



MAYOR AND COUNCIL Study Session Minutes

Approved by Mayor and Council
on August 10, 2021.

Date of Meeting: March 9, 2021

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

The Mayor and Council of the City of Tucson met in study session remotely through Microsoft Teams at on Tuesday, March 9, 2021. The meeting was called to order by Mayor Romero at 1:31 p.m.

OFFICIAL MEMBERS

PRESENT:

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

OFFICIAL MEMBERS

ABSENT:

None

STAFF:

Michael J. Ortega, City Manager
Michael Rankin, City Attorney
Roger W. Randolph, City Clerk

1. **Executive Session – Olsen v. City of Tucson, et al., Pima County Superior Court Case No. C20194384 (City Wide) SS/MAR09-21-52**

Roger W. Randolph, City Clerk, announced the Executive Session, as noticed, was being held pursuant to Arizona Revised Statutes Section 38-431.03(A)(3) and (A)(4).

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 7 to 0 (Council Member Durham absent/excused), to enter Executive Session as noticed in the agenda.

RECESS: 1:35 p.m.

RECONVENE: 1:53 p.m.

MAYOR & COUNCIL: All present

STAFF: All present

Executive Session was held from 1:35 p.m. to 1:48 p.m.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 7 to 0 to return to open session.

2. Mayor and Council Direction Regarding Executive Session – Olsen v. City of Tucson, et al., Pima County Superior Court Case No. C20194384 (City Wide) SS/MAR09-21-53

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 7 to 0, to authorize and direct the City Attorney to proceed as discussed in Executive Session, specifically, to authorize the settlement of this claim for \$230,000.

3. Report and Update on the Continuing COVID-19, Emergency: City Response and Emergency Management; Coronavirus Relief Fund (CRF) Mayor and Council Strategic Plan and Expenditures; Federal Funding for Coronavirus Relief; Federal Legislation and Appropriations; and City and County Mitigation Measures (City Wide and Outside City) SS/MAR09-21-51

Introductory comments were made by Mayor Romero outlining the topics and order of items to be discussed. The Mayor stated it had been almost a year since she implemented the emergency declaration to deal with the pandemic. She commented that cases of COVID-19 were decreasing. Her wish was that the Tucson community would continue to wear their masks and physically distance as much as possible. She said she wanted to begin the discussion of reopening City offices and noted Tucson had opened some of the sport fields. She stated the number of vaccines distributed was between 1,400 to 2,000 daily.

Michael J. Ortega, City Manager, gave an update on COVID-19 testing locations. Some locations had closed or been moved. He mentioned that the Tucson Convention Center was administering around 1,400 to 2,000+ vaccines per day and could reach up to 2,500 vaccine per day if the City had a larger supply of the vaccine. He also stated the employee vaccination program had begun and also confirmed that more people were now able to receive the vaccine as the state and county were expanding the age groups for eligibility.

Mayor Romero informed the Council that some of the schools were planning to return to the classroom. She stated it was important to give the school employees an opportunity to receive a COVID-19 vaccine.

Council Member Fimbres asked for more information on the number of City employees who had received the vaccine and if City employees were taking advantage of the opportunity of receiving the vaccine.

Council Member Cunningham asked to receive detailed information on the number of people who have received the COVID-19 vaccination. He also said he wanted information on the employees of Tucson businesses who had the opportunity to receive the vaccine.

Mayor Romero asked Mr. Ortega to outline his plan for re-opening city offices and other areas.

Mr. Ortega stated the City would introduce a plan like that of Pima County, while also following recommendation from the Health Department for reopening. He spoke about the gradual re-openings of the parks and sports fields. He announced that KIDCO was ready to resume operations and registration opened on March 12, 2021. He mentioned that some of the senior centers started opening on March 29, 2021

At the request of Council Member Fimbres, Mr. Ortega explained how a business could get a permit and be “certified” to reopen by the County. He said information could be found on the Pima County website.

Council Member Kozachik stressed the importance of having recreation centers open to senior citizens. He also informed the Mayor and Council about businesses needing a letter of recommendation from the state to get the county permit.

Council Member Lee commended the City Manager and staff on their efforts to have the parks open. She said she wanted to know if there was an opportunity to identify the new efficiencies that had been discovered during the COVID-19 work environment.

Mr. Ortega stated that his department was working with Deloitte to gather information from departments to identify what metrics worked in the “new” working environment and said he would keep the Mayor and Council up to date with the process.

Andrew Greenhill, Intergovernmental Relations Manager, gave an update on the American Rescue Plan and detailed how the funds would be allotted to the state, county, the City of Tucson, and individuals.

Mayor Romero thanked Mr. Greenhill, profusely, for all the work he had done to keep them informed around state and federal legislation.

Mr. Greenhill explained the latest Executive Order from Governor Ducey removed any occupancy requirements for businesses in Arizona.

Discussion ensued; no formal action was taken.

4. Continued Discussion of the FY 2022 Operating Budget, including an updated General Fund Five-Year Projections and Budget Presentations from Housing and Community Development, Department of Transportation and Mobility, and Business services Department. (City Wide) SS/MAR09-21-54

Introductory comments were made by Michael J. Ortega, City Manager. He pointed out that revenues were higher than projected which was a positive aspect of the budget.

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Information and presentation were given by Jeffrey Yates, Business Services Department Director, who fielded and answered questions on the City's Unrestricted General Fund FY20/21 Year-to-Date Budget to Actuals and the 5-Year Projections for FY 21/22 through FY 25/26.

Discussion ensued around the issues of future revenues, the possibility of other reserve and federal funds, and future expenses.

Liz Morales, Director, Housing and Community Development Department provided information and gave a presentation outlining the FY 22 budget for her department.

Diana Alarcon, Director, Department of Transportation and Mobility provided information and gave a presentation outlining the FY 22 budget for her department.

Discussion ensued; no formal action taken.

RECESS: 4:27 p.m.

RECONVENE: 4:45 p.m.

All Members present as they were at the start of the meeting.

5. Proposed Historic Preservation Zone for Harold Bell Wright Estates (Ward 2) SS/MAR09-21-59

(This item was continued at the request of staff to March 23, 2021.)

6. Review of Zoo Expansion Plans (Ward 6) SS/MAR09-21-55

Introductory comments were made by Mayor Romero. She said there had been some movement on the conversation of the zoo expansion plans at Reid Park. She had asked the Council and the Zoological Society to consider pausing the project at this time to re-evaluate the expansion of the zoo into the west side of Reid Park.

Mayor Romero stated there had been numerous requests to pause the project and she valued the community's input. She said she preferred that the Mayor and Council focus on what they had in front of them and how they could find a win-win solution for all. She said she sent out a letter to the community explaining her stance to take a pause. She stated that one of her biggest asks of the Zoological Society, when they were putting the management plan together, was to have meaningful dialogue and outreach to the community. And based on that meaningful outreach and engagement of the community, that they bring forward, with that input, their master plan and that the Mayor and Council be kept engaged in the entire process.

Mayor Romero stated that for transparency's sake and to keep the trust of the residents of Tucson, they needed to talk about how to move forward, how to pause, listen to each other and how to possibly take steps to find a win-win solution. She asked the City Attorney to

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comment on some of the legal ramifications of taking a pause and how the City could move forward.

Mike Rankin, City Attorney, replied that the Mayor had summarized putting the project on hold. He pointed out his role, with respect to the Mayor and Council, was to answer the questions asked regarding what the authority was to take a pause, how that would work and what the legal implications were for that type of direction. He said, to carry out the direction to put the project on hold, it needed action by the full legislative body, the Mayor and Council.

Mr. Rankin stated first there was the issue of the contract, three to be exact. With respect to the project, there were three City of Tucson (COT) contracts:

1. Contract between the COT and the Designer,
2. Contract between the COT and the Construction Manager at Risk
3. Management Agreement between the COT and the Reid Park Zoological Society

Mr. Rankin stated when the Management Agreement was put together and approved, the City was very careful to be sure that the contracting authority for capital improvement projects, including the expansion, were through the City, because the zoo, at the end of the day, was a City asset. He stated what the Management Agreement provided for; the contracts were City contracts as opposed to the Zoological Society contracts.

Mr. Rankin commented within those contracts, and specifically the design contract and probably more the construction manager at risk contract, the City was careful to include the City's standard provisions through the procurement process that allowed the City to either terminate, which was not what was being proposed as he understood it, or to suspend work under those contracts, if in fact that action to suspend the contract, served the best interest of the City.

Mr. Rankin stated he was comfortable speaking publicly on this level of legal advice as to the Mayor and Council's authority and the impacts of the decision if that was what the direction was, to suspend the work.

First, Mr. Rankin stated, was the Design Contract with Torre Design Company. He said essentially, the work of the design with the project as currently conceived, was complete. So, the issue of going into a hold period or suspension period did not have a lot of impact, other than if the product of this hold/suspension period there was going to be any kind of re-design or new design for a new project, there would obviously be additional design costs above those already incurred.

Mr. Rankin stated the second contract that was more impacted by a hold/suspension of the project was the Construction Manager at Risk Contract with Lloyd Construction. He informed the Mayor and Council, if suspended, then work would stop, but Lloyd Construction would continue to incur certain carrying costs and the City would be responsible for paying those such as personnel they might need to keep on board for when

the project resumes, insurance costs, costs relating with respect to maintaining their contracts with subcontractors, etc.

Mr. Rankin advised the City had some initial conversations with Lloyd Construction to get an idea of what the consequences would be about the potential costs associated with the suspension period. He said they estimated the monthly cost was about \$65,000/month. He informed that he consulted with some contracting experts and attorneys, and they thought that amount was high given the fact of where the project was currently. But, nonetheless, those were costs the City would be incurring during the period of the suspension.

Mr. Rankin said the third contract was the Management Agreement with the Reid Park Zoological Society. He noted there was a provision in the Agreement that if there was going to be a change to the prior Master Plan (2018), that required a new stakeholder process. In addition, if that process generated an amendment, a change to the Plan, they would need to come back to the Mayor and Council for approval.

Mr. Rankin advised, given legal landscape, he had a recommendation for the Mayor and Council if their direction were to initiate a hold/suspension period. He said he recommended that as part of that, there were four (4) things that needed to be done:

1. Contract provisions relating to the City's authority to suspend – the Mayor and Council needed to give the City that authority that it was in the best interest of the City. Any direction to suspend needed to make that finding very clear.
2. If there was a period of suspension, it was critical that the City Manager knew what the purpose of the suspension was and what he was expected to accomplish during the time of the suspension.
3. Timeframe for the suspension should be identified for the item to return to the Mayor and Council.
4. Per the Management Agreement, a public process was required for any amendment to the 2018 Master Plan, and then the Mayor and Council, as part of any direction to suspend, should give guidance as to what the expectations were for the public process so that it could be carried out within the timeframe identified.

Discussion ensued. Additional comments were made by Mayor Romero, Vice Mayor Lee, and Council Members Fimbres, Kozachik, Cunningham, and Uhlich both in support and opposition to the suspension/hold on the project.

It was moved by Council Member Fimbres, duly seconded, that the Mayor and Council direct the City Manager, to take all actions necessary to suspend or pause the Expansion Project in the best interest of the City and the associated design and construction contracts for 45 days and the City Manager organize a mediated, intentional dialogue with a representative and diverse group of community stakeholders to discuss potential options for compromise. The group should meet as many times as needed, and consist of representatives from neighborhoods surrounding Reid Park, Save the Heart of Reid Park, Tucson Parks and Recreation, the Zoological Society, and representatives from Wards 6 and 5.

Discussion ensued.

A friendly amendment was made by Council Member Kozachik that the Zoological Society be held harmless for any added costs or losses incurred because of the suspension. The friendly amendment died due to a lack of a second.

Mr. Rankin again asked if any motion given to suspend the expansion make a specific finding that the decision was based on the best interest of the City for the reason he mentioned earlier with respect to the contracts. He also addressed the issue raised by Council Member Kozachik in any of the private funding raised by the Reid Park Zoological Society could not be used towards any costs associated with the suspension.

Mayor Romero asked if the motion maker was willing to accept the language outlined by the City Attorney as part of their motion.

Council Member Fimbres replied in the affirmative, that it was always in the best interest of the City. The seconder of the motion was also in agreement.

Discussion continued.

The motion, with the added language that it was in the best interest of the City, was passed by a roll call vote of 6 to 1 (Council Member Kozachik dissenting).

**7. Development Impact Fee Discussion on Emergency Relief Fee Schedule (City Wide)
SS/MAR09-21-57**

Introductory comments and information were made by Council Member Cunningham. He reviewed how the Emergency Relief Fee Schedule came about and adopted and the effects to the City. He expressed his request to allow the emergency rate the was scheduled to expire in FY 2021 instead of FY 2022. Some of the discussion from Mr. Cunningham was inaudible.

Discussion was held. Two different motions were made, and Mayor Romero asked for clarification/advice on how to proceed.

Mike Rankin, City Attorney, replied that indeed Council Member Cunningham made a motion that was seconded and should be voted on. The motion made by Council Member Fimbres was a different motion and should be acted upon separately.

It was moved by Council Member Cunningham, duly seconded, and carried by a voice vote of 7 to 0, to allow the emergency fee relief schedule that was set to expire at the end of FY 2022 to expire at the end of FY 2021.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 7 to 0, that the City Manager direct staff to compile draft criteria and a funding formula for impact fees, to include how funds would be used from the respective service area and to

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report back to Mayor and Council in 30 days and that Mayor and Council review, discuss and consider all impact fee expenditures as part of the Mayor and Council agenda.

**8. Approval of Permanent Shared Mobility Permit Program (City Wide)
SS/MAR09-21-58**

Introductory comments were made by Michael J. Ortega, City Manager.

Information and presentation were provided by Diana Alarcon, Department of Transportation and Mobility, Director, who fielded and answered questions. She stated her ask was two-fold; that the Mayor and Council extend the pilot program for five months to allow staff time to complete a competitive process to select the two operators and to make the Shared Mobility Permit Program permanent.

Discussion ensued.

It was moved by Council Member Santa Cruz to approve the recommendation to extend the pilot program to allow staff an opportunity to complete the competitive process for selecting the two operators and eventually make the Shared Mobility Permit Program permanent.

Council Member Uhlich advised she would second the motion, but asked if the following could be incorporated into the motion:

1. Exploration of the expansion of opportunity zones.
2. Strict supervision of compliance with the contract so that E-Scooters that are left all over the place, there be compliance that they be removed from blocking access.

Council Member Santa Cruz accepted the friendly amendment made by Council Member Uhlich.

Council Member Kozachik asked for clarification if the proposal included mandatory distribution of 250 scooters in each of the opportunity zones and was it going to be a part of the pilot extension for the next five months or part of the Request for Proposal (RFP) moving forward.

Ms. Alarcon replied it did and would be part of the RFP moving forward.

Council Member Kozachik also asked if the RFP could include the difference between concrete and asphalt; that there not be any sidewalk riding; and if so, the scooter would automatically shut down. He asked if this could be part of the motion.

Council Member Santa Cruz responded in the affirmative.

The motion with its friendly amendments was carried by a voice vote of 7 to 0.

9. Southern Arizona All-Star Football Showcase (Ward 2) SS/MAR09-21-56

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Introductory comments and presentation were made by Council Member Cunningham who fielded and answered questions on the overview of the Southern Arizona All-Star Football Showcase. The showcase would be a weeklong event with practices from May 2nd – May 8th and the showcase game on May 8th at the Tucson High football field. Mr. Cunningham went into detail about the COVID-19 Safety Plan that would be in place.

Information was also provided by Coach Jeff Scurran, Executive Director, Southern Arizona All Star Football Showcase. He expressed his disappointment about how the high school seniors lost their senior football season due to the COVID-19 pandemic. He said he felt this would be a wonderful event for the area athletes supported by the southern Arizona community.

Discussion ensued.

It was moved by Council Member Cunningham, duly seconded, and carried by a voice vote of 7 to 0, for the Mayor and Council to write a letter to the Arizona Interscholastic Association in support of the event and to allot between \$5,000 to \$10,000 to help with some of the logistics for the event.

10. Updates on State and National Legislation and Regional Committees (City Wide) SS/MAR09-21-48

Information was provided by Andrew Greenhill, Intergovernmental Relations Manager, who fielded and answered questions. He asked the Mayor and Council give him direction regarding the House and Senate Bills in the report.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 7 to 0, to support the recommendations in the report and support HB2623, HB2671 and SB1723 and oppose HP2570, HB2716, HB2840, SB1485 and SB1643.

11. Mayor and Council Discussion of Regular Agenda (City Wide) SS/MAR09-21-49

Roger W. Randolph, City Clerk, stated the following items were being considered separately:

Item 7c: Tucson Code: Amending (Chapter 20) Prohibiting the Racing of Vehicles, Definitions and Penalties (City Wide) MAR09-21-70 (at the request of Mayor Romero)

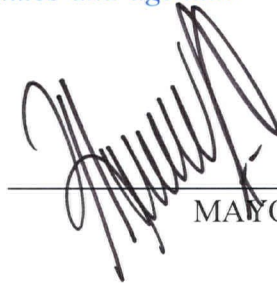
Item 7d: Transportation: Approving the Pilot Program for Shared Mobility Devices (City Wide) MAR09-21-74 (as requested by Council Member Uhlich)

12. Mayor and Council Discussion of Future Agendas (City Wide) SS/MAR09-21-50

Council Member Fimbres requested an item be added to the April 6, 2021, Study Session Agenda an update on Regulations Relating to Smoke Shops.

13. ADJOURNMENT: 6:06 p.m.

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



MAYOR

ATTEST:



CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the study session meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 22nd day of June 2021, and do hereby certify that it is an accurate transcription.



DEPUTY CITY CLERK

RWR:des:yl

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