSON CODE: AMENDING ORDINANCE NO. 11746, ADOPTED ON APRIL 21, 2020 AND WHICH PROHIBITS ENTRY INTO POLICE RESTRICTED AREAS AND ESTABLISHES PENALTIES FOR INTERFERING WITH POLICE INVESTIGATIONS OR ENFORCEMENT ACTIVITY; SUSPENDING AND DELAYING EFFECTIVE DATE TO PROVIDE FOR PUBLIC ENGAGEMENT PROCESS ACTIVITY (CITY WIDE) JUN30-20-191

(This item was taken out of order and discussed after Item 11.)

Mayor Romero announced City Manager's communication number 191, dated June 30, 2020, was received into and made part of the record. She asked the City Clerk to read Ordinance 11765 by number and title only.

Ordinance No. 11765 relating to Crimes and Offenses; amending Ordinance No. 11746 as adopted and approved by the Mayor and Council on April 21, 2020, which amended Chapter 11, Article 1 of the Tucson Code by adding new Sections 11-70.3 and 11-70.4; establishing police restricted areas and penalties for interfering with police

investigations or enforcement activity; suspending and delaying the effective date of Ordinance No. 11746 until October 1, 2020; and declaring an emergency.

Council Member Santa Cruz stated that with the recent events that unfolded last week, she felt it was a mistake to move forward with Ordinance 11746 even as a pilot without a robust process for community input. She said she understood that she wanted to request to completely repeal the Ordinance, bur in order to do that, it had to come back to the Mayor and Council.

It was moved by Council Member Santa Cruz, duly seconded, that the Mayor and Council Ordinance 11765, in order to immediately suspend and delay the effective date of Ordinance 11746, but with the additional direction that the City Attorney prepare an Ordinance to repeal Ordinance 11746 in its entirety and bring that Ordinance back to the Mayor and Council consideration and approval on July 7, 2020. She said the ongoing expectation of the Mayor and Council was that all future ordinances relating to police matters undergo a public input process in advance of consideration by the Mayor and Council.

Vice Mayor Cunningham stated he was in support of the motion but questioned why a motion could not be made to reconsider and repeal Ordinance 11746 at that time.

Mike Rankin, City Attorney, said the Mayor and Council had the authority to reconsider prior actions, but to do that, they had to agenize it as a matter to be reconsidered. He said reconsideration was a two-step process and the item had to be agenized as reconsideration of the prior action, and it would get voted on first and if that happened, then it could be reconsidered and change the earlier direction. He said the reason that did not happen, was because it was scheduled pursuant to the direction of the Mayor and Council that was very specific, which was to put it on to amend it, and to suspend it for ninety days, and with direction to staff to engage in a public process. He said that was how it was agendized.

Mayor Romero stated she also agreed the process of community engagement was important. She said at the time Ordinance 11746 was adopted, the Mayor and Council felt there had been community engagement, but with all the incidents that has happened throughout the country, it was important the ordinance be repealed.

Council Member Kozachik said he understood the concern about the process and supported the ninety-day discussion period. He said in thinking about the video that was presented to the Mayor and Council, no body or any of the City's employees should have to go to work and be subjected that that. He said the issue at hand with the ordinance had nothing to do with the rest of the dialogue that was happening and while he understood the intent and what was happening, his concern was over subjecting employees to what he saw in the video and his preference was to keep the ninety-day conversation/input periods, realizing that there had been zero complaints about the Ordinance and even the ACLU in the letter they wrote spoke to the procedural issue, but were unable to come up with any substantive problems with the Ordinance.

The motion to pass and adopt Ordinance 11765 in order to immediately suspend and delay the effective date of Ordinance 11746, with additional direction that the City Attorney return to the Mayor and Council on July 7, 2020, prepare an Ordinance to repeal Ordinance 11746 in its entirety was passed by a roll call vote of 6 to 1 (Council Member Kozachik dissenting).

8. PUBLIC HEARING: CITY OF TUCSON RECOMMENDED ANNUAL BUDGET FOR FISCAL YEAR 2021 (CONTINUED FROM THE MEETING OF JUNE 9, 2020) (CITY WIDE) JUN30-20-193

(This item was taken out of order and discussed after Item 13.)

Mayor Romero announced City Manager's communication number 193 dated June 30, 2020, was received into and made part of the record. She also announced this was the time and place legally advertised for a public hearing to provide the public with the opportunity to comment on the Fiscal Year 2021 recommended budget. She said the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentation.

Comments were made by:

Sean Seeba	Morgan Toone	Sarah Erickson
Larissa Allen	Jeremy Zarzycki	Tim Cesolini
Rosemary Dietz	Luke Maskarinec	Brayton Brandis
Carole Lindly	Jane Passmore	Jason Winsky
Joree Sowards Gagnier	Kaia Lacy	Mark Cromey
Nohemy Hite	Patty Evans	Tony Archibald
Dan Pagano	Grace Vasquez	Carol Grigar
Christine Tolley	Garrett Philbin	

Mayor Romero announced the Public Hearing was being continued to the meeting of July 7, 2020, and the public would have another opportunity to provide comments.

9. FINANCE: TENTATIVE ADOPTION OF FISCAL YEAR 2021 BUDGET (CITY WIDE) JUN30-20-197

Mayor Romero announced City Manager's communication number 197, dated June 30, 2020, was received into and made part of the record. She asked the City Clerk to read Resolution 23156 by number and title only.

Resolution No. 23156 relating to Finance; adopting a tentative budget for the 2020/21 Fiscal Year and fixing times and places, confirming time and place to conduct a public hearing on said budget, to adopt the final budget in a special meeting, to fix time and place to determine the primary and secondary tax levies for said Fiscal Year.

It was moved by Council Member Fimbres, duly seconded, to pass and adopt Resolution 23156.

Council Member Kozachik said he understood the tentative budget needed to be passed and for all the reasons he objected earlier, the City was relying on unfilled vacancies to balance or one-time monies to balance the budget. He said they were sending the wrong messages to employees when FTEs were being added and the Mayor and Council were telling them there was a hiring freeze; no raises; and in jeopardy of being furloughed. He said he would not support what was in front of him, but hoped as discussions continued throughout the course, some numbers could be moved around. He was aware there was a cap, but they still had the opportunity to move some items around within the guts of the budget by the time they got to the end.

Mayor Romero reminded the Council there were many proposals in Congress with bipartisan support and were expecting a "Cares Two" package that would probably be passed by Congress, both the House and the Senate by the end of August. She said it included more direct funding for cities and towns and there also was discussions of getting rid of the December 31st deadline for expenditures of the "Cares First" package. She said if there were concerns in terms of the Cares Strategic Plan by Mayor and Council, there was probability of additional funds coming through a "Cares Two" package.

Mayor Romero asked the City Manager if he felt comfortable with leaving the reserves of the Cares Strategic Funds unallocated for the time being so they could maintain maximum flexibility, especially dealing with the spike of COVID-19 cases and uncertainty with the huge reserves. She asked the City Manager when would be the latest the Mayor and Council could make recommendations and decisions on allocating the rest of the Cares Act Funds left in reserves.

Michael Ortega, City Manager, said most of them had asked him about the $33 million dollars in reserves. He said there were two pieces to keep in mind with the first being the additional COVID-19 expenses, which was about $8.9 million plus some other monies. He said they first needed to make sure they covered the costs that were not in the Strategic Plan or had not been allocated, and the reason he could not give an exact number was because they were still looking at reimbursement from the Federal Emergency Management Agency (FEMA) and trying to figure out how to minimize the impact to that. He said secondly, which was equally important was the FY 2022 budget, and as he mentioned before he was concerned about what it would look like at the end of FY 2021, if they were staring at $42 million deficit in FY 2022.

Mr. Ortega said his suggestion was for the Mayor and Council not to act on any other expenditures other than the $33 million and continue talking about it on a monthly basis and in the September/October timeframe, they could begin making a determination as to how the present calendar year was going. He said at that point, he would be able to make recommendations on how to either utilize some of those for payroll reimbursement in order to give dollars for cash carry forward into FY 2022, or if the revenues looked

better, there could be opportunities for other needs, but at this point, the soonest he would suggest making any kind of reviews of those dollars, especially not knowing where the revenues would be was in the fall.

Vice Mayor Cunningham said dialogue would be happening month to month as the process continued and he felt then there would be opportunities to make adjustments. He said at the beginning of the pandemic, the one thing they said they had was uncertainty, and the budget was no exception. He said adopting a framework of the budget would be what they wanted to do and revisit month to month. They could not use the practices they used in the last five years, because they would not know how much monies there would be when the financials came in in September or October, and by having a frame work, at least they knew what type of plan they had, they could be nimble and make the changes they wanted to make.

Mayor Romero stated it was the last day for the Mayor and Council to approve a tentative budget.

Council Member Fimbres said they were only voting on the budget cap and the Mayor and Council would not be able to spend more money than the cap. He mentioned it was the last day to approve the tentative budget and they still had the Cares Act funds needing to be looked at and asked if the City Manager and the Mayor and Council could move funding around in the proposal if needed.

Mr. Ortega said that was correct and the key piece to that was maintaining the flexibility to do that and it was extremely important not only for the current fiscal year, but also as they prepared for FY 2022. He said that flexibility was key in order to address both short falls.

Council Member Fimbres agreed with Mr. Ortega and stated a tentative budget needed to be approved, and could not be changed and not go over the cap.

Mr. Ortega stated he was correct and the tentative budget established the cap and the maximum amount the Mayor and Council could spend in the coming year, but as other members of the Mayor and Council mentioned it provided for a process to make adjustments during the year and provides the flexibility so important to them as an organization moving forward.

Mayor Romero said for the record, the budget also included the extra FTE's that were mentioned earlier, which were for the eight social workers and a housing first director.

Resolution 23156 was declared passed and adopted by a roll call vote of 6 to 1 (Council Member Kozachik dissenting).

10. LABOR AGREEMENT EXTENSION: WITH THE TUCSON POLICE OFFICERS ASSOCIATION (CITY WIDE) JUN30-20-178

Mayor Romero announced City Manager's communication number 178, dated June 30, 2020, was received into and made part of the record. She asked the City Clerk to read Resolution 23189 by number and title only.

Resolution No. 23189 relating to Employee Relations; authorizing and approving the Memorandum of Understanding between the City of Tucson and the Tucson Police Officer Association ("TPOA") extending the existing 2018-2020 labor agreement for an additional one-year period; and declaring an emergency.

It was moved by Council Member Durham, duly seconded, to pass and adopt Resolution 23189 and asked staff to return to the Mayor and Council within six to eight months for review.

Council Member Santa Cruz said she had some comments, especially after the "call to the audience" and emails and feedback she had received. She said she believed they had inherited a policing system built on unjust historical practices as an answer to social and economic inequalities that those injustices were perpetuated when they were not acknowledging those histories and presence today, by not transforming them in meeting the twenty-first century community needs. She said they as Mayor and Council, as members of the systems; did not create them; but it was their responsibility to change them, in order to change the outcome. She further stated that when they deflect from criticism about justice, they enabled the continuation of harm and silence. Those who have experienced injustice and considering the recent in-custody deaths stemming from what Chief Magnus called "multiple policy violations, warranting termination for three officers and the lack of communication and transparency"; at the minimum; she said she felt as though they needed to examine the shortfalls in the Tucson Police Officers Association (TPOA) contract that allowed for this to take place. She said TPOA's campaign to minimize the unconscionable behaviors of the three officers involved in the death of Carlos Adrian Ingram Lopez was dangerous. Shootings and choke holds were not the only forms of violence, and violence was about power and control and using physical force and/or intimidation to hurt, damage or kill someone.

Council Member Santa Cruz said they now were using intimidation tactics, where she and her office were challenging the way police responded to calls pertaining to mental health and substance use. If agreed to the extension of an agreement that failed to prevent an in-custody deaths of a Tucsonans, not committing a crime, they were prolonging a flawed agreement; and if they agreed to the extension of an agreement that lacked a timely investigations in discipline process, they were failing to improve accountability in this conduct. She said if they agreed to the extension of the agreement that lacked the accountability procedures necessary to communicate to the City, the Mayor and Council and the public, she said felt they were failing to listen. She stated she personally could not move forward with extending the contract and asked the Mayor and Council to consider pausing TPOA's contract and allow the Mayor and Council to hear

from the City Manager and the City Attorney regarding the City's management rights and Article 4 of the contract. She said she believed the Mayor and Council needed a better understanding of their role in interpreting or revising the contract and that TPOA's contract vetting process is transparent and should also include community input.

Council Member Kozachik wanted clarification of Council Member Durham's motion asking for a review in eight months and he knew there would be a series of conversations between TPOA and the City for the next year, so why the eight months.

Council Member Durham stated six to eight months.

Council Member Kozachik again stated it was a one-year extension. He asked what Council Member Durham wanted to know within six to eight months.

Mayor Romero said she agreed with the motion, but Council Member Durham could respond. But she said she knew there was additional comments.

Council Member Durham said he had no response.

Mayor Romero stated what wanted to look at in terms of TPOA's contract, was that a lot of people throughout the country were noticing and wanting to have access to the discipline of officers. She said the community deserved the right to know the history of police officers in every department throughout the country. She asked for assistance from the City Attorney on her question regarding what information regarding disciplinary actions were publicly available. She asked if this information could be included in the data that was available to the community.

Mike Rankin, City Attorney, said he would begin with framing what the labor agreements were and were not. He said they were not a collective bargaining state and they were not collective bargaining agreements. He said they were functionally memorandums of understanding, agreed upon goals and intentions relating to the working conditions of the represented employee groups, which in this case, the TPOA employee represented group, the commission officers in the Tucson Police Department. He said the agreements themselves, the labor agreements, addressed things like hours of work; how overtime was calculated; how were holidays recognized; how leaves were carried out and how call-out procedures were handled within the department. He said it addressed certain compensation issues such as, shift differential pay; clothing and equipment allowances; and even within that context, at the end of the day, every compensation matter included within the agreement, was subjected to the Mayor and Council approval as part of the annual budget.

Mr. Rankin again stated it was a memorandum of understanding; a negotiated instrument between management and the labor groups saying, "here was a recommendation about conditions of work relating to wages; hours and other conditions of employment". He said the City also worked under a Civil Service system and the basis for discipline and the appeal rights, relating to discipline, were governed by the

Tucson Charter and the Civil Service system, so the labor agreements, including TPOA's labor agreement did have certain provisions about procedures; timelines; types of notice employees should receive and when labor representatives could participate in a proceedings, whether it was a grievance or part of an interview that could lead to discipline, but at the end of the day, what constituted "just cause" for disciplining of an officer, whether it be, suspension; demotion; termination, was "just cause" as defined under the Tucson Code.

Mr. Rankin said the appeal rights that employees had, who were represented by this Labor Group, were governed by the Tucson Charter and not by the Labor Agreement. Again, at the end of the day, if it was a discipline of suspension of ten days or more; a demotion; reduction in pay or rank; or termination, they had an appeal right to the Civil Service Commission, whether there was a labor agreement in place or not. He said the labor agreement did help fill in some of the gaps in terms of procedures and timelines and things of that sort.

Mr. Rankin stated it was important to understand that the agreement did not establish officer's rules of conducts, for example, policies on use of force or any of the other General Orders they had to operate under as police officers. He said that was not what the labor agreement did; it did not establish what is and was not a basis for discipline, again, that was a matter of the Tucson Code and Charter and just cause. He said it did not change appeal rights and it also did not deal in anyway with the release by management of information relating to police activity.

Mr. Rankin commented that in that context, the Mayor and Council needed to be mindful of State law. He said there was a police officers Bill of Rights in Title 38 that applied in certain instances to limit the release of information that in the context of an investigation or a disciplinary proceeding until the office has gone through the disciplinary proceedings including any appeal rights. He said that could be talked about more in another context. He said the agreements created some understandings about how officers get notice and how the labor organization is involved in those types of things, but it did not dictate what can and cannot be released at the end of the day.

Mr. Rankin said that in this instance, the TPOA agreement did define a grievance process for lower level of types of discipline, so that when the officers can bring a grievance to contest those types of level disciplines, a reprimand for example. He said even if the TPOA agreement went away, they still had grievance rights just like any other City employee and it would be exactly the way it currently was shaped under the agreement.

Mr. Rankin stated with that understanding of what the agreement was, the proposal was to extend the existing TPOA agreement which expired that evening for a period of one year, without any changes. He said the agreement actually went back to 2015 and was initially for the time period of 2015-2018, prior extensions had gotten them to this point. He said the other change that would be authorized if this action was approved, was the Community Service Officers (CSOs), who had chosen to be

represented under TPOAs umbrella, would be folded into the agreement during the period of the extension.

Mr. Rankin said, one thing going into what Council Member Durham noted about coming back with six to eight months and what Council Member Kozachik was starting to get at was that there was a provision in the Code that the new meet and confer process for negotiating a new agreement had to begin not less than 120 days before the expiration of the existing agreement. He said that meet and confer process needed to start within the next eight months, if not sooner. He said he hoped that helped explain the timeline a bit.

Mayor Romero confirmed she had heard about the 120 days for beginning the negotiations process. She also mentioned that both the City and TPOA reserved the right to begin that process sooner than the 120 days.

Mr. Rankin responded that either party could open the agreement during the interim if a particular amendment to a condition or term in the agreement and could raise that then there would be a process for meet and confer regarding a proposed amendment. He said just like negotiating the actual agreement, that would be negotiated with the management team that then made a recommendation and at the end of the day, it was just a recommendation that would come before the Mayor and Council before it was finalized.

Vice Mayor Cunningham stated it needed to be really clear and he did not want to do another blanket renewal in the coming year. He said TPOA had a year to figure out some things and more importantly, the City needed to be really transparent. He said he knew there were some closed door meetings for the meet and confer, but on the other hand, he said he felt it was in the best interest of all parties to be as transparent as possible and let the public know what everyone was talking about. He said this was an opportunity to shape a labor agreement with TPOA into the 21st Century mold. He said he did not like the idea of not having anything out there and there needed to be some type of framework for everyone to follow. He stated they had one year to fix and/or change it.

Council Member Lee commented that procedurally she was wondering, since the timeline was starting, if a counter motion was needed to pass and adopt Resolution 23189 without the six to eight month clause if the Mayor and Council wanted to just move forward with the item and the clock starts ticking.

Mr. Rankin stated his understanding of the motion was to approve the Resolution which would approve the one year extension, but with direction to the City Manager and Management staff to come back and tell the Mayor and Council where thing stand in six to eight months as the meet confer process was initiating towards the negotiations of the next agreement. He said he hoped that was how the Mayor and Council understood the motion.

Mayor Romero responded that was not her understanding of the motion and wanted to confirm with Council Member Durham that his motion was to approve

Resolution 23189 and come back to the Mayor and Council in six to eight months to reconsider it.

Council Member Durham responded in the affirmative.

Mayor Romero reiterated that so in other words, to start the conversation and come back in six to eight months with a new contract.

Michael Ortega, City Manager, stated he needed clarity on what the time frame was. He said staff would take steps to move the conversation forward but asked if the Mayor and Council wanted to see progress in six to eight months or was their expectation to have a new agreement in place six to eight months, because those were two different processes. He said he was understanding that it was a one-year extension with an update in six to eight months. Either way, he wanted to be sure so that he knew which way to proceed.

Council Member Durham stated it was to have staff come back within six to eight months to report.

Vice Mayor Cunningham said he wanted to clarify so that everyone was on the same page. He said liked the idea of the six to eight-month report back because it codified the opportunity for staff to report to the Mayor and Council what was going on. He said there was going to have to be a Study Session item in six months which was important because if there was no progress in negotiations or things were not transparent, the Mayor and Council had the responsibility to put it on the agenda.

Mr. Ortega confirmed and to make sure that in six to eight months, staff will return to the Mayor and Council with the framework for the negotiations/conversations being had with TPOA. He said his expectation was that in the meantime, they would have listening sessions, community conversations to help inform some of that, but the way he understand from Council Member Durham was that the agreement was in place for a year, but the Mayor and Council wanted updates or to see progress with the six to eight month timeframe, which he would be happy to provide.

Mayor Romero asked Council Member Durham if that was his understanding.

Council Member Durham responded in the affirmative.

The motion was passed by a roll call vote of 6 to 1 (Council Member Santa Cruz dissenting), to pass and adopt Resolution 23189, to extend TPOA's Labor Agreement for one year, but to return to the Mayor and Council within six to eight months with updates and/or progress.

11. ZONING: (C9-19-17) PANTANO VOYAGER ROAD, RX-1 TO MH-2, CITY MANAGER'S REPORT (WARD 4) JUN30-20-179

(This item was taken out of order and considered after Item 7.)

12. BOARDS, COMMITTEES, AND COMMISSIONS: EXTENDING THE SUNSET DATE OF THE ECONOMIC AND WORKFORCE DEVELOPMENT SELECTION COMMITTEE AND APPROVING FISCAL YEAR 2021 RECOMMENDED ALLOCATIONS (CITY WIDE) JUN30-20-185

Mayor Romero announced City Manager's communication number 185, dated June 30, 2020, was received into and made part of the record. She asked the City Clerk to read Resolution 23191 by number and title only.

Resolution No. 23191 relating to Economic Initiatives and Boards and Commissions; approving the Economic and Workforce and Development Selection Committee's (Committee) recommendations for Fiscal Year 2021 (FY21) allocations; amending Resolution No. 21605 (adopted August 4, 2010, and previously amended by Resolution Nos. 22282 (September 9, 2014), 21802 (September 20, 2011), 21937 (August 7, 2012); 22110 (August 6, 2013), 22586 (June 21, 2016); and 22922 (July 10, 2018) to extend Committee's term to September 1, 2022; and declaring an emergency.

(NOTE: Council Member Kozachik departed at 8:20 and returned at 8:24)

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Kozachik absent/excused), to pass and adopt Resolution 23191.

13. TUCSON CODE: AMENDING ORDINANCE NO. 11746, ADOPTED ON APRIL 21, 2020 AND WHICH PROHIBITS ENTRY INTO POLICE RESTRICTED AREAS AND ESTABLISHES PENALTIES FOR INTERFERING WITH POLICE INVESTIGATIONS OR ENFORCEMENT ACTIVITY; SUSPENDING AND DELAYING EFFECTIVE DATE TO PROVIDE FOR PUBLIC ENGAGEMENT PROCESS ACTIVITY (CITY WIDE) JUN30-20-191

(This item was taken out of order and considered after Item 11.)

14. CITY CLERK: APPOINTMENT TO THE CITY CLERK AND EXTENSION OF EMPLOYMENT AGREEMENT (CITY WIDE) JUN30-20-176

Mayor Romero announced City Manager's communication number 176, dated June 30, 2020, was received into and made part of the record. She asked the City Clerk to read Ordinance 11762 by number and title only.

Ordinance No. 11762 relating to the City Clerk; appointing the City Clerk; approving extension of Employment Agreement; and declaring an emergency.

Mayor and Council thanked Roger W. Randolph, City Clerk, for his years of service, dedication, neutrality, his organization and support of the Mayor and Council and looked forward to working with him in the future years to come.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance 11762, extending the employment agreement of Roger W. Randolph as City Clerk.

Roger W. Randolph, City Clerk, thanked the Mayor and Council for their support as well as his staff, but most importantly his wife and family.

15. ORDINANCE: REGULATIONS TO PREVENT THE SPREAD OF DISEASES, REQUIRING PERSONS TO WEAR FACE COVERINGS IN PUBLIC PLACES AND MAINTAIN A CONTINUOUS PHYSICAL DISTANCE OF SIX FEET FROM OTHER PERSONS (CITY WIDE) JUN30-20-196

Mayor Romero announced City Manager's communication number 196, dated June 30, 2020, was received into and made part of the record. She asked the City Clerk to read Ordinance 11767 by number and title only.

Ordinance No. 11767 relating to Public Health and Safety and the Prevention of Community-based Spread of Infectious Disease; requiring persons to wear face coverings when they are in public places and cannot easily maintain a continuous physical distance of at least six (6) feet from other persons; declaring violations to be a civil infraction and providing penalties; and declaring an emergency.

It was moved by Council Member Santa Cruz, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance 11767.

Mike Rankin, City Attorney, reiterated that the Ordinance tracked the requirements adopted by Pima County, but added the civil penalty of up to fifty dollars and/or five hours of community service, which was the direction of the Mayor and Council. He noted there had been some discussions by Pima County regarding the need for a penalty with respect to their County-wide regulations. He said he checked with Pima County and they were not scheduled to meet until July 7, 2020, so it remained to be seen where they might go with a penalty under their regulatory scheme.

16. ADJOURNMENT: 8:31 p.m.

Mayor Romero announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, July 7, 2020 at 5:30 p.m.

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 30th day of June 2020, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:ds:aaa