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## MAYOR AND COUNCIL Study Session Minutes

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Approved by Mayor and Council  
on October 18, 2022.

Date of Meeting: February 8, 2022

**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 in study session remotely through Microsoft Teams on Tuesday, February 8, 2022. The meeting was called to order by Mayor Romero at 2:04 p.m.

### OFFICIAL MEMBERS

#### PRESENT:

Mayor Regina Romero  
Council Member Lane Santa Cruz (Ward 1)  
Council Member Cunningham (Ward 2) (departed at 3:53 p.m.)  
Council Member Karin Uhlich (Ward 3)  
Vice Mayor Nikki Lee (Ward 4)  
Council Member Richard G. Fimbres (Ward 5)  
Council Member Steve Kozachik (Ward 6)

### OFFICIAL MEMBERS

#### ABSENT:

None

#### STAFF:

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

### 1. **City Manager's Report and Update on COVID-19, Employee Requirements and Legal Matters (City Wide and Outside City) SS/FEB08-22-25**

Introductory comments were made by Mayor Romero. She stated that Dr. Theresa Cullen, Pima County Health Department Director, could not make the meeting and was going to report on her behalf. She said the transmission rate remained high; within the last seven (7) days there were 8,634 COVID cases in Pima County (824 cases per 100,000 people), 28,915 tests performed, and positivity rate was high at 25%, 95% of cases are of the Omnicron variant, and 54 deaths reported.



Mayor Romero said that Dr. Cullen's report also included information on schools within Pima County, COVID cases in K-12 schools by age and the highest number of cases reported were from children ages 0 – 11 years old, followed by 12- to 18-year-olds.

Information was provided by Michael J. Ortega, City Manager stating that nothing had changed for the City in terms of policy. He said he was keeping an eye, along with directors, was staffing levels due to absenteeism. He stated it seemed to stabilize over the last week.

No other discussion was held.

## **2. Homelessness in Tucson and the Tools We Have in Place (City Wide) SS/FEB08-22-23**

Introductory comments were made by Mayor Romero. She said one of the top three issues she wanted to focus on was homelessness and affordable housing.

Information and presentation were provided by Liana Perez, Deputy City Manager, Tim Thomure, Assistant City Manager, Liz Morales, Housing and Community Development Department Director, Brandi Champion, Housing First Director, and Sarah Launius, City Manager's Office, Community Safety, Health & Wellness Program Director, who fielded and answered questions.

The presentation included information on co-locating of departments for better coordination, data, city-wide coordination efforts, and potential new strategies to reduce encampments. Discussion was had regarding the co-locating of Community Safety, Health, and Wellness Functions to the DES Building at the El Pueblo Neighborhood Center, data on homelessness in Pima County to include emergency shelter and transitional housing bed capacity, homeless protocol, feeding permits, overview of the Housing First Program, sites being used, shelter versus bridge housing, strategies to reduce street homelessness, safe parking, interfaith hospitality network, sanctioned encampment models, pallet shelter villages, sprung shelter/navigation centers, sanctioned camp sites, and costs and impacts to Tucson's efforts to end homelessness.

Discussion ensued.

It was moved by Council Member Cunningham, duly seconded, to direct staff to continue the co-location project and the progress at the El Pueblo Neighborhood Center to continue their first housing program and report back to the Mayor and Council in about 45 days, engage neighborhoods in the process and investigate other locations.

Discussion continued.



The motion was carried by a voice vote of 6 to 1 (Council Member Fimbres dissenting).

**3. Discussion on Mayor and Council's Position Regarding Central Arizona Project Board of Approval of Rosemont Copper's Water Storage and Recharge Request (City Wide) SS/FEB08-22-28**

Introductory comments were made by Mayor Romero.

Information was presented by Chris Avery, City Attorney's Office, Principal Attorney, who fielded and answered questions. He said the Central Arizona Project (CAP) Board authorized a storage permit for Rosemont Copper. He said their actions in approving a storage front for Rosemont would result in the City taking action of executing their right of first refusal as provided by the Pima Mine Road Project IGA adopted in the Spring of 2000. He emphasized, with respect to the right of refusal, was that the CAP was supposed to inform the City, by July 1st of any given calendar year, whether they intend to use their full 50% share of the Pima Mine recharge project.

Mr. Avery stated the City typically spent a few months during the summer collecting data and tentatively placing and drafting up a proposed CAP order and briefed the Mayor and Council at its August meeting. He said it was the intention of staff to continue that process to inquire with CAP about their intentions for the Project in July and be able to report to the Mayor and Council those intentions by August in order to be able to exercise the right-of-first refusal the following calendar year.

Mr. Avery said the Rosemont allocation was for non-Indian cultural priority water and should there be further tiers or declarations of drought or shortage on the Colorado River, there might years where Rosemont would be unable to access its order because it was not the same priority as the M&I allocation the City had. He said it was staff's intention to keep the Mayor and Council informed going forward regarding the status of potential storage at Pima Mine Road and to exercise the right-of-refusal.

Mr. Avery commented that he was available to take questions, but should any of those questions require legal advice, he advised that that be provided in a subsequent Executive Session.

Discussion ensued regarding Rosemont's allocation request, CAP Board's decision to allow Rosemont Mine storage, and an explanation of how the right-of refusal worked.

No further action was taken.

**4. Becton Dickinson Company (BC) Air Quality Permit Application Update (City Wide) SS/FEB08-22-26**



Introductory comments were made by Council Member Kozachik. He said his overarching thoughts was that the burden should be on Becton Dickinson (BD), not the City or County to demonstrate that their facility and everything about its operation was safe. He said he had raised a number of issues relating to BD, specifically to Ethylene Oxide to include the transportation of, storage, amount to be allowed, social justice issues, response to emergency incidents, Davis-Monthan concerns, public safety and design requirements of preventing off-gassing. He also questioned the permitting process through the Planning and Development Services Department (PDSD).

(NOTE: Council Member Cunningham departed at 3:53 p.m.)

Information was presented by Rupesh Patel, Pima County Department of Environmental Quality, Air Quality Program Manager, who fielded and answered questions.

Discussion ensued.

Mayor Romero stated she shared the concerns of the public regarding potential environmental and health consequences, especially in areas already designated as a “Super Fund” site. She said she understood there was very little the City could do in term of permitting for rezoning. She asked the City Attorney if there was anything the City could do in terms of their concerns regarding the permitting of the facility.

Mike Rankin, City Attorney, said the way the scope of PSDS’s authority/review of the application was correct. He said as mentioned previously, the City could only exercise regulatory authority that it had. He stated the scope of that regulatory authority through PSDS did not include the type of environmental concerns and environmental justice concerns described in the conversations. He said based on the discussion held at the last study session, his office, along with the City Manager’s Office, had done some work in putting together the letter that articulated the Mayor and Council’s concerns and was shared with PDEQ on suggested EPA actions and requirements.

Mr. Rankin stated that under Federal law, with respect to regulation of the transportation of hazardous materials, in the 1980’s Federal law allowed for a fair amount of local regulation of hazardous materials. He said in 1990, Congress scaled back on allowing local authority on the regulation of hazardous materials in order to provide more uniform regulatory framework across the country as opposed to having different regulations in states, counties and cities. He said the only avenue for local regulations that existed with respect to the transportation of hazardous materials under the Federal regulations was the process under which a city could petition to the United States Secretary of Transportation to issue a permission to a local jurisdiction to impose and enforce a local regulation. He stated that even then, the local regulation had to be substantially identical to the Federal requirements.





Discussion continued.

Mayor Romero asked what the State's Emergency Response Commission's authority was, and how Pima County's Local Emergency Planning Committee worked with both the State's Commission and BD to better be prepared for a potential hazardous materials emergency in the region.

Mr. Patel responded there had not been any discussions. However, he said some of the issues were conditions in the permit to which facilities were held responsible for any releases of Ethylene Oxide above the standard set. He said any emissions above that standard was a deviation of the permit and could be subject to enforcement action up to and including penalties.

Mayor Romero stated she understood the Board of Supervisors approved a Resolution on this issue and asked him to speak to that regard.

Mr. Patel stated he would provide the Resolution to the Mayor and Council and unfortunately, he had not attended that meeting and could not speak to it.

Mayor Romero recapped that the Mayor and Council previously passed a motion that asked PDEQ pass the EPA's recommendations requiring the use of continuous monitor systems, monitoring data, making it available and accessible to the public, tracking the appropriate parameters which were current monthly emissions, 12-month rolling of total emissions and fugitive emissions. She said she felt that was the Mayor and Council's same sentiment thus far and suggested that PDEQ incorporate ambient air monitoring to access the facility's long term pollutant levels.

Discussion continued.

Council Member Kozachik asked the City Attorney how they could shift the burden back to BD and take the burden off of the City and Pima County, to demonstrate that through a significant risk assessment BD would get no permits until they could prove that Tucson Fire can contain a chemical plume and notify residents in a suitable amount of time that they were under a significant risk in the case of a catastrophic release.

It was moved by Council Member Kozachik, duly seconded, to send a letter to Becton Dickinson that the Mayor and Council does not welcome them into the City until that level of risk assessment can be completed.

Council Member Lee commented that this facility location was in Ward 4. She said while she appreciated the comments and shared the sentiment, she of all people did not want harm to come to the residents she represented. She said she also tried to intellectually engage in spaces where there was traction and that was what she was listening for, those opportunities where there could be traction. She said she wanted to go on records regarding that so that her silence was not taken in any way, but she



was looking for ways where they could engage in a meaningful way. She asked for a reminder of when the standards were under review and when they come out, would what was currently in place, potentially be grandfathered in to modify their facility to what the new standards might be.

Mr. Patel responded that this was the same question he posed to the EPA. He said those standards were still in review and there was no date to which those standards would be published or promulgated. He said what they did have in the permit were the existing standards of what facilities would be accountable for and any new regulatory standards the facility would be subject too and had to demonstrate compliance with those standards within the regulatory time frame required.

Council Member Kozachik asked staff to address what a catastrophic release on City streets would do and what regulatory authority could be implemented.

Mr. Rankin said he briefly touched on that window of regulatory opportunity that was in the Federal regulations that although there was a general pre-emption of local regulation with respect to transportation including within the City limits, there was a process where a locality could petition the Department of Transportation, specifically going to the Secretary, to evaluate localities requests with respect to a specific proposed regulation.

Mr. Rankin stated that as part of the direction from the Mayor and Council was to investigate and initiate that process that could be direction staff could carry out.

Council Member Kozachik stated he wanted to amend his motion to add that the City petition the US Department of Transportation to impose local regulations. The seconder of the motion was agreeable to this addition. He re-read his motion.

It was moved by Council Member Kozachik, duly seconded, to send a letter to Beckton Dickinson indicating that unless and until they can provide a risk assessment that addresses all of the City's concerns relating to catastrophic releases and Tucson Fire's ability to contain, they were not welcome in the community as well as send a letter to petition the US Department of Transportation to allow the City to impose local regulations relating to the release of Ethylene Oxide.

The motion was carried by a voice vote of 6 to 0 (Council Member Cunningham absent/excused).

## **5. Comprehensive Economic Development Strategy (City Wide) SS/FEB08-22-24**

Introductory comments were made by Barbra Coffee, Economic Initiatives Department Director. She said they had been working since last August on an update of their Comprehensive Economic Development Strategic (CEDS) Plan. She said the Plan had not been updated since 2015, so it was time to revisit economic development priorities. She said she wanted to thank you all of the Mayor and Council and their



staff's participation in this process to help inform the strategic plan. She said they would hear a report from the consultant Steven Pedigo, Resonance Consulting and at the end of the presentation there would be a chance to ask questions and share feedback. She stated the plan was to bring back a final plan Mayor and Council consideration in March/early April.

Information and presentation were provided by Steven Pedigo, Resonance Consulting, who guided the process and shared highlights of the research and analysis as well as a first look at the vision, goals and priorities for what would be the 2022 Plan. His presentation also included the project, research findings, engagement, and proposed strategies.

Discussion ensued. Comments were made and input given by Mayor Romero, Vice Mayor Santa Cruz, and Council Members Kozachik, Fimbres.

Ms. Coffee stated that the next steps were that the consulting team would prepare a deliverable document (the full strategic plan which will include further information on implementation strategies to the goals and objectives presented, appendices, research and analysis, list of partners, etc.) She said her estimation was that it would take a few weeks to incorporate any of the Mayor and Council's final comments then get a draft back for their review, before recommending adoption.

Mr. Pedigo stated his plan was to get that information to the City the last week of February and that all of those processes were in the works.

Vice Mayor Santa Cruz requested that when putting out information regarding equity, that everyone use the same definition for consistency and the Housing and Community Development Department had helped solidify that definition and suggested they coordinate with them.

Mayor Romero requested that the Tucson IDA be included in the process.

No formal action was taken.

#### **6. Downtown Infill Incentive District Update (Wards 1, 3, 5, 6) SS/FEB08-22-27**

Introductory comments were made by Scott Clark, Planning and Development Services Department Director who stated they were seeking Mayor and Council authorization to begin the update and renewal of the Infill Incentive District (IID) ordinance. He said it was set to sunset in January 2023.

Information and presentation were provided by Daniel Bursuck, Planning and Development Services Department Principal Planner, who fielded and answered questions. His presentation included background information on the IID, direction from Mayor and Council in 2019, coordination with other efforts, future transit



corridor planning coordination, policy issues/areas to address, tentative timeline, and recommendation

Discussion ensued. Comments were made by Mayor Romero, Vice Mayor Santa Cruz, and Council Members Lee, Fimbres, and Kozachik.

Policy issues, design standards, need for incentive, stakeholder engagement, staff assigned to the project, projects by ward,

It was moved by Council Member Fimbres, duly seconded, to approve the City Manager's recommendation to begin the public process to amend/renew the Downtown Infill Incentive District regulations.

Discussion continued.

Mr. Clark stated that the IID and Plan Tucson were separate projects, but his concern with Downtown was that because in the shift in how the City works and where they work, he was beginning to see businesses go into distress. He said he felt some sense of urgency to go after the IID. He said with the Mayor and Council's permission, he wanted to return within sixty days with some data on what they were seeing downtown and other parts of Tucson and provide a recommendation at that time based on that data on how to approach the two plan sets.

Mayor Romero asked if the Bus Rapid Transit (BRT) planning and the Oracle/Stone area were in jeopardy if they did not begin the IID planning and being able to incentivize continued development and investment in those new areas that were not currently part of the IID map. Again, she said she did not want to jeopardize that, but wanted feedback and input on the development picture in downtown, that was okay, but she did not want to see delaying the IID and conflating it with the General Plan

Mr. Clark stated it would delay the BRT if they did not get going on the IID.

Mayor Romero commented that that could not happen, and she would not consider that option. She suggested that a motion be made to proceed with the presented timeline from Planning and Development Services Department to begin the IID process and engage stakeholders and neighbors in the community. She said she wanted to make sure all of the feedback and processes that had happened to date be included in the IID.

Council Member Fimbres stated he had originally made the motion and accepted the friendly amendment which was approved by the seconder.

Discussion continued.





The motion to accept the PDSD timeline to begin the IID and engage stakeholders and neighbors in the community was carried by a voice vote of 6 to 0 (Council Member Cunningham absent/excused.)

**7. Updates on State and National Legislation and Regional Committees (City Wide) SS/FEB08-22-20**

Information was provided by Andrew Greenhill, Intergovernmental Relations Manager, who fielded and answered questions. Discussion was held regarding the House passing the Postal Service Reform Act, HCM2002.

It was moved by Council Member Kozachik, duly seconded and CARRIED by a voice vote of 6 to 0 (Council Member Cunningham absent/excused) to support HB2248, HB2366, HB2419, HB2805, HB2806, SB1110, SB1284, SB1426, SB1488, SB1546, SB1597, SCR1039 and oppose HB2081, HB2107, HB2198, HB2498, HB2596, HB2611, HB2674, HCR2033, SB1268, 2B1404 and SB1567.

**8. Mayor and Council Discussion of Regular Agenda (City Wide) SS/FEB08-22-21**

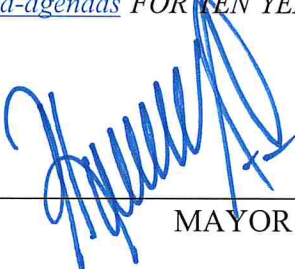
This item was not discussed/considered.

**9. Mayor and Council Discussion of Future Agendas (City Wide) SS/FEB08-22-22**

This item was not discussed/considered.

**10. ADJOURNMENT: 5:32 p.m.**

*AUDIO RECORDING FOR THIS MEETING IS AVAILABLE ON-LINE AT <https://www.tucsonaz.gov/gov/meeting-schedules-and-agendas> FOR TEN YEARS FROM THE DATE OF THIS MEETING.*

  
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MAYOR

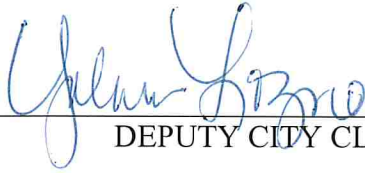
ATTEST:

  
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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 8th day of February 2022, and do hereby certify that it is an accurate transcription.

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

DEPUTY CITY CLERK

SM:yl

