



MAYOR AND COUNCIL Study Session Minutes

Approved by Mayor and Council
on September 6, 2023.

Date of Meeting: December 20, 2022

The Mayor and Council of the City of Tucson met in study session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona at 2:09 p.m., on Tuesday, December 20, 2022, all members having been notified of the time and place thereof.

OFFICIAL MEMBERS

PRESENT:

Mayor Regina Romero
Vice Mayor Lane Santa Cruz (Ward 1)
Council Member Cunningham (Ward 2) (arrived at 2:10 p.m.)
Council Member Kevin Dahl (Ward 3)
Council Member Nikki Lee (Ward 4)
Council Member Richard G. Fimbres (Ward 5) (electronic attendance)
Council Member Steve Kozachik (Ward 6)

OFFICIAL MEMBERS

ABSENT:

None

STAFF:

Michael J. Ortega, City Manager
Michael Rankin, City Attorney
Suzanne Mesich, City Clerk

Mayor Romero announced that Council Member Fimbres was participating electronically through Microsoft TEAMS.

1. City Manager's Report and Update on COVID-19, Monkeypox Virus, Ongoing City and County Mitigation Measures; Funding and Appropriations; and Related Legal Matters (City Wide) SS/DEC20-22-230

Introductory comments were provided by Mayor Romero and Michael J. Ortega, City Manager, regarding the current standing of COVID-19 within the community and reminding constituents of the locally available resources for information, prevention, and treatment.

Discussion ensued; Council Member Kozachik inquired as to the legal authority apportioned to Ward Offices to require masks of guests and groups working or visiting the offices.

Michael Rankin, City Attorney, explained that based on the changes in state law that went into effect after the last session, the City cannot impose regulations to require masks be worn, but the City could certainly encourage it.

No formal action was taken.

2. Franchise Agreement with Tucson Electric Power (City Wide) SS/DEC20-22-231

Introductory remarks were provided by Michael Rankin, City Attorney, who provided an extensive summary as to the current status of the franchise agreement with Tucson Electric Power (TEP), timing in regard to putting an extension of the franchise agreement in front of the voters of the City of Tucson, and the potential terms of the new agreement.

Mr. Rankin reviewed some general procedures regarding franchise agreements. He said both the City Charter and State Statutes provide that an agreement to allow an electrical utility to use the City's rights of way required a franchise agreement and every franchise agreement was subject to voter approval. The franchise agreement cannot exceed 25 years, could be a shorter term, but typically those franchise agreements put forth before the voters were for 25 years. A franchise agreement must be non-exclusive. He said what that meant was that it could not exclude other users from coming in and using the rights-of-way, including to provide electrical services of need be.

Mr. Rankin stated the franchise did not override the authority given to the ACC under the Arizona Constitution with regards to rate making of utilities. He said through the franchise fee, the City could and does charge a franchise fee which represents what the utility pays to use the City's rights-of-way. He said a franchise could also include other certain types of terms that the utility must abide by such as requiring certain construction standards, requiring the utility to extend service to customers within the City's corporate boundaries, and allowing city regulations of street cuts, relocation of utility lines, etc.

Mr. Rankin said the City Charter required that an applying franchisee (TEP) pays for the cost of the election when the new franchise is posed to the voters and are required to post a deposit up front of the election to cover those costs. He said the Charter also had an unusual, maybe unique provision relating to the franchise fee and a public utility tax that is also imposed. The Charter provides that, we as a City, have a utility tax that is greater than 2%, the franchise fee assessed actually acts as a credit or an offset against the payment of that utility.

Mr. Rankin informed that under the current franchise agreement with TEP, last approved by the voters in November 2000, which took effect on April 2001, ran through April 15, 2026, which was part of the reason these discussions had come forth because we were nearing the end of the current agreement. He said the agreement required TEP to maintain certain in-City office locations and allowed the City to appropriate a percentage of the franchise revenue received to certain defined public

benefits to include the City's ability to apply that revenue to low-income assistance, the cost of undergrounding, as well as to provide renewable energy incentives.

Mr. Rankin stated the franchise agreement required TEP to keep records of its customers, its rate classes, its billing info gives the City audit authority with respect to those records. requires TEP to report outages, maintain emergency procedures when outages occur, requires certain level of coordination with the City for planning and submission of plans for improvements, construction standards, and repair requirements. He said it also required relocation of TEP utility lines at their costs for City projects unless they had prior rights.

Mr. Rankin informed that the Franchise Agreement currently dealt with undergrounding to establish that as of the effective date of the Franchise back in 2001, if the undergrounding of TEP lines was required by the regulations at that time, TEP was required to pay those costs and comply with the City's requirements. He said he and the City Manager, over the past year had been in discussions with representatives from TEP over a variety of issues. Throughout those discussions they started to move towards the renewal or extension of the existing Agreement.

Mr. Rankin said TEP had proposed that, as part of an extension, amending the terms of the agreement to provide for a new revenue source, primarily to help pay for undergrounding costs in the community. He said that new revenue would be generated through a .75% fee, on top of the 2.25% (overall franchise fee would be 3%). Those funds generated from the additional fee would be primarily dedicated to undergrounding costs to future line projects. He said to put some economics to that, which was described in the Mayor and Council Memorandum, roughly the 2.25 existing franchise fee generated between \$13 - \$14 million a year; and the additional fee of .75% was project to add about \$4.5 million annually.

Mr. Rankin restated that the franchise fee acted as a credit against the public utility tax and what the City would do would be to structure the additional .75% so that it does not diminish the tax revenues, but instead create a new revenue/dedicated fund for the approved purposes. He said costs incurred by the utility were passed on to the rate payers as they were with Tucson Water. He said they had provided the economic forecasts of what the impacts would be to typical customers in the different rate classes for this additional fee and the average impact to a residential electric customer would be about .93 per month and a small restaurant would be about \$2.65/month. He said it would go up the more electricity used by the customer.

Mr. Rankin stated it was possible that the funds created by this revenue could also be applied to other costs that benefited the public, such as low-income assistance and incentives for renewables such as solar. He said some other issues that could be captured in any proposed extension of the franchise agreement would address things like EV charging stations, help reduce the number of ghost poles, poles that TEP use to use but do not need anymore, composition and role of a review/approval committee for the expenditure of the funds.

Mr. Rankin concluded that the item was scheduled for Mayor and Council to publicly discuss these issues and to get a feel as to whether or not they support the contemplated terms to the extension of the TEP franchise and also to get an idea to the timing of the process. He informed the Mayor and Council about the dates available to put forth the question to the voters. If the Mayor and Council chose to put this to the voters in May 2023, a decision was needed by mid-January 2023 to call the election.

Michael J. Ortega, City Manager, stated he felt there were three components to the item: 1) date of the election, 2) undergrounding and how that can be funded, and 3) updates in the Agreement as a whole. He said representatives from TEP were also present to answer questions.

Additional commentary was provided by Mayor Romero regarding the logistical and community impacts of the of the current and potential future partnership with TEP.

Erik Bakken, Tucson Electric Power, Vice President of Energy Resources and System Operations, was present and fielded and answered questions presented by the Mayor and Council.

Discussion ensued, comments were made by Mayor Romero and Council Members Kozachik, Cunningham, Fimbres, and Dahl.

No formal action was taken.

3. Mayor and Council Discussion and Direction Relating to “Tucson Resilient Together,” the Climate Action and Adaptation Plan (City Wide) SS/DEC20-22-235

Introductory comments were provided by Mayor Romero who spoke on the progress of the “Tucson Resilient Together” Climate Action and Adaptation Plan touching on the community wide interaction and engagement that has taken place thus far. Mayor Romero explained that the plan was in the final stages of planned development which includes an economic analysis of the potential climate strategies to be adopted and the creation of more opportunities for input from the community.

Michael J. Ortega, City Manager, outlined the tentative schedule for the ‘draft final version’ of the “Tucson Resilient Together” Climate Action and Adaptation Plan explaining that there would be various opportunities for input by the public and consideration by the Mayor and Council early January and February and final opportunity for input and consideration late February and early March.

Discussion ensued; no formal action was taken.

4. Review of the Green Stormwater Infrastructure Fee and the "Storm to Shade" GSI Program (City Wide) SS/DEC20-22-233

Introductory remarks were provided by John Kmiec, Tucson Water Director, who provided a brief recap of the Green Stormwater Infrastructure Fee (GSI) adopted in February 2020 and Storm to Shade pilot program which was implemented as a result.

Mr. Kmiec proceeded to present James McAdam, Administrator, Tucson Water, and Blue Baldwin, GSI Coordinator, Tucson Water, who provided a status report and summary of the Storm to Shade program's accomplishments to date and its planned activities under the currently approved fee.

(Note: Council Member Cunningham departed at 3:08 p.m. and returned at 3:13 p.m.)

Discussion ensued, comments were made Mayor Romero, Vice Mayor Santa Cruz and Councilmembers Lee, Cunningham, Dahl, and Kozachik.

No formal action was taken.

5. HCD Affordable Housing Development and HAST Update (City Wide) SS/DEC20-22-234

Introductory comments were provided by Mayor Romero who yielded the floor to Liz Morales, Director, Housing and Community Development, for a presentation and update on the progress of the City of Tucson's development and implementation of the Housing Affordability Strategy for Tucson (HAST) plan.

(Note: Council Member Kozachik departed at 3:30 p.m. and returned at 3:33 p.m.)

Comments were made Mayor Romero, Vice Mayor Santa Cruz and Councilmembers Fimbres and Kozachik.

Discussion ensued; no formal action was taken.

RECESS: 4:13 p.m.

RECONVENE: 4:25 p.m.

MAYOR & COUNCIL: All present

STAFF: All present

6. Mayor and Council Discussion and Direction Relating to the Provision of Childcare Services for Public Safety Employees (City Wide) SS/DEC20-22-232

Introductory comments were provided by Mayor Romero and Michael J. Ortega, City Manager, regarding the development of a childcare facility for public safety employees in partnership with the Eric Hite Foundation.

Information was provided by Noemi Hite, Eric Hite Foundation (EHF), who outlined the mutual support and collaboration between the EHF and the City throughout the years and the hope for continued collaboration with this project.

Comments were provided by Chad Kasmar, Chief, Tucson Police Department, Chuck Ryan, Chief, Tucson Fire, and Sharon McDonough, Director, Public Safety and Communications.

It was moved by Council Member Fimbres, duly seconded, to provide direction to the city manager to move forward with a proposal of partnering with the Eric Hite Foundation to develop a childcare facility to serve public safety employees of the City of Tucson.

Discussion ensued. Comments were made by Mayor Romero, Vice Mayor Santacruz, and Council Members Dahl, Cunningham, Lee, Fimbres and Kozachik.

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

7. Discussion and Direction Relating to Fare-Free Transit for Sun Tran, Sun Link and Sun Van (City Wide) SS/DEC20-22-236

Introductory comments were provided by Michael J. Ortega, City Manager, on the initial suspension of fare collection for Sun Tran, Sun Link and Sun Van in 2020, the extension/ convergence of this suspension to the present consideration for the establishment of Fare-Free Transit, and the financial bearings for the City. He explained that based on the direction received by Mayor and Council, the present task was identifying opportunities for increased funding from City transit partners to further support the goal of Fare-Free Transit.

Comments and inquiries were made by Vice Mayor Santa Cruz, and Council Member Fimbres.

Sam Credio, Director, Transportation and Mobility, fielded and answered questions regarding the overall costs of the transit system, funding sources, and the financial impacts of Fare-Free Transit.

It was moved by Vice Mayor Santa Cruz, duly seconded, to extend the fair free transit through the end of the fiscal year to allow more time to develop funding strategies for the transit system and to provide direction to the city manager and staff to return to Mayor and Council within 90 days with forecasted revenues from potential funding sources including but not limited to a utility fee on water, convenience fee on electricity, Hotel occupancy fee, rental car fee, secondary property tax and any other potential funding sources.

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

Discussion ensued. Comments were made by Mayor Romero and Council Members Kozachik, Cunningham, and Fimbres.

No further action was taken.

8. Updates on State and National Legislation and Regional Committees (City Wide) SS/DEC20-22-227

Introductory comments were provided by Andrew Greenhill, Intergovernmental Relations Manager, who fielded and answered questions regarding the adoption of the federal budget and various federal appropriation bills that will affect the City.

Comments and inquiries were made by Council Members Fimbres and Kozachik.

Discussion ensued; no formal action was taken.

9. Mayor and Council Discussion of Regular Agenda (City Wide) SS/DEC20-22-228

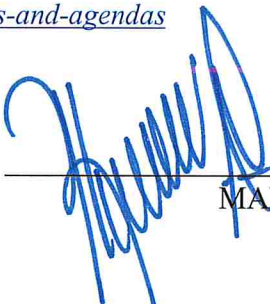
No items were identified.

10. Mayor and Council Discussion of Future Agendas (City Wide) SS/DEC20-22-229

Council Member Dahl requested a 20-minute Study Session discussion in February on how the City Attorney's Office can best facilitate the expungement of low-level marijuana convictions along with the ceiling of criminal records.

11. ADJOURNMENT – 5:29 p.m.

AUDIO RECORDING AVAILABLE UPON REQUEST FROM THE CITY CLERK'S OFFICE FOR TEN YEARS FROM THE DATE OF THIS MEETING AND IS AVAILABLE AT <https://www.tucsonaz.gov/gov/meeting-schedules-and-agendas>



MAYOR

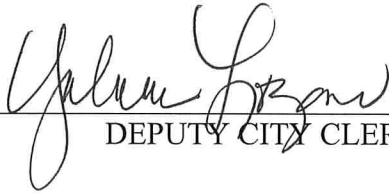
ATTEST:



CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the study session meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 20th day of December 2022, and do hereby certify that it is an accurate transcription.

A handwritten signature in black ink, appearing to read "Yuliana Lopez", is written over a horizontal line.

DEPUTY CITY CLERK

SM:yl