



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on November 9, 2016.

Date of Meeting: March 8, 2016

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 5:37 p.m., on Tuesday, March 8, 2016, 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:

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

Council Member Ward 1
Council Member Ward 2
Vice Mayor, Council Member Ward 3
Council Member Ward 4
Council Member Ward 5
Council Member Ward 6
Mayor

Absent/Excused:

None

Staff Members Present:

Michael J. Ortega
Michael Rankin
Roger W. Randolph

City Manager
City Attorney
City Clerk

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Pastor David Drum, Four Tucson Church, after which the Pledge of Allegiance was led by the entire assembly.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Rothschild announced City Manager's communication number 69, dated March 8, 2016, 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 Romero, Cunningham, Scott, Fimbres and Vice Mayor Uhlich. 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 70, dated March 8, 2016, 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 given by Michael J. Ortega, 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 71, dated March 8, 2016, 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. Native Grill & Wings, Ward 4
10255 E. Old Vail Rd.
Applicant: Thomas Robert Aguilera
Series 12, City 106-15
Action must be taken by: February 18, 2016

Planning & Development Services Department has indicated the applicant is now in compliance with city requirements.

Tucson Police Department and Revenue Division-Investigations have indicated the applicant is in compliance with city requirements.

2. Prep & Pastry, Ward 2
6450 E. Grant Rd. #160
Applicant: Nathaniel Robert Ares
Series 12, City 7-16
Action must be taken by: March 12, 2016

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

3. Radisson Suites Tucson, Ward 2
6555 E. Speedway Blvd.
Applicant: Kevin Arnold Kramber
Series 11, City 8-16
Action must be taken by: March 11, 2016

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

4. Rita Ranch Market, Ward 4
8201 S. Rita Rd.
Applicant: Farooq A. Rahman
Series 10, City 9-16
Action must be taken by: March 12, 2016

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

5. Senae Thai Restaurant & Bar, Ward 6
63 E. Congress St.
Applicant: Amonwadee Buizer
Series 12, City 14-16
Action must be taken by: April 2, 2016

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 Transfer(s)

6. Rita Ranch Market, Ward 4
8201 S. Rita Rd.
Applicant: Farooq A. Rahman
Series 7, City 10-16
Action must be taken by: March 12, 2016

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

NOTE: State law provides that for a person to person transfer Mayor and Council may consider the applicant's capability qualifications and reliability. (A.R.S. Section 4-203)

c. Special Event(s)

1. The University of Arizona Alumni Association, Ward 6
1200 E. University Blvd.
Applicant: Melinda Burke
City T10-16
Date of Event: April 23, 2016
(Scholarship Fundraiser)

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

2. El Grupo Youth Cycling, Ward 1
610 N. 9th Ave.
Applicant: Daniela Natale Diamante
City T13-16
Date of Event: April 16, 2016
(Fundraiser)

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

3. Santa Cruz Catholic Church, Ward 5
1220 S. 6th Ave.
Applicant: Rebecca Marie Lujan
City T14-16
Date of Event: May 21, 2016 - May 22, 2016
(61st Annual Fiesta)

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

4. North Fourth Avenue Merchants Association, Inc., Ward 6
Within University Blvd., 3rd Ave., 9th St., 5th Ave.
Applicant: Federick Gabriel Ronstadt
City T15-16
Date of Event: April 1, 2016 - April 3, 2016
(Fundraising Civic Event)

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

5. Saints Peter and Paul Roman Catholic Parish-Tucson, Ward 6
1946 E. Lee St.
Applicant: Patrick McHale Crino
City T16-16
Date of Event: April 16, 2016
(Fundraiser)

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

6. Tucson Breakfast Lions Club, Ward 5
4801 S. 6th Ave.
Applicant: Wayne Francis Locke
City T20-16
Date of Event: April 1, 2016 - April 2, 2016
(Fundraiser)

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

7. Girl Scouts of Southern Arizona, Ward 6
5151 E. Broadway Blvd.
Applicant: Nicole C. Horner
City T21-16
Date of Event: March 25, 2016
(Fundraiser)

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

d. Agent Change/Acquisition of Control

1. Maloney's, Ward 6
213 N. 4th Ave.
Applicant: Joseph Brown Harris
Series 6, City AC1-16
Action must be taken by: March 18, 2016

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

2. Cafe Poca Cosa, Ward 6
110 E. Pennington St. #100
Applicant: Suzana M. Davila
Series 12, City AC2-16
Action must be taken by: March 21, 2016

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 Uhlich, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b1 through 5b6, 5c1 through 5c7, and 5d1 through 5d2, 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:

Al Wiruth
Peter Dooley

Steven Valencia
Les Pierce

Ken Scoville
Janet Valencia

Mayor Rothschild asked staff to look into Mr. Wiruth’s concerns regarding Houghton Road.

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 I

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 MAR08-16-73 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of August 5, 2015
3. Mayor and Council Study Session Legal Action Report and Summary Minutes of August 5, 2015

b. RESOLUTION: AUTHORIZING EXPENDITURES BY THE RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT FOR A NEW GREYHOUND BUS TERMINAL (CONTINUED FROM THE MEETING OF FEBRUARY 23, 2016)

1. Report from City Manager MAR08-16-76 WARD 5

2. Resolution No. 22539 relating to Intergovernmental Agreements; approving and authorizing expenditures by the Rio Nuevo Multipurpose Facilities District for the establishment of a new Greyhound Bus terminal; and declaring an emergency.

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

c. AGREEMENT: WITH THE RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT FOR CONSTRUCTION OF DRAINAGE IMPROVEMENTS ON PROPERTY LOCATED AT CONGRESS AND INTERSTATE 10

1. Report from City Manager MAR08-16-79 WARD 1
2. Resolution No. 22543 relating to Development; authorizing and approving a Cost Reimbursement and Conveyance Agreement between the Rio Nuevo Multipurpose Facilities District, Nor-Development, LLC, Nor-Gen Land Trust UA, and the City of Tucson for drainage improvements and related facilities to the Arena Site and the Exhibition Hall Site; and declaring an emergency.

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

d. INTERGOVERNMENTAL AGREEMENT: WITH THE CITY OF SOUTH TUCSON FOR WASTE AND RECYCLING COLLECTION SERVICES (CONTINUED FROM THE MEETING OF JANUARY 20, 2016)

1. Report from City Manager MAR08-16-80 CITY WIDE
2. Resolution No. 22527 relating to Environmental Services; authorizing and approving the Waste and Recycling Services Intergovernmental Agreement (IGA) between the City of South Tucson (South Tucson) and the City of Tucson (City); and declaring an emergency.

e. CONCESSIONS AGREEMENT: WITH TUCSON PRESIDIO TRUST FOR HISTORIC PRESERVATION AND RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT FOR CONCESSIONS ACTIVITIES AT THE PRESIDIO SAN AGUSTIN DEL TUCSON

1. Report from City Manager MAR08-16-81 WARD 1

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

f. FINAL PLAT: (S15-051) MOUNTAIN VAIL ESTATES, PART G, LOTS 1 THROUGH 95

1. Report from City Manager MAR08-16-72 WARD 4

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.
- g. FINAL PLAT: (S15-053) CASA SETON, LOTS 1 THROUGH 11
1. Report from City Manager MAR08-16-78 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.
- h. INTERGOVERNMENTAL AGREEMENT: WITH THE ARIZONA DEPARTMENT OF PUBLIC SAFETY FOR THE ARIZONA VEHICLE THEFT TASK FORCE (AVTTF)
1. Report from City Manager MAR08-16-74 CITY WIDE
 2. Resolution No. 22540 relating to Intergovernmental Agreements (IGA); approving and authorizing execution of an IGA between the Tucson Police Department (TPD) and the State of Arizona on behalf of the Arizona Department of Public Safety (DPS) regarding the Arizona Vehicle Theft Task Force (AVTTF); and declaring an emergency.
- i. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR CONSTRUCTION OF WATER FACILITIES RELATED TO WORLD VIEW ENTERPRISES
1. Report from City Manager MAR08-16-82 OUTSIDE CITY
 2. Resolution No. 22542 relating to Intergovernmental Agreements; approving adoption of an Intergovernmental Agreement between the City of Tucson and Pima County for Construction of Water Facilities related to World View Enterprises; and declaring an emergency.

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

It was moved by Council Member Cunningham, duly seconded, and passed by a roll call vote of 7 to 0, that Consent Agenda Items a – i, with the exception of Items b and i, which were considered separately, and Items c and e, which were continued, be passed and adopted and the proper action taken.

7. CONSENT AGENDA – ITEMS B

b. RESOLUTION: AUTHORIZING EXPENDITURES BY THE RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT FOR A NEW GREYHOUND BUS TERMINAL (CONTINUED FROM THE MEETING OF FEBRUARY 23, 2016)

1. Report from City Manager MAR08-16-76 WARD 5
2. Resolution No. 22539 relating to Intergovernmental Agreements; approving and authorizing expenditures by the Rio Nuevo Multipurpose Facilities District for the establishment of a new Greyhound Bus terminal; and declaring an emergency.

Council Member Fimbres stated he spoke to Fletcher McClusker, Rio Nuevo District Board Chairman and also called a meeting with the leadership of the Barrio San Antonio Neighborhood Association on this issue. He said during the meeting, the Neighborhood Association had questions regarding access in and out of the neighborhood, the Los Barrio Shops, access in and out by Greyhound, and the ability for emergency vehicles to get in and out of the neighborhood. He commented the City Manager and City Attorney were also in attendance. He asked the City Attorney to shed some light on what occurred at the meeting.

Michael Rankin, City Attorney, said that was an accurate summary of the meeting and they appreciated the opportunity to meet with representatives from the Barrio San Antonio Neighborhood Association to hear their concerns. He stated Michael J. Ortega, City Manager, represented commitment, on behalf of himself and City staff, that those representatives would have the opportunity to provide input during the plan review process to address the described concerns.

Mr. Rankin stated the Rio Nuevo District, through their chairperson and treasurer, Mark. Irvin, could address the Mayor and Council if need be and had expressed their willingness to continue meeting and communicating with the Neighborhood Association representatives during the plan design and review stage so that their input was considered and addressed as the project moved forward.

Council Member Fimbres asked Mr. Irvin to come forward and provide a briefing on the situation.

Mark Irvin, Rio Nuevo District Board Treasurer, provided historical context of the item. He said Rio Nuevo took over the Greyhound relocation concerns from the City shortly after the arena site was sold to Norgen, known as the arena lot. He said Rio Nuevo took on the roll to ensure the arena lot development was placed on a pathway to success and that the Greyhound's move from the site did not in any way stand in creating a permanent home for the Tucson Gem and Mineral show, parking, a new Hyatt Hotel and other developmental activity.

Mr. Irvin stated it was important to note that when Rio Nuevo looked for a site for Greyhound, there were a number of things that were very important to them that would also put them on a pathway to success as well. He said they looked for a site that was in the District's boundaries, was properly zoned, was in a commercial area, had good access to the freeway, downtown, the U of A, and was affordable. He said all of that was found at the site on Euclid and Broadway, bounded by Kendall, Euclid, 12th Street and Broadway. The site was completely surrounded by mixed uses, industrial, retail, and semi-retail. He stated there were no commercially zoned properties that surrounded the property at all.

Mr. Irvin commented the site in question also had an Office Max and a Del Taco as neighbors and had good access to the Links and Downtown. He said Rio Nuevo was very sensitive to the Neighborhood and the Los Barrios area. He stated they were very confident they could develop the site and would not invade the neighborhood streets. He continued saying that Phil Swaim, Swaim Associates Architects, was hired as the Project Architect working diligently with Planning and Developmental Services Department (PDSD) and committed to working with the neighborhoods on their issues and concerns. He said it was also confirmed with City staff that the development met the criteria that had been set forth.

Mr. Irvin stated it was important to note Greyhound only brought in about ten buses a day. He said they would access the site off of Euclid, and then exit out on the south end of the property onto 12th Street.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 7 to 0, that Consent Item b be passed and adopted and the proper action taken with the following conditions; 1) Rio Nuevo District continue discussions with the Barrio San Antonio Neighborhood Association on the Greyhound Terminal, and 2) Rio Nuevo work with Barrio San Antonio Neighborhood Association and appropriate City staff to identify proper mitigation techniques which may include additional signage, traffic calming or additional landscape buffering.

7. CONSENT AGENDA – ITEMS I

- i. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR CONSTRUCTION OF WATER FACILITIES RELATED TO WORLD VIEW ENTERPRISES
 - 1. Report from City Manager MAR08-16-82 OUTSIDE CITY
 - 2. Resolution No. 22542 relating to Intergovernmental Agreements; approving adoption of an Intergovernmental Agreement between the City of Tucson and Pima County for Construction of Water Facilities related to World View Enterprises; and declaring an emergency.

Mayor Rothschild asked if there was anybody from the World View group present, if not, he was going to continue the item to give the out of town presenters from World View Enterprises time to get to the meeting.

The item was continued until after the public hearing.

8. PUBLIC HEARING: HOUGHTON EAST NEIGHBORHOOD PLAN AMENDMENT (PA-15-02); NORTHEAST CORNER OF HOUGHTON ROAD AND 22ND STREET TO ALLOW A HEIGHT INCREASE

(This Item was taken out of order.)

Mayor Rothschild announced City Manager's communication number 75, dated March 8, 2016, was received into and made part of the record. He said this was the time and place legally advertised for a public hearing on a request to amend the *Houghton East Neighborhood Plan (HENP)* related to a 16.3 acre vacant parcel at the northeast corner of Houghton Rd. and 22nd Street. He said staff wanted to make a brief presentation before beginning the public hearing.

Michael Rankin, City Attorney, gave a brief introduction to the item stating it was a request to amend one policy of the *HENP*, specifically Policy 2D as described in the materials. He said the policy in question restricted non-residential uses at this particular location to no more than twenty feet. He stated approval of the proposed *Plan* amendment did not constitute approval of any future re-zoning or any element of a future re-zoning and any rezoning requests for the property would need to comply with the policies of the *HENP*.

Mr. Rankin stated, in addition, all of the other issues connected with the rezoning with respect to setbacks, open space, lighting, parking, etc., needed to be addressed. He said if the proposed *Plan* amendment was not approved, any future rezoning requests for the site had to comply with the terms of the existing *HENP* including the height limitation of 20 feet. He continued saying if the *Plan* amendment was approved the applicant could proceed with the rezoning request that goes through the normal process and back to the Mayor and Council as a legislative decision and could include a maximum building height of up to twenty-six feet at this particular location, which was the northeast corner of Houghton and 22nd.

Mr. Rankin indicated that approval of the *Plan* amendment as proposed did not compel the Mayor and Council to approve any future rezoning.

Council Member Regina Romero asked if approval was granted for the request on the particular building height, did it change the *Houghton Road Master Plan* or would it be an exception.

Mr. Rankin responded it only changed the *HENP*. and specifically, as provided in the Resolution, allowed for the maximum building height to be twenty-six feet, at the northeast corner.

Mayor Rothschild confirmed that approval was only to the property requested within the entire area.

Albert Elias, Assistant City Manager, stated that staff recommended the Mayor and Council to amend the *HENP*, specifically non-residential policy 2D, to allow a maximum building height of twenty-six feet. He said the amendment was being forwarded without a recommendation from the Planning Commission, although a public hearing was held on this issue.

Mayor Rothschild asked for confirmation of what the vote of the Planning Commission was.

Mr. Elias stated he believed the vote was 5 to 2; but technically it took seven affirmative votes, from the Planning Commission (PC), to formulate a recommendation. He said the PC fulfilled the requirement of holding a public hearing and heard testimony from the community on behalf of the Mayor and Council.

Keri Silvyn, Lazarus, Silvyn & Bangs, P.C., gave some background information regarding the request before turning the presentation over to Linda Morales from The Planning Center. She reiterated that the request was a relatively simple request to increase the height in the *HENP* from twenty feet to twenty-six feet just for this site. She said it opened up an opportunity for them to request a rezoning with the twenty-six foot height as opposed to the twenty foot limit.

Ms. Silvyn said the *HENP* was amended in 1990 to permit the only other intersection in the *HENP* that was designated for non-residential use, to have an increase in height to twenty-eight feet in a certain area and thirty-five feet in the other. She provided background information regarding the history of the site so that everyone was operating from the same facts.

Linda Morales, The Planning Center, spoke about the Houghton Road Corridor and its uses and referred back to the handouts given to the Mayor and Council. She discussed the zoning history of the *HENP* and spoke about the plans for the area.

Council Member Kozachik asked if she could speak to the issue of the parapets and the architectural elements above the twenty-six feet.

Ms. Morales replied the current height was twenty feet. She said the *Unified Development Code (UDC)* read that the roof deck was where the building height was measured from and above that you could go to a four foot parapet and add architectural features that added interest up to ten feet above the allowed height. She described the architectural and height features on the plans they were requesting.

Mayor Rothschild stated, in looking at the drawings, which were ultimately subject to the rezoning hearing, it did not appear there was a lot being added in the way of architectural features above the roof line and asked if he was correct.

Ms. Morales responded there were some and it was actually a six foot difference which was the highest point.

Council Member Uhlich asked for clarification, as a condition of the rezoning, if height could become an issue once again in terms of the design features or other elements within the rezoning and was not an outright entitlement granted up to thirty-six feet with the architectural features.

Ms. Morales stated that was correct.

Mayor Rothschild reiterated his understanding that if they did not come in with request for change, they still had the entitlements listed in the *UDC*, which was a six foot potential to play with.

Ms. Morales responded affirmatively. She said the way they had to do it was they could not submit a rezoning to go above that without this first step.

Mayor Rothschild announced the public hearing was scheduled to last for no more than one hour but would be extended to ninety (90) minutes or nine speakers from each side, whichever came first. Speakers were limited to five-minute presentations. The following people spoke either in support or opposition of the *HENP* amendment.

Support

Fred Yamashita
Seth Eldeen
Mike Trueba
Jeannie Nguyen

David Little
Ashley Evans
Patty Thompson

Steven Shell
Pat Johnson
Judy Kaiser

Opposition

Linda Schaub
Catherine Gale
Paul Goff
Molly McKasson

Daniel Porzio
Tracy Scheinkman
Darla Sidles

Roy Johnson
Donna Walton
Terry Sapp

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 7 to 0 to close the Public Hearing.

Mayor Rothschild asked the City to Clerk to read Resolution 22541 by number and title only.

Resolution No. 22541 relating to Planning and Zoning; amending the *Houghton East Neighborhood Plan (HENP)* - PA-15-02, northeast corner of Houghton Road and 22nd Street to allow a maximum building height of twenty-six feet for non-residential uses; and setting an effective date

Council Member Cunningham asked if it was possible to do the development within the twenty feet. He requested that Ms. Morales walk him through the process so that he could have a better understanding. He asked if he was correct, with the current twenty foot building height, that fourteen feet could still be added.

Ms. Silvyn responded they would not have gone through the process if they did not feel six feet was really important for internal functioning, including mezzanine space to have the ability for office space and training space for three hundred employees. She said it could be done, but there would be internal tradeoffs to the building to see how it would work with customer floor space and office. She reiterated this was quite a process and they would not have gone through it if they did not need it.

Ms. Silvyn said the fourteen feet could not be added with the current twenty foot building height limit. She said four feet could be added for a parapet; then they would have to go back to the twenty feet and go ten feet for architectural.

Council Member Cunningham asked if the highest they could get to was thirty feet.

Ms. Silvyn responded yes.

Council Member Cunningham also asked if the project could be done, with all the amenities, the parapet, and the architectural features, at thirty feet.

Ms. Silvyn responded there were two different issues; the four foot parapet and the architectural. She said she did not entirely have the answer and was unsure if they had worked that part through, but it was exactly the opportunity for discussion they were asking to have. She said by approving the request, it gave them the ability to put in a rezoning request for the additional six feet of height and as they worked through the rezoning, they could be having discussions with the neighbors, with Saguaro National Park, and the Council office.

Council Member Cunningham stated the vexing part of the request for him was that he only wanted to vote once. He said if the rules that were laid out were being followed, and later the Zoning Examiner came back with a request that was within the *HENP* rules, he would be inclined to vote for it.

Council Member Cunningham said, on the other side, Mayor and Council could pass and adopt the six feet but the problem was that the developer was much more on unstable ground if they worked with the neighbors and there was not agreement. He said

he was surprised at the number of neighbors that came out and spoke in support of the project.

Vice Mayor Uhlich wanted clarification of the option going for Neighborhood Commercial (NC) zoning. She asked if there were different options for pursuing this that did not require the amendment to the *HENP*, but accommodated some of the needs of a project to be considered.

Ms. Morales said the main thing that stood out to her with NC was that there was a limit on the building height of sixteen feet and staff typically did not grant re-zoning with a need for a variance.

Mr. Elias stated that at his point they did not know what zoning classification the applicant would seek during the re-zoning process since that was yet to be determined. He said that evening, the issue was strictly on the policy in the *HENP* regarding twenty feet and the applicant's request to be able to exceed that and allow them to proceed into the rezoning process with the greater height.

Mayor Rothschild asked if it was correct that the applicant was asking for was six feet of flexibility. If nothing was done, they still had thirty feet to play with. He said either way, the item would be brought back to the Mayor and Council for some type of re-zoning. He said what was heard from the neighborhood that evening, along with buffers, view sheds, lighting, and traffic mitigation were things that needed to be addressed in the re-zoning process. He again clarified that the request was to give the applicant flexibility to work in the rezoning process.

Ms. Silvyn stated that was exactly right. She asked if Council Member Cunningham's concerns were the idea that they were able to have the height as defined in the *HENP* at twenty-six feet but limit the ability above the six feet to parapet or architecture up to thirty.

Council Member Cunningham responded that was correct, but it was something that had to come in the second part of the process and would be looked at in the re-zoning. He said the bottom line was that they could not have it both ways. If an exception to the *HENP*'s height restriction was being made, the applicant was going to have a really tough time following what the possible intended zoning was. He said by the same token, if staff recommends that it is within the *HENP* then the Mayor and Council should approve it.

Council Member Cunningham stated he was basically hearing from a number of neighbors that the height, notwithstanding, there were some significant issues with setbacks and such. He said he was willing to make the motion to let the height restriction go, but he wanted people to know he did not think this would make a difference in all of the other things that had to be done.

It was moved by Council Member Cunningham, duly seconded, to pass and adopt Resolution 22451.

Council Member Scott said she thought there was an awful lot of conversation that could take place before the project was complete. She said she felt it was important for the stakeholders to continue talking with each and come to those decisions. She commented she did not quite understand the concept that it was okay to live right beside the Saguaro National Monument, but it was not okay, for two miles away, to have commercial business.

Council Member Scott advised there was a great deal of conversation that needed to happen, a great deal of importance with regards to jobs, vacant spaces in the area that the applicant had already commented about, revitalization of the area, and the two intersections within the *HENP* that allowed for commercial development, which this project was one of them. She continued saying that the property in question was well outside the one mile buffer zone. She said she had personally driven the area, looked at the quality of homes and saw for herself the exact circumstances under which the project would or would not have an effect on. She said she felt it was worthy of further discussions and thanked the people of the neighborhoods for coming into her office and to the evening's meeting.

Council Member Scott stated the project was a \$30 million investment by Fry's Marketplace and Brentwood, and they were also willing to make another \$3 million worth of investments in the old Fry's Store. She said she thought they needed to acknowledge their willingness to invest and go through a very serious project that took more than a little bit of time. She stated she agreed with her colleague, it was worthy, and there were so many things that could be resolved with further discussion.

Council Member Kozachik asked for clarification on the visuals given to the Mayor and Council regarding the building height. He said he understood the request was for thirty-six feet not thirty feet as mentioned in the conversation with Council Member Cunningham.

Ms. Morales said the thirty-six feet was actually pointing to the architectural feature. The actual roof or the roof deck of the store was behind the parapet in the handout. She said she thought Council Member Cunningham had referred to the maximum of thirty feet that was allowed on the twenty foot building height.

Council Member Cunningham clarified what he had asked was that when the applicant returned with a request for rezoning, if the architectural features went up to thirty-six feet, he would probably not support it. He said what needed to be done was that the architectural features and the parapet had to be removed because if they wanted the extra six feet, the extra features had to go.

Council Member Kozachik said he wanted to acknowledge the civility in the process of the project. He said he also wanted to make sure, if the item was approved,

that it was a bit disingenuous to say they were going up six feet or up to thirty-six feet without also indicating that a very time consuming and expensive rezoning process would take place. He said if the item was approved that evening, the Mayor and Council were setting precedence for likely approving a rezoning with conditions.

Council Member Kozachik stated he would make several comments based on the *HENP*. He said the Planning Center asked for this to be considered Neighborhood Commercial to avoid the 25% consolidated open space. He stated that if you looked on page 4 of the *HENP*, Community Commercial was defined as something that typically served something within a three mile radius or greater. When meeting with the Fry's people they admitted that was their model. He said a hundred twenty-five thousand square-foot building fit that model and a gas station fit that model. So the Council should be considering the request as Community Commercial.

Council Member Kozachik stated that the *HENP* defined consolidated open space as an undisturbed area contiguous within the project site and linked to other open space areas surrounding the site to create continuous areas of undisturbed natural vegetation. He explained that if you looked at the conceptual site plan, it did not fit the definition of contiguous open space to preserve undisturbed natural vegetation. He said he did not think the site plan met the definition of consolidated open space either.

Council Member Kozachik said that on page 17 of the *HENP*, there was a description of Area "A". The agenda material said the approval was for six feet of height because the *HENP* referenced the Tucson city zoning code. He said that's the reason they were allowing parapets and other architectural elements, but the only place in the document that referenced the zoning code was in this Area "A". He said allowance for something in excess of the reference in the zoning code only applied to this Area. He stated that when talking about the thirty-six feet or when talking about those twenty-two foot buildings you also had to acknowledge that they get the parapet and they get the architectural elements as well. It could not be one without the other.

Council Member Kozachik asked if the Fry's building would be twenty-six feet or thirty-six feet. It had to be one or the other but not both. He said that page 19 of the *HENP* stated Pima County had designated a future right-of-way of two hundred feet to leave a buffer of natural vegetation along either side of Houghton Road. He said again the conceptual site plan did not come close to doing that.

Council Member Kozachik said that page 18 of the *HENP* required new development proposals to integrate site design with the natural terrain. It also talked about encouraging the maintenance of drainage ways in their natural state to allow wildlife movement to occur inside and outside of the boundaries of the National Park. He said the site plan obliterated those drainage ways and the natural wildlife corridors.

Council Member Kozachik said he wanted to make it clear that they were not just talking about six feet. They were talking about thirty-six feet with parapets, about a change to the buffers, a change to the drainage ways, a change to the wildlife corridors, a

change to the definition of Community Commercial, and a change to the definition of consolidated open space. He stated that was more significant than what they had been talking about through the whole public hearing. He said staff cited infill in their reference to *Plan Tucson* and this was not infill. This was putting a shopping center on a sixteen acre site SR zoned open space that was serving as a transition area for the Saguaro National Monument.

Council Member Kozachik said this was not pro or anti-business, it was not NIMBY, and it was not any of those catchphrases. It was simply a reflection of the terms of the *HENP*. He stated that at that point he would vote no.

Vice Mayor Uhlich stated with regard to the drainage issues, she asked if the ERZ Wash Ordinance came in to play or was there not connectivity.

Ms. Morales explained that the ERZ was the larger wash to the south across 22nd Street. She stated there was no ERZ wash on the site. She said during the PAD process or the zoning process, they had to go through the native plant mitigation and more to include water harvesting.

Vice Mayor Uhlich acknowledged her support in moving forward. She said it was the Mayor and Council's job to have a good process, listen, and balance what was not a black and white decision. She said she believed what they were trying to do was weigh the economic truth and good jobs as a result of the project against something that could have an environmental impact. She stated that to her, it was not about the six feet or even some of the other things brought up earlier; it was about having the intensity of development at that site.

Vice Mayor Uhlich said in terms of environmental impact, she was willing to consider a rezoning for this site. She said she thought the buffer was preserved and could be even with the rezoning. It was not always an easy choice, but the potential investment clearly sought by some residents of the area would not create the kind of environment fallout that the Mayor and Council were clearly committed to preventing.

Council Member Romero spoke about what the project would look like in the future and how it would affect the night skies, wildlife corridors, character of the area, and water/watersheds on the property. She said she believed that Houghton Road was highly developed and heights in the area were already up one hundred twenty feet and the Mayor and Council had to be very diligent in what came next as far as preserving wildlife and open space corridors. She said she was going to support the additional six feet but tended to agree with Council Member Cunningham that her threshold was very, very low to something more than thirty feet.

Council Member Cunningham clarified that the developer would have a higher threshold in dealing with the neighbors. Approval of this item did not make the approval of the zoning a foregone conclusion.

Council Member Fimbres asked if approved by the Mayor and Council what did the proposal allow for the project to proceed and what did it allow to not proceed.

Ms. Morales responded, if approved, it simply allowed them to submit a rezoning request. She stated that was why they did this in what seemed like a backwards way because there was a very specific policy in the *HENP* that required them to do that.

The motion to pass and adopt Resolution 22451, was passed and adopted by a roll call vote of 6 to 1 (Council Member Kozachik dissenting).

RECESS: 8:24

RECONVENED: 8:29

All members and staff were present as they were at the start of the meeting.

7. CONSENT AGENDA – ITEM I

i. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR CONSTRUCTION OF WATER FACILITIES RELATED TO WORLD VIEW ENTERPRISES

1. Report from City Manager MAR08-16-82 OUTSIDE CITY
2. Resolution No. 22542 relating to Intergovernmental Agreements; approving adoption of an Intergovernmental Agreement between the City of Tucson and Pima County for Construction of Water Facilities related to World View Enterprises; and declaring an emergency.

Council Member Kozachik stated if discussion or action was taken on the water piece, (Item #10), that was not necessarily approving the primary jobs incentive. He asked if that was true and if they were two separate issues.

Albert Elias, Assistant City Manager, confirmed it was two separate actions.

It was moved by Council Member Kozachik, duly seconded, and passed by a voice vote of 7 to 0, that Consent Agenda Item i be passed and adopted and the proper action taken.

8. PUBLIC HEARING: HOUGHTON EAST NEIGHBORHOOD PLAN AMENDMENT (PA-15-02); NORTHEAST CORNER OF HOUGHTON ROAD AND 22ND STREET TO ALLOW A HEIGHT INCREASE

(This item was taken out of order and discussed after the Consent Agenda, Item 6b.)

10. ECONOMIC DEVELOPMENT: DISCUSSION OF ECONOMIC DEVELOPMENT INCENTIVES FOR WORLD VIEW ENTERPRISES INC.

Mayor Rothschild announced City Manager's communication number 83, dated March 8, 2016, was received into and made part of the record.

It was moved by Council Member Fimbres, duly seconded, to approve the City Manager's recommendation on the item.

Council Member Kozachik said he had two questions; one with respect to the investment and the other with respect to the jobs. He said the Primary Jobs Incentive tax break was contingent upon companies making over a \$5 million investment on new or expanded facilities. He stated the material received by the Mayor and Council indicated that the investment being made by World View was in Furniture, Fixtures and Equipment (FF&E) and not in expanded facilities. He asked how the City was justifying approval based on the set criteria.

Camila Bekat, Economic Development Specialist, stated that within the Primary Jobs Incentive, both the construction expenditures and purchase of FF&E could be counted.

Council Member Kozachik understood the Resolution being considered specifically stated facilities, new or expanded. He said FF&E was not included because furniture, fixtures and equipment was movable and if World View were to leave they could take the furniture, fixtures and equipment with them. He commented that the facilities that were referenced were permanent facilities, not FF&E.

Council Member Kozachik stated that information came right out of the Resolution and knew it was added to the City's website, but never changed in the Resolution when it was amended. He said his other concern was about the jobs and the planned job growth for World View that would not be met until year eleven. He asked how the requirement of twenty-five jobs north of \$52,400 were going to be tracked and how was the construction sales tax benefit being divided out.

Ms. Bekat replied that once the application was approved, staff would return with the Development Agreement. The Agreement would stipulate the time frame for the job creation. She said what was done in the past, once the developer showed that half of the required jobs were created, the first portion of the incentive was disbursed and when the other portion of jobs were created, the second portion was disbursed. Staff then monitored the job retention for a period of three years. She said there were claw-back provisions within the development agreement that allowed the City to get the money back should they not comply with the incentive requirements.

Council Member Kozachik stated he wanted World View's staff to know he loved the project, though it was maligned as being a trendy balloon deal. He said he understood the research investment/component of it, but the terms of the City's own Primary Jobs

Incentive specified over \$5 million in facilities, new and expanded, and did not say anything about FF&E.

Michael Rankin, City Attorney, stated he understood the concern and if when staff returned to the Mayor and Council with this current project or any new similar proposal, they will point to the issues in the Resolution and if need be present a potential amendment thereof.

Council Member Kozachik said when the Resolution was amended to include the \$5 million dollars in new or expanded facilities; it had been excluded explicitly. He said that should have been the time to also say, or in FF&E.

Mayor Rothschild asked if he was correct in stating that a one hundred thirty-five thousand square foot building was being constructed at a cost of \$14.5 million and that it was considered new construction. He said he understood that the \$5 million investment was generally in construction.

Council Member Kozachik interjected and said that it was funded by Pima County. He said if a Primary Job Incentive investment was taking place, the deal was with Pima County not World View.

Ms. Bekat stated that World View was paying for the total construction of the building over a lease payment plan of twenty years with the option to purchase.

Council Member Kozachik stated that Pima County was the owner of the building if World View went south; Pima County was funding all of the construction up front. He said the Primary Job Incentive required an investment by the applicant of \$5 million or more in permanent facilities. He said that was not what the proposal presented.

Mayor Rothschild replied that the real key was the jobs. He said the initial investment was being made by Pima County, but would be paid back by World View over time and if World View failed, Pima County owned the building.

Council Member Kozachik stated that in all reality the tax incentive was being given to Pima County.

Mayor Rothschild stated that if the proposal passed, he too had some concerns about the jobs. He said the City needed to make sure that in the development agreement that money did not go out until the jobs were well documented.

Vice Mayor Uhlich commented that she did not agree with Council Member Kozachik's logic because often time construction was somehow financed. She said to her it was about leveraging the investment which was made possible through this project. She stated it was not to say that the figures were not important to review and the bottom lines were not met, but she thought they were exceeded in this case and was a public

private partnership to make it happen. She said the project met the letter and intent of the existing Resolution.

Mayor Rothschild clarified that the request was a brand new building that Pima County was essentially financing and had a secure obligation. He asked if someone knew how much the investment for fixtures was going to be.

Jane Poynter, World View Inc., Chief Executive Officer, replied it was about seven hundred eighty thousand dollars.

Council Member Fimbres asked where, specifically, World View would be located within the City limits. He also asked how the City's efforts differed from the ACA and Pima County's.

Ms. Poynter responded it would be located on Aerospace Parkway near Raytheon.

Ms. Bekat responded that the efforts really had not differed. They had all worked together to bring the project to fruition. She said the ACA offered up the incentives it felt the company qualified for and Pima County participated in a manner it felt was appropriate.

Council Member Fimbres asked what was entailed in being a NASA flight opportunities provider, how it helped World View's operations and how many micro-satellites had been launched within the last two years.

Ms. Poynter stated the flight opportunities program with NASA, which was a multi-million dollar contract, allowed World View to fly instruments for NASA. She said this was one contract they had; they were also working Northrup Grumman and were a balloon provider of choice for Raytheon. She stated the contract with NASA was also a contract vehicle that any government entity could use to employ World View's flight services.

Ms. Poynter replied they had launched over fifty balloons that served as satellites. She explained that World View's work was predominately in human space flights, but the more interesting aspect for the region, alongside tourism, was that they had been talking to Raytheon about the satellite application of the balloon technology. She gave an example to imagine using a balloon, and instead of it being one hundred miles above the earth in the way that satellites were, it was now twenty miles above the earth staying over a single location to be used for communications, surveillance, remote sensing, weather and a whole variety of applications.

Council Member Romero commented that she understood where Council Member Kozachik was coming from because they had to be very careful with the City's incentive programs ensuring it was a win for the taxpayers of the City. She said that was one of the reasons why the Mayor and Council, when they first studied the idea of a primary jobs incentive, was because they wanted to create high wage, long term jobs with benefits within the City. She advised this was exactly what the partnership with World View would provide.

Council Member Romero said it was a truly a partnership because everyone was putting a little bit of something into the game ensuring that the primary jobs incentive was creating just that. She said four hundred forty-eight jobs, with an average salary of fifty-two thousand dollars a year, with seventy-five percent of health care benefits being paid were being created, not to mention the construction jobs to construct the building.

Mayor Rothschild asked if it was correct that the incentive World View was looking for from the City was approximately one hundred fifty thousand dollars. He said he was not clear from the materials but asked if the funding would go to job training.

Ms. Poynter stated he was correct on both issues.

Mayor Rothschild said he agreed with Vice Mayor Uhlich on the nature of the transaction. He asked, to get to the \$5 million investment from World View over the terms of the note, when did they project it would be repaid to Pima County. He also asked how long it would take to get to the amount of jobs.

Ms. Poynter replied for repayment to Pima County is was about seven years; for the jobs, it would be four to five years.

Council Member Kozachik wanted to confirm that the City's incentive payout would not occur until the \$5 million was paid to Pima County.

Ms. Bekat replied in most cases it was associated to the job creation numbers. She said the Mayor and Council could direct staff to make that modification, but it was usually associated with the job creation.

Council Member Kozachik stated he wanted some clarity or certainty that until the payback to the County was in excess of the requirement of \$5 million or more in permanent or expanded facilities was reached the City incentive would be held back. This would meet the City's provision for the primary jobs incentive. He said clearly World View met the gift clause, but that was not the issue or what he was talking about; it was the terms of City's own primary jobs incentive program and whether or not the way the proposal was structured met them.

Vice Mayor Uhlich commented that she thought Pima County had secured the tax payers security for the building. She said she had not doubt World View would be successful. She commented if there was specific language they needed to see moving forward it could be done. She stated she did not agree with the notion that the process had not been securely reviewed by the other partners.

Council Member Cunningham noted what they were really trying to accomplish, long term, was development of the Sonoran Corridor to provide for aerospace programs. He said he could not think of any reason not to support the request. He stated he agreed with Council Member Kozachik's concerns which were extremely valid, but he did not see the concerns in the same way. Either way, the project needed to return to the Mayor and Council.

The motion to approve the City Manager's recommendation as presented was passed by a roll call vote of 6 to 1 (Council Member Kozachik dissenting.),

9. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Rothschild announced City Manager's communication number 77, dated March 8, 2016, was received into and made part of the record. There were no appointments/reappointments in the report.

Mayor Rothschild asked if there were any personal appointments.

Vice Mayor Uhlich appointed Jennifer Levstik to the Tucson Pima County Historic Commission (T-PCHC).

10. ECONOMIC DEVELOPMENT: DISCUSSION OF ECONOMIC DEVELOPMENT INCENTIVES FOR WORLD VIEW ENTERPRISES INC.

(NOTE: This item was taken out of order and discussed after Consent Agenda Item i.)

11. UPDATES ON STATE AND NATIONAL LEGISLATION AND REGIONAL COMMITTEES

Mayor Rothschild announced City Manager's communication number 84, dated March 8, 2016, was received into and made part of the record. He asked staff if the summary of the new bills given to the Mayor and Council included all of the bills to date outside of strikers.

Andrew Greenhill, Management Assistant, responded there could still be more strikers coming. He said he was watching the process closely.

Council Member Cunningham asked if the Geology Bill was included in the summary.

Mr. Greenhill responded in the affirmative.

Mayor Rothschild stated his understanding was that there were nine bills presented and staff was recommending opposition to all nine.

It was moved by Vice Mayor Uhlich, duly seconded, and passed by a voice vote of 7 to 0 to oppose House Bills (HB) 2300, 2440, 2507, 2566, 2613, 2690, House Concurrent Resolution (HCR) 2043, and Senate Bills (SB) 1316 and 1377.

Council Member Romero stated she wanted to report for the record that National Organizations reached out to the City of Tucson to file an amicus brief in support of the Deferred Action for Children Arrivals (DACA) and Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) court case currently before the

United States (US) Supreme Court. She said DACA and DAPA were executive actions done by President Obama to address an outdated Immigration Reform system and were currently on hold following a District Court ruling suspending the program.

Council Member Romero said the U.S. Supreme Court agreed to hear the case about the actions in the near future. She explained what the DACA and DAPA programs entailed and gave a listing of all jurisdictions who had signed on to the amicus briefing. She said the City of Tucson missed the deadline, but requested that a letter of support be submitted.

It was moved by Council Member Romero, duly seconded, and carried by a voice vote of 7 to 0, to send a letter of support to the Center for American Progress or Forward USA in lieu of joining the amicus brief to the United States Supreme Court regarding the Deferred Action for Children Arrivals (DACA) and Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA).

Vice Mayor Uhlich commented that in moving forward, in terms of court cases, the Mayor and Council did not have clarity about how to get information in the queue for their consideration. She asked that the Mayor, City Attorney, and Mr. Greenhill get together and consult on what would be the best way to route those requests.

Mayor Rothschild stated the idea had been discussed, but with the current requirement of the Mayor and Council approving every item, it would take some action.

Council Member Romero said she agreed that some sort of process had to be made because in this instance there was ample time for the City to take a position on the amicus brief. She said she understood things happen or sometimes fall through the cracks.

Vice Mayor Uhlich commented that there was a Choice Neighborhoods Grant pending before the United States Department of Housing and Urban Development (HUD) for consideration. She said it was very important for the community that they compete well and wanted to ensure they were fully engaged in representing the City and the set of facts that made us a very strong applicant for that vital investment in Tucson.

Mr. Greenhill replied he would follow up on the status of the grant request.

Council Member Fimbres asked if the Senate Bill regarding the Cherrybell Post Office had passed through the Senate. He also asked if Mr. Greenhill had seen the letter written by Congresswoman Martha McSally and other elected officials to the Postmaster General.

Mr. Greenhill replied it passed through the Senate by a vote of 28 to 0 and had been referred to Senate Committee. He said a hearing had not yet been scheduled, but commented he was in communication with Senator Andrea Dalessandro's office discussing a strategy on how to get a hearing and get it passed through the House. He

stated he had not seen the letter but knew about it through Congresswoman McSally. He said there was a new bill in Congress putting forth another moratorium to stop any and all closures.

12. MAYOR AND COUNCIL DISCUSSION OF FUTURE AGENDAS

Mayor Rothschild announced City Manager's communication number 85, dated March 8, 2016, was received into and made part of the record. He asked if anyone had anything items for future agendas.

No items were identified.

13. ADJOURNMENT

The next regularly scheduled meeting of the Mayor and Council will be held on Tuesday, March 22, 2016, 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 8th day of March 2016, and do hereby certify that it is an accurate transcription.


DEPUTY CITY CLERK

RWR: drl:yl