



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on December 8, 2020.

Date of Meeting: October 6, 2020

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 regular session remotely through Microsoft Teams at 6:19 p.m., on Tuesday, October 6, 2020, all members having been notified of the time and place thereof.

1. ROLL CALL

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

Present:

Lane Santa Cruz
Paul Cunningham
Nikki Lee
Richard G. Fimbres
Steve Kozachik
Regina Romero

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

Absent/Excused:

Paul Durham

Council Member Ward 3

Staff Members Present:

Michael J. Ortega
Michael Rankin
Roger W. Randolph

City Manager
City Attorney
City Clerk

2. INVOCATION AND PLEDGE OF ALLEGIANCE AND APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

a. INVOCATION

The invocation was given by Ana Marrufo, Management Assistant, City Clerk's Office.

b. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Romero announced City Manager's communication number 317, dated October 6, 2020, was received into and made part of the record. She asked if there were any personal appointments to be made.

There were no appointments or personal appointments made.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Romero announced City Manager's communication number 318, dated October 6, 2020, was received into and made part of the record. She 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 Vice Mayor Cunningham, Council Members Santa Cruz, Lee and Fimbres. 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 Romero announced City Manager's communication number 319, dated October 6, 2020, was received into and made part of the record. She 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 Romero announced City Manager's communication number 320, dated October 6, 2020, was received into and made part of the record. She asked the City Clerk to read the Liquor License Agenda.

b. Liquor License Application(s)

New License(s)

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)

1. Goodness Go, Ward 3
57-20, Series 10
2502 N. Campbell Ave.
Agent: Kevin Arnold Kramber
Action must be taken by: September 28, 2020
2. Tucson Tamale Company, Ward 2
City 58-20, Series 10
7159 E. Tanque Verde Rd.
Agent: Kevin Arnold Kramber
Action must be taken by: September 28, 2020
3. Circle K Store #9554, Ward 6
City 59-20, Series 10
3434 S. Kino Parkway
Agent: Kim Kenneth Kwiatkowski
Action must be taken by: October 2, 2020
Planning & Development Services Department have indicated the applicant is not in compliance with city requirements.

This item was considered separately.
4. Courtyard by Marriott Tucson Williams Centre, Ward 6
City 60-20, Series 11
201 S. Williams Blvd.
Agent: Ryan Witner Anderson
Action must be taken by: October 1, 2020
5. Speedy Mart, Ward 6
City 62-20, Series 10
745 S. Tucson Blvd.
Agent: Harikrishna K. Patel
Action must be taken by: October 9, 2020

6. Kiwami Ramen Bar, Ward 6
City 63-20, Series 12
4610 E. Speedway Blvd.
Agent: Liang Dong Zhou
Action must be taken by: October 6, 2020
7. Opa's Grill, Ward 6
City 64-20, Series 12
500 N. 4th Ave. # 2-6
Agent: Qais Papoutsis
Action must be taken by: October 9, 2020

Person Transfer(s)

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)

1. Residence Inn Williams Centre, Ward 6
City 61-20, Series 7
5400 E. Williams Circle
Agent: Ryan Witner Anderson
Action Must be taken by: October 1, 2020

c. Special Event(s)

There are no application(s) for Special Events schedule for this meeting.

d. Agent Change/Acquisition of Control/Restructure

There are no application(s) for agent changes scheduled for this meeting.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Durham absent/excused), to forward Items 5b1, 5b2, and 5b4 through 5b8 to the State Liquor Board with a recommendation of approval.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Application(s)

New License(s)

3. Circle K Store #9554, Ward 6
City 59-20, Series 10
3434 S. Kino Parkway
Agent: Kim Kenneth Kwiatkowski
Action must be taken by: October 2, 2020

Planning & Development Services Department have indicated the applicant is not in compliance with city requirements.

Council Member Kozachik asked staff whether the applicant was presently in compliance.

Scott Clark, Planning and Development Services Department Director, stated the applicant had failed to provide building plans and specifications for review as requested on August 4, 2020, and so they were not yet in compliance.

It was moved by Council Member Kozachik, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Durham absent/excused), to forward Items 5b3 to the State Liquor Board with a recommendation of denial.

6. CALL TO THE AUDIENCE

Mayor Romero announced this was the time any member of the public were 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 Romero 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."

There were no requests to speak during Call to the Audience.

7. CONSENT AGENDA – ITEMS A THROUGH G

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

- a. APPROVAL OF MINUTES (CITY WIDE) OCT06-20-321
- b. MAYOR AND COUNCIL: MEETING SCHEDULE FOR 2021 (CITY WIDE) OCT06-201-328

Ordinance No. 11786 relating to Administration; establishing the Mayor and Council's 2021 meeting schedule; and declaring an emergency.

- c. FINANCE: APPROVAL OF FISCAL YEAR 2020 INVOLUNTARY TORT JUDGMENTS (CITY WIDE) OCT06-20-322

Resolution No. 23247 relating to Fiscal Year ("FY") 2021/2022 Primary Property Tax Levy; retroactively approving Involuntary Tort Judgments from FY 2019/2020; and declaring an emergency.

- d. FINAL PLAT: (S20-043) TUCSON MARKETPLACE PHASE 4, LOTS 1 AND 2 (WARD 5) OCT06-20-323

Staff recommends that the Mayor and Council approve the 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.

- e. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: NOTICE OF INTENTION TO INCREASE APPLICATION FEES AND SCHEDULING A PUBLIC HEARING FOR DECEMBER 8, 2020 (CITY WIDE) OCT06-20-331

Resolution No. 23248 relating to Water; approving the publication of a Notice of Intention to establish Pre-Annexation and Development Agreement ("PADA") application fees and scheduling a public hearing; and declaring an emergency.

- f. TUCSON CODE: AMENDING (CHAPTER 7) RELATING TO BUSINESS REGULATIONS FOR THIRD PARTY RESTAURANT DELIVERY SERVICES, PROHIBITING DELIVERY OF FOOD FROM NON-PARTNERED RESTAURANTS AND ESTABLISHING CAPS ON COMMISSIONS (CITY WIDE) OCT06-20-329

Ordinance No. 11787 relating to Businesses Regulated; establishing regulations of third party restaurant delivery services; prohibiting delivery of food from non-partnered restaurants; establishing caps on commissions during time of a declared emergency; by amending Chapter 7 of the Tucson Code by adding a new Article XXVI, "Third-Party Restaurant Delivery Services," Sections 7-510-514; and declaring an emergency.

(This item was considered separately at the request of Mayor Romero.)

- g. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FREE LIBRARY DISTRICT FOR CONVEYANCE OF MISSION LIBRARY (WARD 1) OCT06-20-332

Ordinance No. 11788 relating to Real Property and Public Libraries; authorizing conveyance of the City-owned Mission Library ("Library") to the Pima County Free Library District ("District"); and declaring an emergency.

(This item was considered separately at the request of Mayor Romero.)

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

7. **CONSENT AGENDA – ITEM F**

- f. TUCSON CODE: AMENDING (CHAPTER 7) RELATING TO BUSINESS REGULATIONS FOR THIRD PARTY RESTAURANT DELIVERY SERVICES, PROHIBITING DELIVERY OF FOOD FROM NON-PARTNERED RESTAURANTS AND ESTABLISHING CAPS ON COMMISSIONS (CITY WIDE) OCT06-20-329

Ordinance No. 11787 relating to Businesses Regulated; establishing regulations of third party restaurant delivery services; prohibiting delivery of food from non-partnered restaurants; establishing caps on commissions during time of a declared emergency; by amending Chapter 7 of the Tucson Code by adding a new Article XXVI, "Third-Party Restaurant Delivery Services," Sections 7-510-514; and declaring an emergency.

Mayor Romero announced the first item to be considered separately was Consent Agenda Item f at her own request. She explained her office had worked with the City of Gastronomy Board, Tucson Metro Chamber Restaurant Advisory Council, other restaurant owners and representatives of the industry including DoorDash. She said they worked diligently in getting their input and feedback in wanting to make sure the community had the correct information.

Mayor Romero explained the proposed cap on delivery services was for non-partnered restaurants, which meant it only applied to deliveries from restaurants which had not already gone into official partnerships with food delivery services such as GrubHub, UberEats, DoorDash and Postmates. She explained the cap prohibited third party restaurant delivery services like those she mentioned from advertising for, or arranging, delivery services from restaurants with whom they did not already have a formal agreement and written authorization. She also said the ordinance capped commissions at fifteen percent of the purchase price of the food order and the cap went into effect October 15, 2020 and remained in effect so as long as any limitations on dine-in services remained in place under the emergency declaration.

Mayor Romero stated the cap on commissions applied to restaurants that were most vulnerable and had the least negotiating leverages with the delivery service platforms, specifically restaurants operating within the city with fewer than five locations. The violations constitute a civil infraction with a fine up to one thousand dollars per violation.

Mike Rankin, City Attorney, affirmed the Mayor's summary of the fundamental components of the Ordinance. He added the effective date of the prohibition on third party delivery services, either advertising for deliveries or arranging deliveries from restaurants with whom they were not yet partnered was set for January 1, 2021. He explained the date gave industries an opportunity to respond and adjust their business models and would be consistent with the same actions taken, and effective dates set, in the State of California. He explained the effective date of October 15, 2020 applied to the cap on commissions that third party delivery services could charge on food orders from restaurants they were already partnered with and reiterated the cap would stay in

effect as long as dine-in restrictions were still in place by virtue of the emergency declarations at either the State or Local levels.

It was moved by Vice Mayor Cunningham, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Durham absent/excused), that Consent Agenda Item f, be passed and adopted and the proper action taken.

7. CONSENT AGENDA – ITEM G

- g. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FREE LIBRARY DISTRICT FOR CONVEYANCE OF MISSION LIBRARY (WARD 1) OCT06-20-332

Ordinance No. 11788 relating to Real Property and Public Libraries; authorizing conveyance of the City-owned Mission Library (“Library”) to the Pima County Free Library District (“District”); and declaring an emergency.

Mayor Romero announced the second item to be considered separately was Consent Agenda Item f. She explained the conveyance was at the request of Pima County so they could invest funds and rename the Mission Library in memory of Richard Elias, former Pima County Board of Supervisors Chairman. Mayor Romero expressed support for the effort and explained her involvement in coordinating it.

Michael J. Ortega, City Manager, stated the County was looking tentatively to hold a formal ceremony on October 20, 2020, at 10:00 a.m. and expected them to finalize the details later in the day. He stated the Mayor and Council would be receiving an invitation from the County confirming the details.

Mayor Romero reiterated the importance of the City’s support in honoring Mr. Elias. She said, although a formal appraisal had not been performed, they believed the land and existing structures had an estimated value in excess of two million dollars.

It was moved by Council Member Santa Cruz, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Durham absent/excused), that Consent Agenda Item g, be passed and adopted and the proper action taken.

8. ZONING: (C9-20-04) 4-D PROPERTIES – CAMPBELL BENSON, R-1, MH-1 AND C-2 TO OCR-1, CITY MANAGER'S REPORT (WARD 5) OCT06-20-324

Mayor Romero announced City Manager's communication number 324, dated October 6, 2020, was received into and made part of the record. She also announced this was a request to rezone approximately 23 acres from R-1, MH-1, and C-2 to OCR-1 zoning. The rezoning site is located east of Kino Parkway, south of Kino Sports Complex between Benson Highway and the Julian Wash, approximately one-half mile south of Interstate 10. She said the Zoning Examiner and staff recommend approval of the OCR-1 zoning.

Mayor Romero asked if the applicant or representative was present and agreeable to the proposed requirements.

Brian Underwood. The Planning Center, made their presence as the applicant known and affirmed agreement with the proposed requirements.

Council Member Fimbres asked whether the Zoning Examiner's recommendations stating the two billboards would be removed from the property within two years.

Mr. Underwood affirmed they would be removed within two years.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Durham absent/excused), to approve the request as recommended by the Zoning Examiner.

9. FINANCE: AUTHORIZING THE SALE OF CERTIFICATES OF PARTICIPATION, SERIES 2020 (CITY WIDE) OCT06-20-330

Mayor Romero announced City Manager's communication number 330, dated October 6, 2020, was received into and made part of the record. Mayor Romero asked the City Clerk to read Resolution 23243 by number and title only.

Resolution No. 23243 relating to Real and Personal Property: authorizing the execution and delivery of an Equipment Lease, a Lease-Purchase Agreement, amendments to Lease-Purchase Agreements, Depository Trust Agreement and a continuing disclosure undertaking; acknowledging and approving the execution of a Certificate Purchase Agreement, or similar agreement providing for the Sale and Purchase of the 2020 Certificates, and amendments and supplements to a Declaration of Irrevocable Trust and the sale and delivery of one or more series of Certificates of Participation and Refunding Certificates of Participation in the Lease-Purchase Agreements Pursuant thereto; and declaring an emergency.

Mayor Romero asked whether staff was requesting approval to refund existing bonds and obtaining new Certificates of Participation (COPs) and the refund asked that evening was to refund up to \$16.96M of taxable COPs. She stated the memo discussed a \$15M new issuance, but it was not an option for the Mayor and Council to vote on a new issuance that evening.

Michael J. Ortega, City Manager, clarified the examples in the communication had been provided to show the Mayor and Council what was possible. He said his recommendations were to encourage the Mayor and Council further consideration of different investment options given the record-low interest rates. He stated staff could supply actual options for new investments, should the Mayor and Council desire.

Joyce Garland, Assistant City Manager/Chief Financial Officer, affirmed new issuances were an option.

Mayor Romero stated she knew there was a possibility of using COPs but wanted to make sure they were moving quickly on refunding the \$16.96 million. She said the possibilities of new issuance for new projects should be brought to a future Study Session, for a thorough discussion and be able to have choices for Mayor and Council to consider. She said Mayor and Council give direction on the methane gas capture to have a complete assessment on how that would move forward and what the consequences would be.

Mayor Romero said she felt they were not ready to move forward on new issuances. She said the \$15 million for the Wi-Fi she knew approximately \$9 million had been invested for approval. She recommended that Mayor and Council have a Study Session item scheduled to have a thorough discussion on the possibilities of using any new COPs.

Vice Mayor Cunningham asked for clarification on the refunding strategies and whether cash repayments were considered to saving additional monies. He said he wanted to explore the option.

Ms. Garland indicated they had not looked at a cash payout due to the uncertainties of the City's cash flow at that moment and said the market provided opportunities for using debt in a good way. She said it was an opportunity to use debt in a good way since the market was so low. She also clarified they would not extend the life of the bonds.

Council Member Kozachik affirmed his support of protecting the City's cash reserves and asked Mr. Ortega when the conversations regarding renewable natural gas would return to a Study Session.

Mr. Ortega responded there was additional work needing to be done on the assessments the Mayor and Council requested and he anticipated it would return by early December.

Mayor Romero asked for clarification regarding the status of the process on new and existing assessments of methane gas recapture.

Mr. Ortega responded he did not have the information but could get it post haste.


Mayor Romero suggested they approve the refund that night and the Mayor and Council proceeded with future discussions regarding more opportunities for new funding of the COPs.

It was moved by Council Member Kozachik, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Durham absent/excused) to approve the

refunding of \$16.96M and decide how to move forward with additional discussions of issuing new COPs and the types of projects the Mayor and Council would like to see funded.

10. ADJOURNMENT: 7:05 p.m.

Mayor Romero announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, October 20, 2020, at or after 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 6th day of October 2020, and do hereby certify that it is an accurate transcription.



DEPUTY CITY CLERK

RWR:aaa:ds