



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on June 9, 2015.

Date of Meeting: November 18, 2014

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:30 p.m., on Tuesday, November 18, 2014, all members having been notified of the time and place thereof.

1. ROLL CALL

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

Present:

Paul Cunningham
Karin Uhlich
Shirley C. Scott
Richard G. Fimbres
Steve Kozachik
Jonathan Rothschild

Vice Mayor, Council Member Ward 2
Council Member Ward 3
Council Member Ward 4
Council Member Ward 5
Council Member Ward 6
Mayor

Absent/Excused:

Regina Romero

Council Member Ward 1

Staff Members Present:

Martha Durkin
Michael Rankin
Roger W. Randolph

City Manager
City Attorney
City Clerk

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Pastor Tom Sende, Restoration Community Worship Center, after which the Pledge of Allegiance was presented by the entire assembly.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Rothschild announced City Manager’s communication number 359, dated November 18, 2014, was received into and made part of the record. He also announced this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

Current event reports were provided by Council Members Uhlich, Scott, Fimbres, and Vice Mayor Cunningham. 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 Rothschild announced City Manager’s communication number 360, dated November 18, 2014, was received into and made part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

Current event report was provided by Albert Elias, Assistant City Manager. A recording of this item is available from the City Clerk’s Office for ten years from the date of this meeting.

5. LIQUOR LICENSE APPLICATIONS

Mayor Rothschild announced City Manager’s communication number 365, dated November 18, 2014, was received into and made part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. Liquor License Application(s)

New License(s)

1. The Independent Distillery, Ward 6
30 S. Arizona Ave.
Applicant: Thomas Robert Aguilera
Series 18, City 70-14
Action must be taken by: October 3, 2014

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

Public Opinion: Written Argument in Support Filed

2. Prince Market, Ward 3
1040 W. Prince Rd. #110
Applicant: Thomas Robert Aguilera
Series 10, City 76-14
Action must be taken by: October 19, 2014

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

3. East Buffet, Ward 3
75 W. River Rd. #141
Applicant: Fei Cheng
Series 12, City 90-14
Action must be taken by: November 16, 2014

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

4. Fuku Sushi and Teppan, Ward 6
940 E. University Blvd.
Applicant: Matthew Ryan Serventi
Series 12, City 91-14
Action must be taken by: November 16, 2014

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

5. Garrett's Family Steakhouse, Ward 2
9431 E. 22nd St. #157
Applicant: Garrett William Rohwer
Series 12, City 92-14
Action must be taken by: November 23, 2014

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

6. Robertos Mexican Kitchen, Ward 3
1535 N. Stone Ave.
Applicant: Cristian M. Acosta Ayon
Series 12, City 93-14
Action must be taken by: November 21, 2014

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

7. DoubleTree Suites by Hilton Tucson Airport, Ward 5
7051 S. Tucson Blvd.
Applicant: Kevin Arnold Kramber
Series 11, City 94-14
Action must be taken by: November 28, 2014

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

8. Schrier's Sports Grill, Ward 6
1118-20 E. 6th St.
Applicant: Kevin Arnold Kramber
Series 12, City 95-14
Action must be taken by: November 28, 2014

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

9. Mama Louisa's on Houghton, Ward 4
7545 S. Houghton Rd. #185
Applicant: David R. Mowery
Series 12, City 96-14
Action must be taken by: December 5, 2014

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)

10. The Independent Distillery, Ward 6
30 S. Arizona Ave.
Applicant: Thomas Robert Aguilera
Series 6, City 85-14
Action must be taken by: November 3, 2014

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

Public Opinion: Written Argument in Support Filed

NOTE: State law provides that for a person and location transfer, Mayor and Council may consider both the applicant's capability, qualifications, reliability and location issues. (A.R.S. Section 4-203; R19-1-102)

c. Special Event(s)

1. Tucson Rodeo Committee, Inc., Ward 5
4801 S. 6th Ave.
Applicant: Gary G. Williams
City T149-14
Date of Event: February 21, 2015 - March 1, 2015
(La Fiesta de Los Vaqueros)

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

2. Fluxx Studio and Gallery, Ward 6
414 E. 9th St.
Applicant: Dante N. Celeiro
City T156-14
Date of Event: December 12, 2014
(Fundraiser)

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

3. Fluxx Studio and Gallery, Ward 6
414 E. 9th St.
Applicant: Dante N. Celeiro
City T157-14
Date of Event: December 31, 2014
(Fundraiser)

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

4. Tucson Metropolitan Chamber of Commerce, Ward 6
2150 N. Alvernon Way
Applicant: Laura Nagore
City T160-14
Date of Event: December 9, 2014
(Chamber Xchange-Networking for Members)

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

5. Tucson Troop Support, Ward 6
160 S. Scott Ave.
Applicant: Clarissa Geborkoff
City T161-14
Date of Event: December 7, 2014
(Community Event)

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

6. Kidsrock, Inc., Ward 6
301-309 E. 7th St.
Applicant: Scott James Cummings
City T162-14
Date of Event: December 12, 2014 - December 14, 2014
(Kids Art Fundraiser)

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

d. Agent Change/Acquisition of Control

1. Brunswick Camino Seco Bowl #183, Ward 2
114 S. Camino Seco
Applicant: Michael Raymond Horsley
Series 6, City AC19-14
Action must be taken by: November 16, 2014

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

2. Empire Pizza, Ward 6
137 E. Congress St.
Applicant: Kevin Arnold Kramber
Series 12 City AC21-14
Action must be taken by: November 28, 2014

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

3. Residence Inn Williams Centre, Ward 6
5400 E. Williams Cr.
Applicant: Andrea Dahlman Lewkowitz
Series 7 City AC22-14
Action must be taken by: November 29, 2014

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

This application was withdrawn at the request of the applicant

4. Blue Willow Restaurant, Ward 3
2616 N. Campbell Ave.
Applicant: Rebecca Ramey
Series 7 City AC23-14
Action must be taken by: November 30, 2014

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

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)

It was moved by Vice Mayor Cunningham, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Romero absent/excused), to forward liquor license applications 5b1 through 5b10, 5c1 through 5c6, 5d1 through 5d2, and 5d4 to the Arizona State Liquor Board with a recommendation for approval.

6. CALL TO THE AUDIENCE

Mayor Rothschild announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for items scheduled for a public hearing. Speakers were limited to three-minute presentations.

Mayor Rothschild also announced that pursuant to the Arizona Open Meeting Law, individual Council Members may ask the City Manager to review the matter, ask that the matter be placed on a future agenda, or respond to criticism made by speakers. However, the Mayor and Council may not discuss or take legal action on matters raised during “call to the audience.”

Comments were made by:

Keith Van Heyningen	Richard De La Torre	Larry Paxton
Robert Reus	Andy Marshall	Camille Kershner
Gayla Archer	Sheldon Gutman	David Stuck
Laura Tabili	Sabrina Jackson	

Council Member Uhlich requested a report from Sun Tran on all critical assaults that occurred on City buses.

Council Member Kozachik questioned why a restraining order could not be issued when there was a pattern of abuse towards the bus drivers.

Michael Rankin, City Attorney, answered he would provide follow up information to the Mayor and Council about the applicable rules for refusing bus service to abusive customers.

Mayor Rothschild asked if Sun Tran had separate legal counsel for their employees and directed the City Attorney to prepare a communication, to the legal counsel for Sun Tran, with regard to the issues of driver safety brought up during call to the audience.

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 G

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

a. APPROVAL OF MINUTES

1. Report from City Manager NOV18-14-371 CITY WIDE

2. Mayor and Council Regular Meeting Minutes of June 17, 2014
 3. Mayor and Council Study Session Legal Action Report and Summary Minutes of June 17, 2014
- b. FINAL PLAT: (S14-002) PLAZA CENTRO RAILYARD CONDOS UNITS 1 THROUGH 12
1. Report from City Manager NOV18-14-373 WARD 6.
 2. Staff recommends that the Mayor and Council approve the final 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.
- c. REAL PROPERTY: VACATION AND SALE OF SURPLUS RIGHT OF WAY LOCATED AT 6TH STREET AND ST. MARY'S ROAD
1. Report from City Manager NOV18-14-361 WARD 1
 2. Ordinance No. 11210 relating to Real Property; vacating and declaring City-owned Right of Way located at 6th Street and St. Mary's Road (ROW) to be surplus property; authorizing the Sale and Development Agreement between the City of Tucson (City) and the Industrial Development Authority of the City of Tucson (IDA) conveying the ROW to the IDA.

(This item was considered separately at the request of Council Member Uhlich.)

- d. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH REGIONAL TRANSPORTATION AUTHORITY OF PIMA COUNTY FOR THE BROADWAY BOULEVARD - EUCLID AVENUE TO COUNTRY CLUB ROAD IMPROVEMENT PROJECT (CONTINUED FROM THE MEETING OF OCTOBER 21, 2014)
1. Report from City Manager NOV18-14-376 WARDS 5 AND 6
 2. Resolution No. 22320 relating to Intergovernmental Agreements (IGA); approving and authorizing execution of Amendment No. 4 to the IGA between the City of Tucson (City) and the Regional Transportation Authority of Pima County (RTA) for improvements to Broadway Boulevard - Euclid Avenue to Country Club Road Improvement Project (Project); and declaring an emergency.

(This item was considered separately at the request of Council Member Kozachik.)

- e. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH THE TOWN OF MARANA FOR COOPERATIVE DESIGN AND CONSTRUCTION OF WATER AND ROADWAY IMPROVEMENTS
 - 1. Report from City Manager NOV18-14-363 OUTSIDE CITY
 - 2. Resolution No. 22316 relating to Water; authorizing and approving the execution of First Amendment to Intergovernmental Agreement between the City of Tucson and the Town of Marana for cooperative design and construction of water and roadway improvements (Thornydale Road, Camino Del Norte to Moore Road); and declaring an emergency.

- f. INTERGOVERNMENTAL AGREEMENT: WITH THE TOWN OF MARANA TO TRANSFER WATER SERVICE AREA RIGHTS AND WATER INFRASTRUCTURE FOR THE SUNSET RANCH WATER SERVICE AREA
 - 1. Report from City Manager NOV18-14-362 OUTSIDE CITY
 - 2. Resolution No. 22317 relating to Water; authorizing and approving an Intergovernmental Agreement with the Town of Marana to transfer water service area rights and water infrastructure for the Sunset Ranch Water Service Area; and declaring an emergency.

- g. INTERGOVERNMENTAL AGREEMENT: WITH THE TOWN OF MARANA RELATING TO EFFLUENT
 - 1. Report from City Manager NOV18-14-364 OUTSIDE CITY
 - 2. Resolution No. 22315 relating to Water; authorizing and approving an Intergovernmental Agreement with the Town of Marana Relating to Effluent; and declaring an emergency.

It was moved by Council Member Scott, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Romero absent/excused), that Consent Agenda Items a – g, with the exception of Items c and d, which were considered separately, be passed and adopted and the proper action taken.

7. CONSENT AGENDA – ITEM C

- c. REAL PROPERTY: VACATION AND SALE OF SURPLUS RIGHT OF WAY LOCATED AT 6TH STREET AND ST. MARY'S ROAD
 - 1. Report from City Manager NOV18-14-361 WARD 1

2. Ordinance No. 11210 relating to Real Property; vacating and declaring City-owned Right of Way located at 6th Street and St. Mary's Road (ROW) to be surplus property; authorizing the Sale and Development Agreement between the City of Tucson (City) and the Industrial Development Authority of the City of Tucson (IDA) conveying the ROW to the IDA.

Council Member Uhlich asked for clarification on where the affordable housing provisions were located within the agreement.

Michael Rankin, City Attorney, answered the second recital defined the Project as an affordable housing development that may contain other land uses, specifically as a mixed use development; so when the term was used throughout the agreement it referred to that definition. He said, specifically, in paragraph twelve of the agreement which called for the Industrial Development Authority (IDA) to develop the Project as well as complete construction of the project incorporated the definition which included the affordable housing element.

Mr. Rankin said, under paragraph thirteen, it allowed for the IDA to assign its rights under the agreement so that a third party could construct the project, and required that the assignment carry over that obligation such that the property, “shall be substantially, as represented by the IDA, as an affordable housing project that may contain another land use or uses as a mixed use project.”

It was moved by Council Member Uhlich, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Romero absent/excused), that Consent Agenda Item c be passed and adopted and the proper action taken.

7. CONSENT AGENDA – ITEM D

- d. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH REGIONAL TRANSPORTATION AUTHORITY OF PIMA COUNTY FOR THE BROADWAY BOULEVARD - EUCLID AVENUE TO COUNTRY CLUB ROAD IMPROVEMENT PROJECT (CONTINUED FROM THE MEETING OF OCTOBER 21, 2014)
 1. Report from City Manager NOV18-14-376 WARDS 5 AND 6
 2. Resolution No. 22320 relating to Intergovernmental Agreements (IGA); approving and authorizing execution of Amendment No. 4 to the IGA between the City of Tucson (City) and the Regional Transportation Authority of Pima County (RTA) for improvements to Broadway Boulevard - Euclid Avenue to Country Club Road Improvement Project (Project); and declaring an emergency.

Council Member Kozachik stated he had some questions about the language in the materials the Mayor and Council was given. In Exhibit E, page two of two, he said one of the funding sources was impact fees. He stated he wanted to make sure the City did not have any vulnerability with respect to the new policies being put in place regarding accessing the \$3 million earmarked for the project.

Michael Rankin, City Attorney, answered the impact fees implicated in Exhibit E were previously collected and were not dependent on future collections.

Daryl Cole, Transportation Department Director, confirmed that was correct.

Council Member Kozachik requested clarification on what 12.6 funds were.

Mr. Cole answered 12.6 funds were state gas tax funds that came into the region through the Pima Association of Governments (PAG).

Council Member Kozachik asked for clarification on the language regarding the “Whereas” section on page one of three, referencing the \$2.5 million for the completion of project design for the preferred six lane including transit alignment and right-of-way. He said an alignment had not yet been identified and asked what alignment the City was designing to be appropriate language.

Mr. Rankin answered the language was appropriate because it specifically referred to the action taken by the Mayor and Council on October 9, 2014, and he expected staff to provide that direction for the design phase which included the cautionary language that the line showed in the illustrations presented to the Mayor and Council were not hard lines and was not a final determination of the lines of the alignment.

Council Member Kozachik asked if, in the context of using the word alignment, was what Mr. Rankin explained understood.

Mr. Rankin stated it was understood by referencing the verbiage in accordance with the direction provided by the Mayor and Council at the October 9, 2014, at the Mayor and Council meeting for which there would be documentation in the form of minutes.

Council Member Kozachik stated that on page two of three, it spoke to some of the proposed language changes. He said in Section 4, Responsibilities of the Lead Agency, it made reference to the Project Charter. He stated that on page twelve of the Charter it referred to traffic volume data. Under the project justification, it states that in the year 2040, traffic volume would increase to as much as fifty-five thousand, nine hundred vehicles per day. He stated the data was demonstrated to be inaccurate and false and that the language should not be not be relied on for any design considerations being talked about.

Council Member Kozachik continued saying that on page eighteen of the Project Charter it again referred to the approved scope and referred all the way back to the original ballot language of six travel lanes plus two dedicated bus lanes. He said changing the language to what the Mayor and Council was being asked to adopt to reference traffic volume data that was inaccurate and related to the original ballot language was totally inappropriate.

Mayor Rothschild stated that where the document referenced "Project Charter" was applicable, it could be noted that those traffic data studies were no longer going to be utilized and the direction of the City and the RTA was to go with the six lanes.

Council Member Kozachik asked where the Project Charter was applicable.

Mr. Cole explained the Project Charter was a general document prepared by the RTA. He explained there would be a separate Project Charter built into each project discussing the specifics and scope of that project itself. He said as soon as they had a final design they would bring the Project Charter back to the Mayor and Council and the RTA. He stated there would be a specific Project Charter for each individual project that spoke to the specifics of that project.

Council Member Kozachik stated the reference to a Project Charter would be applicable everywhere once a new one was drafted.

Mr. Cole responded that there were two Project Charters; one was an over-arching Charter for all RTA projects, and one that was site specific which had been a requirement for the last year and a half.

Council Member Kozachik said that in Exhibit E, page one of two, it stated that funding was also included for real estate to begin potentially planning for the impacted properties. He asked what that meant, what properties would be impacted based on the alignment and if Real Estate would be approaching business owners.

Mr. Cole answered staff would develop a plan for approaching the property owners along the alignment to follow federal guidelines for purchasing property once the alignment had been identified. He clarified they were not asking for approval to purchase anything at that time, they were only asking to prepare a plan to be approved by the Mayor and Council before execution.

Council Member Kozachik clarified Real Estate would not approach property owners based on an assumed alignment.

Mr. Cole stated there would be very general conversations since they did not have any specific details at that time.

Council Member Kozachik said the City's roadway development policies stated that where traffic volumes created the need for additional capacity, intersection

modifications should be pursued prior to further widening. He asked whether that language was incorporated into the design discussions going forward.

Mr. Cole confirmed they would be incorporated into the design itself.

Council Member Kozachik asked the City Attorney to address the issue of anticipatory demolition.

Mr. Rankin stated before addressing Council Member Kozachik's issue, he wanted to note that he intended to point to the insert box Council Member Kozachik referenced on page one of two, Exhibit E to Exhibit A, which made it clear that the approval by the Mayor and Council in October was of a conceptual alignment.

Mr. Rankin said with respect to anticipatory demolition, he forwarded to the Mayor and Council, the previous week, the response that was prepared by staff. He said it was his understanding that it had been shared with the coalition, as well as, Dr. Tabili on October 31, 2014.

Mr. Rankin said that anticipatory demolition was a concept imbedded within the *National Historic Preservation Act (NHPA)* that designed to prevent an agency or jurisdiction from intentionally avoiding the Section 106, Historic Consultation and Review Process that would apply to a project that had federal funds. He said it prohibited an agency from intentionally avoiding Section 106 review by simply delaying the request, where an agency knew it was going to be requesting federal funding until they had already engaged in the adverse impact demolition of a historic asset.

Mr. Rankin commented that in this instance it did not apply because there had been no decision to apply for and incorporate federal funding into the project. He said, the mere fact that there might be a possibility that somewhere down the road, there could be an application for federal funds in connection with a road way, a streetcar or bus, does not trigger the application of anticipatory demolition. He said if it did, pretty much every road project would be subject to the implications of that provision.

Mr. Rankin stated that it was important to point out that City staff had no intention to avoid historic review in connection to the project. In fact, City staff, including the City's Historic Preservation Officer, had voluntarily consulted with the State Historic Preservation Office (SHPO) for review in assembling the inventory and identification of the known historic assets along the project and had been engaged in a continuing consultation with SHPO on a voluntary basis.

Mr. Rankin said, for those two reasons, it was important to keep the notion of anticipatory demolition in mind, but was not something that applied to the project in question.

Council Member Kozachik stated every transit element funded by the City included federal dollars and asked if it would trigger the Section 106 process.

Mr. Rankin answered it did not and did not constitute anticipatory demolition because they looked at all of the roadway projects to include a transit element. He said if the City was under that restriction with respect to the possibility of federal funding, at some point, being involved, such as purchasing a bus to be used in a transit lane or extending the Streetcar system, then that would apply to every project even if there was no intention or expectation to apply for federal funds. He reiterated staff was committed to a continual engagement with SHPO to address historic review, which was what was required by Section 106.

Council Member Kozachik expressed concern over the project budget, specifically how much money would be available for actual roadway construction after property acquisition and demolition. He said he was worried about designing an inferior project to meet the budget or accruing a large amount of debt to complete it.

Mr. Cole advised every project, regardless of size, had a budget to be met and their task was to determine what could be built within the budget, and there were always issues that made it difficult. He explained based on his experience he felt they would be able to build the project within budget without question. He explained that if he used some of the issues regarding Grant Road, it would give the City a good trial of where they stood.

Council Member Kozachik asked, based on the proposed alignment, did staff have a sense as to what the cost for acquisition and demolition would be.

Mr. Cole answered they did not know because the lines of alignment had not been drawn. He said one of his biggest concerns was access and sidewalk issues. He stated he knew intersections would be an issue because of the turn lanes, but were a given. He reiterated it would be a challenging project and the key would be to diligently watch every step and stay within budget.

Council Member Kozachik restated he had concerns over the baseline proposed alignment and the associated costs.

It was moved by Council Member Fimbres, duly seconded, to pass and adopt Resolution 22320.

Council Member Uhlich stated she was not in favor of the motion as it stood because she was concerned about the impact of the design on the corridor segment. She asked if it was possible for staff to make it clearer what the six lanes required and what other options existed because there could be an impact on which buildings could be preserved or impacted.

Mr. Cole answered they were already looking at these issues very closely.

Council Member Kozachik asked if the intent was to incorporate auto lanes, transit lanes, landscaping, sidewalks, and buffers.

Mr. Cole answered that was the intent and stated the question was how much of it could be accomplished.

Consent Agenda Item d was passed and adopted by a roll call vote of 5 to 1 (Council Member Romero absent/excused and Council Member Kozachik dissenting).

8. PUBLIC HEARING: ZONING (SE-09-56) AT&T – GRANT ROAD, C-3 ZONING, WIRELESS COMMUNICATION “MONOPALM”, SPECIAL EXCEPTION LAND USE, ORDINANCE ADOPTION

Mayor Rothschild announced City Manager's communication number 377 dated November 18, 2014, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on a request for change of conditions and preliminary development plan for an existing monopalm located east of First Avenue and north of Grant Road. He asked if the applicant or representative was present.

There was no one.

Mayor Rothschild announced the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations. He asked there was anyone wishing to speak on the item.

There was no one.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Romero absent/excused), to close the public hearing.

Council Member Uhlich stated they had not received any feedback even though the public notice covered the five properties that had provided feedback in 2010. She asked for clarification on the density of the artificial palm fronds to mask the antenna.

Ernie Duarte, Planning and Development Services Director, answered the mock up photograph matched the development plan and the architectural drawings with the number and size of the palm fronds. He said he had confidence it would look exactly as depicted.

Council Member Uhlich asked if language could be added to specify the artificial palm fronds would be added pursuant to the specified documents.

Mr. Duarte answered in the affirmative.

It was moved by Council Member Uhlich, duly seconded, to pass and adopt Ordinance 11217.

Council Member Fimbres asked if a monopalm was currently located at the site, what its height was, and what the current conditions were regarding the placement of the monopalm.

Mr. Duarte answered there was a fifty-five foot monopalm currently located on the property and it was approved by the Mayor and Council in 2010, with the condition that there would only be a maximum of six antenna panels. He said this was a request to change the condition to allow for nine antenna panels.

Mayor Rothschild asked the City Clerk to read Ordinance 11217 by number and title only.

Ordinance No. 11217 relating to Zoning; amending certain conditions and the approved preliminary development plan as established by Ordinance No. 10801 for a special exception land use: SE-09-56 AT&T - Grant Road, located approximately 250 feet east of First Avenue and 300 feet north of Grant Road; and setting an effective date.

Ordinance 11217 was declared passed and adopted by a roll call vote of 6 to 0 (Council Member Romero absent/excused).

9. PUBLIC HEARING: ZONING (C9-09-04) BROWN FAMILY PARTNERSHIP – DREXEL ROAD, R-1 TO C-2, REACTIVATION, TIME EXTENSION AND ORDINANCE ADOPTION

Mayor Rothschild announced City Manager's communication number 372, dated November 18, 2014, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on a request for a reactivation and five-year time extension for the completion of rezoning conditions for property located at the southeast corner of Campbell Avenue and Drexel Road. He asked if the applicant or a representative was present.

Jim Portner, representing the property owner, was present.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Romero absent/excused), to continue the item to the meeting of February 18, 2015.

Roger W. Randolph, City Clerk, confirmed the item was continued to the meeting of February 18, 2015, to be held at City Hall, 255 West Alameda, at or after 5:30 p.m.

10. ZONING: (C9-12-05) WILMOT PLAZA LC – BROADWAY BOULEVARD, R-1 TO C-1, CHANGE OF CONDITIONS AND ORDINANCE ADOPTION

Mayor Rothschild announced City Manager's communication number 378, dated November 18, 2014, was received into and made part of the record. He asked the City Clerk to read Ordinance 11216 by number and title only.

Ordinance No. 11216 relating to Zoning: amending zoning district boundaries in the northeast corner of Broadway Boulevard and Wilmot Road in Case C9-12-05 Wilmot Plaza LC - Broadway Boulevard, R-1 to C-1; and setting an effective date.

It was moved by Vice Mayor Cunningham, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Romero absent/excused), to pass and adopt Ordinance 11216.

11. ANNEXATION: TUCSON AIRPORT AUTHORITY 1 ANNEXATION DISTRICT, ORDINANCE ADOPTION

Mayor Rothschild announced City Manager's communication number 369, dated November 18, 2014, was received into and made part of the record. He asked the City Clerk to read Ordinance 11211 by number and title only.

Ordinance No. 11211 relating to Annexation; extending and increasing the corporate limits of the City of Tucson, Pima County, Arizona pursuant to the provisions of Title 9, Chapter 4, Arizona Revised Statutes, by annexing thereto the Tucson Airport Authority 1 Annexation District property, more particularly described in the body of the ordinance.

Council Member Fimbres asked about the potential economic benefits to the City of Tucson through annexation of the parcel.

Chris Kaselemis, Economic Initiatives Program Director, answered the next four consecutive annexations were raw, undeveloped land, approximately twenty-four hundred acres of land. He said the annexation ensured the City would collect all fees and taxes associated with the development of the land. He also said it would fill in the gaps within the City's borders.

Council Member Fimbres asked about the costs to the City if the annexation was approved, clarification on the City controlling the development of the parcels and whether the proximity of the airport would affect the development of the land

Mr. Kaselemis explained the undeveloped land would not require any additional service costs to the City. He explained the City would control the development review process, rezoning requests and all regulations adhered to would be City of Tucson regulations. He said not all of the land could be developed due to landscape and flight patterns, but stated that out of the twenty-four hundred acres most of it could be developed.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Romero absent/excused), to pass and adopt Ordinance 11211.

12. ANNEXATION: TUCSON AIRPORT AUTHORITY 2 ANNEXATION DISTRICT, ORDINANCE ADOPTION

Mayor Rothschild announced City Manager's communication number 367, dated November 18, 2014, was received into and made part of the record. He asked the City Clerk to read Ordinance 11212 by number and title only.

Ordinance No. 11212 relating to Annexation; extending and increasing the corporate limits of the City of Tucson, Pima County, Arizona pursuant to the provisions of Title 9, Chapter 4, Arizona Revised Statutes, by annexing thereto the Tucson Airport Authority 2 Annexation District property, more particularly described in the body of this ordinance.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Romero absent/excused), to pass and adopt Ordinance 11212.

13. ANNEXATION: AERO PARK ANNEXATION DISTRICT, ORDINANCE ADOPTION

Mayor Rothschild announced City Manager's communication number 366, dated November 18, 2014, was received into and made part of the record. He asked the City Clerk to read Ordinance 11213 by number and title only.

Ordinance No. 11213 relating to Annexation; extending and increasing the corporate limits of the City of Tucson, Pima County, Arizona pursuant to the provisions of Title 9, Chapter 4, Arizona Revised Statutes, by annexing thereto the Aero Park Annexation District property, more particularly described in the body of this ordinance.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Romero absent/excused), to pass and adopt Ordinance 11213.

14. ANNEXATION: AERONAUTICAL ANNEXATION DISTRICT, ORDINANCE ADOPTION

Mayor Rothschild announced City Manager's communication number 368, dated November 18, 2014, was received into and made part of the record. He asked the City Clerk to read Ordinance 11214 by number and title only.

Ordinance No. 11214 relating to Annexation; extending and increasing the corporate limits of the City of Tucson, Pima County, Arizona pursuant to the provisions of Title 9, Chapter 4, Arizona Revised Statutes, by annexing thereto the Aeronautical Annexation District property, more particularly described in the body of this ordinance.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Romero absent/excused), to pass and adopt Ordinance 11214.

15. ECONOMIC DEVELOPMENT: NOTICE OF INTENT TO ENTER INTO A RETAIL TAX INCENTIVE DEVELOPMENT AGREEMENT WITH CAID INDUSTRIES

Mayor Rothschild announced City Manager's communication number 370, dated November 18, 2014, was received into and made part of the record. He asked the City Clerk to read Resolution 22318 by number and title only.

Resolution No. 22318 relating to Economic Development; approving a Notice of Intent to enter into a Retail Tax Incentive Development Agreement ("Agreement") with CAID Industries ("CAID") for building a new manufacturing facility ("Project"); making certain findings with respect to that Agreement; and adopting an Independent Economic Analysis relating to the Agreement.

Council Member Fimbres asked how the City would benefit from the proposal.

Chris Kaselemis, Economic Initiatives Program Director, answered CAID Industries was the largest metal fabrication company in the southwest. He said they were going to hire thirty employees at a wage higher than fifty-two thousand four hundred dollars per year and the direct revenue from the expansion was nine hundred twenty thousand dollars. He said the indirect revenue over three years was expected to be \$3.5 million, and the net benefit to CAID was estimated to be one hundred eleven thousand dollars. He stated the projected benefit to the City was much greater than the benefit to the applicant.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Romero absent/excused), to pass and adopt Resolution 22318.

16. FINANCE: APPROVAL OF COMPREHENSIVE FINANCIAL POLICIES

Mayor Rothschild announced City Manager's communication number 374, dated November 18, 2014, was received into and made part of the record. He asked the City Clerk to read Resolution 22319 by number and title only.

Resolution No. 22319 relating to Finance; approving the Comprehensive Financial Policies for the City of Tucson as it relates to the issuance of Certificates of Participation (COPs); and declaring an emergency.

Council Member Kozachik stated he believed capping the secondary property tax limit at \$1.75 was a Charter Review Committee (CRC) decision. However, at the last CRC meeting, they proposed completely eliminating the cap. He said the second point he

wanted to make was that other jurisdictions have a seven and a half percent limit compared to the annual operating expenses. He said he thought going to a seven and a half percent limit would leave the City with about a \$5 million debt service capacity while the current limit left the City with considerably more.

It was moved by Council Member Kozachik, duly seconded, to pass and adopt Resolution 22319.

Council Member Uhlich expressed concern over the importance of assigned fund balances so funds did not end up in the stabilization fund. She stated she advocated the requirement of Mayor and Council action be required prior to any fund balance assignment because the current wording indicated this was a function of the finance officer alone.

Kelly Gottschalk, Assistant City Manager/Chief Financial Officer, explained the reason for the wording was because that was what the accounting pronouncements said. She said that when the Mayor and Council take action it was required to be in the committed balance and they could not take action to assign funds. She stated staff talked about informing the Mayor and Council of what they were assigning.

Council Member Uhlich stated she would like to be informed prior to any fund assignments because the Mayor and Council could not accomplish their goals and keep an eye on all the different pots. She said the document noted that the Mayor and Council would be notified prior to one hundred and eighty days after June 30th, but did not note if there would be notification prior to funds being assigned by staff. In other words, staff could inform the Mayor and Council that \$10 million need to be assigned for capital outlay and they could take action to commit the \$10 million to the stabilization fund. She said the Mayor and Council could deal with the rules, but only if they were informed in advance.

Ms. Gottschalk stated one of the purposes of the Study Session item discussed earlier that day was to list to the Mayor and Council what was intended to be assigned. She said that was staff's way to inform them of what was going to be assigned.

Council Member Uhlich stated she thought the outline was of items already approved and asked if they had approved something new at the Study Session.

Ms. Gottschalk explained nothing new was approved during Study Session; everything listed had been previously approved with the budget. She said those things assigned out of the WR Gray settlement, as well as, use of the fund balance that were part of the budget was listed. She stated there could be a year where, for some reasons, something else needed to be assigned, but was not the case this year. If there were things being added to the list, staff would bring it to the Mayor and Council's attention.

Council Member Uhlich offered a friendly amendment to the motion that the Mayor and Council be informed thirty days prior to the effect of the proposed assignment

of fund balances. She said this would ensure that the Mayor and Council had the opportunity to know what the proposed assignment was and make sure they did not want to commit any funds being assigned to either the stabilization or to retain them in the unassigned balance.

Mayor Rothschild stated that in principle he agreed with Council Member Uhlich. He asked what time frame would be least cumbersome, fifteen days or thirty days, for the notification of Mayor and Council prior to the assignment of fund balance.

Council Member Uhlich stated she tried to make it as tight as possible and thirty days seemed realistic.

Ms. Gottschalk answered the one hundred eighty days was required by the Government Finance Officers Association (GFOA), which gave them the month of November to bring the information to the Mayor and Council. This had been their practice.

Council Member Kozachik asked for clarification on the time line.

Silvia Amparano, Finance Department Director, answered the purpose of assigning funds was to cover known expenditures that were not included in the budget process. She said the Comprehensive Annual Financial Report (CAFR) had to be submitted to the GFOA by December 31, 2014, so if it was brought to the Mayor and Council before December 1, 2014, there would be time to submit the CAFR by the deadline with any adjustments.

Ms. Gottschalk gave an example of a situation, a technology project with a \$10 million budget that was not finished in the projected fiscal year and only \$3 million of the budget had been spent. She said in that case the \$7 million would have moved to the fund balance and staff did not want it sitting in the unassigned knowing that the project was going to continue. She said, in that case, staff would come before the Mayor and Council to assign the \$7 million to the unfinished project so it would be reserved and the work could continue.

Council Member Kozachik asked if there was a need to put a time frame on it that might accomplish what the Mayor and Council was after even more effectively.

Vice Mayor Cunningham said that on page 20, Item F, #1 spoke about financial institutions. He asked if any local financial institutions were being considered. He said Administrative Directive (AD) 3.01-3 was not included in the materials for him to reference.

Ms. Amparano answered that the banking policy referred to the City's commercial bank. She said there was a Request for Proposal (RFP) process in place with requirements that banking institutions needed to submit to be considered. The City's banking institute was currently in compliance with all of the requirements of the AD.

Vice Mayor Cunningham stated the user fee policy was comprehensive, however it did not say the user fees should be kept as low as possible for the citizens of Tucson. He said it should be written in the Comprehensive Financial Policies.

Ms. Amparano stated she thought the Mayor and Council each had the opportunity, as they approved each different type of revenue, to assess the appropriate level of user fees.

Vice Mayor Cunningham commented that Councils, now and in the future, were going to end up voting on different budgets and different financial decisions made by the City. He said the policies should be used to guide the Mayor and Council. He stated for the Mayor and Council to basically say that they will use a matrix or point system, and for none of it say that they will consider the citizens of the City and for it to be as low as possible, did not make any sense to him.

Mayor Rothschild asked Vice Mayor Cunningham where exactly in the document he was reading from.

Vice Mayor Cunningham explained he was looking at page 13, Section 6, A, B1-6 and C1-6.

Ms. Gottschalk explained the matrix talked about the percentage of the direct and indirect costs the City would recover. So, if the Council wanted to keep the fee as low as possible, they needed to manage the organization to keep the direct and indirect costs as low as possible.

Vice Mayor Cunningham said sometimes they wanted full cost recovery but it had to be considered against the effect of the fees on the citizens and a price that should not be set arbitrarily.

Council Member Kozachik clarified the matrix sets a policy as a function of who would benefit as opposed to keeping the fees as low as possible.

Ms. Amparano answered that was correct and clarified that the general policy was that if only one individual benefited it should be at a higher cost recovery and if the community as a whole benefited it should be at a minimal cost.

Vice Mayor Cunningham clarified whatever cost was set it should be the minimal cost possible to meet those goals but without it having been included in the document they could raise the price at any time.

Ms. Gottschalk explained they were only trying to recover the costs based on the users without building a profit. She also stated these were not fees based on an enterprise fund and was truly a fee regardless if it was zero percent, fifty percent, one hundred percent. It was all based on the users.

Vice Mayor Cunningham asked if anywhere in the document it stated that the City was trying to get the lowest cost possible for the user by meeting those guidelines.

Council Member Uhlich commented that in the introduction on page 3, at the beginning of the document, it states “that the City has an important responsibility to carefully account for public funds, manage municipal finances wisely and to plan for adequate services.” She said she felt it set the overarching responsibility to utilize effective fiscal management.

Vice Mayor Cunningham stated he worried about actual user fees and there was no discussion about user input or consideration of the user at all.

Council Member Kozachik asked Vice Mayor Cunningham to offer a substitute or friendly amendment to the motion.

Vice Mayor Cunningham stated he did not have an amendment prepared.

Mayor Rothschild asked if there was any further discussion. There was none.

Resolution 22319, as amended, was declared passed by a roll call vote of 5 to 1 (Council Member Romero absent/excused and Vice Mayor Cunningham dissenting).

17. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Rothschild announced City Manager’s communication number 375, dated November 18, 2014, was received into and made part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Romero absent/excused), to approve the appointments of Gregg Garfin, Maya Castillo, and Benjamin Champion to the Climate Change Committee (CCC).

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

Council Member Fimbres announced his personal appointment of Matthew McDonnell to the Metropolitan Energy Commission.

18. ADJOURNMENT: 7:02 p.m.

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, December 9, 2014, 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 18th day of November 2014, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:dd:agj