



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on February 7, 2006

Date of Meeting: January 4, 2006

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 Wednesday, January 4, 2006, all members having been notified of the time and place thereof.

1. ROLL CALL

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

Present:

José J. Ibarra	Council Member Ward 1
Carol W. West	Council Member Ward 2
Karin Uhlich	Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Steve Leal	Vice-Mayor, Council Member Ward 5
Nina J. Trasoff	Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused: None

Staff Members Present:

Mike Hein	City Manager
Michael Rankin	City Attorney
Kathleen S. Detrick	City Clerk
Mike Letcher	Deputy City Manager

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Walkup requested a moment of silence to honor the twelve mine explosion victims and their families in West Virginia, after which the invocation was given by Father Philip Nixon, Holy Resurrection Antiochian Orthodox Church.

Boy Scout Troop 739 presented the flags of the United States of America, and of Boy Scout Troop 739, then led the assembly in the Pledge of Allegiance.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 2, dated January 4, 2006, would be received into and made a part of the record. He also announced this was the time scheduled to allow members of the Council to report on current events and asked if there were any reports.

- a. Council Member Uhlich thanked the Mayor and Council for matching her one-hundred dollar contribution at the December 20, 2005 Mayor and Council meeting for a total of seven-hundred dollars to go to the Birdman Center in the Balboa Heights neighborhood. She also announced the Ward 3 Council Office would hold an open house on January 29, 2005 for the community to meet the staff.

4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 3, dated January 4, 2006, would be received into and made a 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.

Mike Hein, City Manager, reported:

- a. The December 2005 Issue of *The Police Chief* magazine featured an article written by Captain Michael Garigan and Lieutenant George D. Rodriguez, Tucson Police Department. The article was about street gangs in Tucson and the G.R.E.A.T. (Gang, Resistance, Education and Treatment) program the City had that combined education techniques, enforcement, and intervention.

Kathleen S. Detrick, City Clerk, announced Susie Rogers would be assisting with anyone in the audience needing Spanish language translation for items listed on the agenda. She also announced Item 10, Intergovernmental Agreement Amendment with Pima County for a Low-Income Utility Bill Assistance Program, would not be considered per Council Member Trasoff's request at the January 4, 2005 Study Session, to continue the item for one week.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 1, dated January 4, 2006, would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. New License

1. La Fresita Mexican Food Restaurant, Ward 3
2530 N. 1st Avenue
Applicant: Hector Gonzalez
Series 12, City 103-05
Action must be taken by: January 13, 2006
Staff has indicated the applicant is in compliance with city requirements.
2. Antonio's Restaurante, Ward 3
3535 E. Fort Lowell
Applicant: Antonio L. Gonzalez
Series 12, City 104-05
Action must be taken by: January 16, 2006
Staff has indicated the applicant is in compliance with city requirements.
3. Las Reynas Distributors, Ward 5
1665 E. 18th Street, Suite 107
Applicant: Francisco Ramon Gonzalez
Series 04, City 105-05
Action must be taken by: January 23, 2006
Staff has indicated the applicant is in compliance with city requirements.

c. Special Event

1. United Way of Tucson & Southern Arizona, Ward 1
288 N. Church Avenue
Applicant: Teri Lee Koopman
City T114-05
Date of Event: May 2, 2006
Fundraiser for United Way's First Focus on Kids Division
Staff has indicated the applicant is in compliance with city requirements.

d. Agent Change

1. Club Envy, Ward 6
6211 E. Speedway
Applicant: Abel Garcia Anaya
City AC19-05
Action must be taken by: January 14, 2006
Staff has indicated the applicant is in compliance with city requirements.

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b1 through 5b3, 5c1, and 5d1 to the Arizona State Liquor Board with a recommendation for approval.

6. CONSENT AGENDA – ITEMS A THROUGH C

Mayor Walkup announced the reports and recommendations from the City Manager on the Consent Agenda Items would be received into and made a part of the record. He asked the City Clerk to read the Consent Agenda.

A. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE INTER-CONNECTION OF DATA NETWORKS

1. Report from City Manager JAN4-06-5 CITY-WIDE
2. Resolution No. 20260 relating to information technology; authorizing and approving an Intergovernmental Agreement between the City of Tucson and Pima County for the inter-connection of data networks; and declaring an emergency.

B. ASSURANCE AGREEMENT: (S04-141) RIVER WALK SUBDIVISION, LOTS 1 TO 140, BLOCKS “A” AND “B”, COMMON AREAS “A”, “B”, “C”, “D”, “E”, AND “F”

1. Report from City Manager JAN4-06-9 WARD 3
2. Resolution No. 20261 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S04-141 of a final plat for the River Walk Subdivision, Lots 1 to 140, Blocks “A” and “B” and Common Areas “A” – “F”; and declaring an emergency.

C. FINAL PLAT: (S04-141) RIVER WALK, LOTS 1 TO 140, BLOCKS A AND B AND COMMON AREAS “A”, “B”, “C”, “D”, “E”, AND “F” (CONTINUED FROM THE MEETING OF DECEMBER 20, 2005)

1. Report from City Manager JAN4-06-6 WARD 3
2. The City Manager recommends that, after approval of the assurance agreement, 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.

It was moved by Council Member West, duly seconded, that Consent Agenda Items A through C be passed and adopted and the proper action taken.

Mayor Walkup asked if there was further discussion. Upon hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Uhlich, Scott, and Trasoff;
Vice Mayor Leal and Mayor Walkup

Nay: None

Consent Agenda Items A through C were declared passed and adopted by a roll call vote of 7 to 0.

7. CALL TO THE AUDIENCE

Mayor Walkup announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except items scheduled for a public hearing on the agenda. Speakers would be limited to three-minute presentations and the Call to the Audience was scheduled to last for twenty minutes. He asked if there was anyone in the audience who wished to address the Mayor and Council.

- a. Michael Toney spoke about the Tax Increment Financing (TIF) district regarding Rio Nuevo financing. He thought the district should not be extended until the intergovernmental rule and regulations were reviewed. He also requested the Mayor look into developing a ruby laser computer company in Tucson, as it fits into the integrated optics field that Tucson was known for.
- b. Robert Blizzard questioned whether the City's disaster preparedness program addressed the needs of the elderly, disabled, and special needs people.
- c. Reverend Servant Bishop Chicago congratulated Tucson for its ongoing peace message.
- d. Robert Reus said he disagreed with a report he heard on Channel 12 stating that the City of Tucson had the best bus system, as there was no bus service between the hours of 10:00 p.m. and 6:00 a.m. He also stated he did not think the City government officials should promote a transportation related sales tax increase, and acknowledged he was against a proposed sales tax increase.

8. PUBLIC HEARING: ZONING (C9-96-10) SCHOMAC – 22ND STREET, C-2 ZONING, ORDINANCE ADOPTION, CHANGE OF CONDITIONS AND PRELIMINARY DEVELOPMENT PLAN (CONTINUED FROM THE MEETING OF DECEMBER 20, 2005)

Mayor Walkup announced City Manager's Communication number 10, dated January 4, 2006, was received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on a request to allow a change of conditions and preliminary development plan for property located near the southwest corner of Twenty-second Street and Belvedere Avenue.

Mayor Walkup asked if the applicant or representative was present, and if they had any brief comments.

Frank Bangs of Lewis and Roca spoke on behalf of the applicant, Chapman Automotive Group, and stated Neb Yonas, general manager of the dealerships on Twenty-second Street, and Barry Barcus, project architect, accompanied him. He expressed his appreciation for the help they had received over the last several months, in particular the assistance they received from David Robles and the other officers and members of the Twenty-ninth Street Coalition. He also thanked Mark Mayer of the Zoning Committee, who took the time to work with them to make sure the project fit into the surrounding neighborhood. He said Pat Richter of the Weed and Seed staff, Craig Gross from the Development Services Department, and the Ward 5 Council Office were instrumental in getting them to the finish line of their project. They appreciated the cooperation and assistance from everyone.

Mr. Bangs said he believed staff, the neighborhood, and Chapman were in agreement on what the new conditions should be in the rezoning case. That was the sole remaining issue when the case first came to the Council on December 20, 2005, and since then they had worked with staff and the neighborhood to revise and refine those conditions. Currently, the conditions presented to the Council in their packets were acceptable to Chapman, and the others with one exception. The residents of the Naylor Neighborhood Association pointed out that the wording of condition number eleven inadvertently failed to protect future residents of the KB Homes project that would be south of the new dealership. Therefore, in working with the neighborhood associations and staff, they reworded the condition and were all in agreement. He indicated the City Clerk would be distributing the new language.

Mr. Bangs said that was the only change and requested the Council approve the conditions that were presented. In addition, he said they had agreed to some use and operational limitations that were normally not addressed in rezoning conditions, and they were expressed in a letter from the Chapman organization to the neighborhood associations. He said they would be forwarding the letter to the neighborhood associations directly, but he wanted to make it a part of the public hearing record with the City Clerk's assistance.

Mr. Bangs said the letter addressed that they would try to prevent any future test-drives south of the project on Belvedere Avenue. There would be no car body shop as part of the development, or in the existing dealerships. They worked with the Weed and Seed staff to agree to abate any graffiti that might appear on their premises within forty-eight hours of notice. They were also going to install gates so there would be limited access to Belvedere Avenue and Columbus Boulevard after business hours. They would control some existing lighting that was of concern to residents behind the existing dealerships by turning it off. Finally, they placed language in the letter regarding how the landscaping on the Twenty-second Street frontage would be designed.

Mr. Bangs said that concluded their formal presentation, but he, Mr. Yonas, and Mr. Barcus would be happy to answer any questions the Council had at that time or following the public portion of the hearing. He said they recommended the conditions that were presented before the Council be approved, with the revision to condition eleven.

Kathleen S. Detrick, City Clerk, read the revision to condition eleven into the record.

“Any proposed outdoor speaker systems shall be screened and directed away from the existing and planned residential uses to the south and east. Such speaker systems shall be screened by a building where feasible.”

Mayor Walkup announced the public hearing was scheduled to last no more than one hour and speakers would be limited to five-minute presentations. He called on the first speaker.

Mark Mayer, welcomed the new council members, and stated he was speaking as a board member of the Julia Keen Neighborhood Association. The association acted as a representative to a zoning committee established to address this case and another zoning matter that came up in the Twenty-ninth Street Coalition area. He also wanted to voice some of the current concerns of the neighbors adjacent to the project. He indicated agreement with the conditions, including the revised condition eleven. In conjunction with the commitment letter, the process was conducted in a constructive manner. He congratulated Chapman for their willingness to make all reasonable concessions. He said he thought on the Committee’s part, if Chapman could show them there was an operational problem or some kind of consideration that would infringe on their business, the committee would be flexible in that regard also. He wanted to indicate agreement, particularly from those who were in the process of addressing the revised conditions, with the condition and commitment letter.

Mr. Mayer said he thought Mr. Bangs covered some of the issues. There were two broad areas they were trying to address as neighborhoods; to protect the adjacent neighbors from issues related to vehicular traffic, noise, and lighting and trying to improve the streetscape appearance by looking at a more modern type of auto dealership

than what was inherited from the 1970s. In closing, he wanted to recognize those who had raised the various concerns and had been engaged in the process. There had been an original neighborhood meeting Chapman had hosted on October 22, 2005, and he appreciated the Mayor and Council continuing this item at the December 20, 2005 meeting. The only downside was the timeline, because they had been given two weeks during the holidays to come to an agreement. He wanted to recognize the adjacent neighbors who worked on the project and had made many valuable suggestions and raised important concerns: Judy Ham, who was in attendance, Brad Rappa, Nikki Koschmann, Shirley Ham, Dennis Ellison, and Pat Martin, former president and government liaison from the Meyers Neighborhood Association. Mr. Martin was very helpful in working up the first draft of conditions they presented to Chapman. David Robles of the Alvernon Heights Neighborhood Association and Twenty-ninth Street Coalition, and Pat Ritcher, a City of Tucson staff member who was the Weed and Seed site coordinator, both made valuable suggestions regarding improved security in and around the Naylor Wash behind the new dealership. With the revised condition eleven, that was agreed upon the day before, and the finalization of the commitment letter that was agreed upon at 3:00 p.m. that afternoon, they supported the approval of the change of rezoning and conditions with those additions.

Kathleen S. Detrick, City Clerk, clarified the part of condition eleven she read was a replacement for sentence two of the condition. Sentence one of condition eleven remained as presented to the Mayor and Council.

Pricilla Petersen said she was an active member of Twenty-ninth Street Coalition, which was made up of five neighborhood associations. That afternoon she spoke to both the president and vice president who supported her short statement of support. They warmly welcomed the Chapman Automotive Group into the expanded neighborhood. Ted Chapman, president, Neb Yonas, general manager, and the rest of the Chapman organization had done or agreed to everything feasible and practical to comply with the Coalition's requests. The Chapman organization initiated the first informational and introductory meeting for the neighborhood coalition back in October 2005. Ms. Peterson stated if every business in Tucson were as pro-neighborhood as Chapman Automotive was, Tucson would be a happier city. Therefore, they strongly supported their rezoning application and recommended its adoption by the Mayor and Council that evening.

Nieves Ortiz said he was born and raised in Tucson and was in favor of the Chapman Automotive Group. He thought the dealership would be great for the neighborhood, and was proud to have them in the neighborhood. Mr. Ortiz stated he was in support with the Twenty-ninth Street Coalition, Weed and Seed, and Julia Keen Neighborhood Association.

Judy Ham said this was the first time she had addressed the Mayor and Council, and she first attended a Mayor and Council meeting on December 20, 2005. She was a neighbor in the Chapman area and currently lived behind the old Chapman facility. When she received the meeting notice on October 22, 2005, she thought she needed to attend because her concerns were noise, lighting, and traffic, so she went to the meeting

and gave suggestions. They met again on December 21, 2005, and there were more suggestions and revisions. She felt the Chapman staff was very reasonable in their requests, and that the residents and the neighborhood would be able to work together. She also mentioned she had been in the neighborhood a long time. Ms. Ham said hoped they looked at everything and did everything in their power to keep the neighborhood intact and Chapman a business, so they could work together.

Michael Toney said he would like to address condition number three, which reduced the ten-foot setback by five feet. He felt the washes needed to be protected and not to extend the structure on the scale of the neighborhood there, since they were going to intrude on their wash. Mr. Toney stated the wash area was a natural place for green space. He did not like to see it, unless there were things set in and the space was maintained. The apartments and blacktop would reduce the vegetation further, and he thought six-foot sidewalks were not necessary all the time. Mr. Toney felt they could have planters with enough space for wheelchairs. He also said regarding the color choices, as stated in condition eight, should include cactus colors. He thought it was a nice escape from the constant tan color, and hoped it would not be a tan building. Mr. Toney stated condition fourteen, safe by design, should be integrated into the landscaping because the tendency was toward wrought iron with no brush, shrubbery, or gravel. He felt there needed to be more plant life there for an aesthetic effect.

It was moved by Vice Mayor Leal, duly seconded, and carried by a voice vote of 7 to 0 to close the public hearing.

Mayor Walkup asked the City Clerk to read Ordinance 10237 by number and title only.

Ordinance No. 10237 relating to zoning: amending zoning conditions/Preliminary Development Plan on approximately 9.08 acres on the property located in the vicinity of the southwest corner of 22nd Street and Belvedere Avenue in rezoning Case No. C9-96-10, Schomac Group – 22nd Street, and superceding Ordinance No. 9202; and declaring an emergency.

Vice Mayor Leal thanked everyone and said the case was a collection of issues, all of which were compounded by the short duration of time they continued it for. He was very proud and grateful for the quality of engagement that came from the neighborhood representatives. He thought it should be said that Chapman did not come to the table as a stranger, but as a member of the community. The quality of the involvement that came from Chapman, as represented by the various people, including Mr. Bangs, was really wonderful and allowed this case to come forward and have a large collection of issues resolved. Vice Mayor Leal thought the case was a storybook case and everyone had a great reason to be proud. He said he used the word grateful on purpose, as it was a good thing.

It was moved by Vice Mayor Leal, duly seconded, to approve a change of conditions and preliminary development plan, and pass and adopt Ordinance 10237 with the changes noted.

Mayor Walkup asked if there was any further discussion, upon hearing none, he asked for a roll call vote.

Kathleen S. Detrick, City Clerk, noted the change Vice Mayor Leal referred to was the second sentence of condition eleven and also the letter would be made a part of the record.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Uhlich, Scott and Trasoff;
Vice Mayor Leal and Mayor Walkup

Nay: None

Ordinance No. 10237 was declared passed and adopted by a roll call vote of 7 to 0.

9. PUBLIC HEARING: PROPOSED AMENDMENT TO CHAPTER 23A OF THE TUCSON CODE MODIFYING THE PHASE-IN PERIOD FOR ASSESSMENT AND PAYMENT OF IMPACT FEES FOR NONRESIDENTIAL DEVELOPMENT

Mayor Walkup announced City Manager's Communication number 7, dated January 4, 2006, was received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on a proposed modification to the City's impact fees for nonresidential development.

Michael Rankin, City Attorney, said as indicated in the communication the Mayor and Council received in connection with this item, when the impact fee ordinance was originally adopted in September 2004 the timeline at that time, for the imposition of impact fees for nonresidential development, established that the fees would begin to be assessed on July 15, 2006, at a rate of fifty percent of the total fee. That fifty percent rate would continue until January 15, 2008, at which time the full fee would be collected. Several months after the initial adoption of the ordinance, Mayor and Council amended Tucson Code Section 23A-86 with respect to the assessment of fees for nonresidential development, to extend the phase-in period and timeline for the collection of those fees. That provision provided that the impact fee for nonresidential development would begin to be assessed January 15, 2008, at a fifty percent rate. That fifty percent rate would continue until January 15, 2011, at which time the full fees would be collected. At the Council's direction at the previous Study Session, the ordinance presented that evening would again modify the collection of impact fees for nonresidential development and the timeline. If adopted, the new ordinance would begin the imposition of the new fees on July 1, 2006. In addition, the ordinance in front of the Mayor and Council provided relief

for projects that were already in the process. The ordinance also recognized that if a development plan or comparable plat had been submitted by April 1, 2006, and approved by July 1, 2006, they would enjoy the right to continue going forward under the old ordinance so they would not be subject to the impact fee.

Mayor Walkup announced the public hearing was scheduled to last no more than one hour and speakers would be limited to five-minute presentations. He called on the first speaker.

Tres English spoke in favor of the impact fees. He said it had been an important issue for quite some time and while he did have some reservations about how it was being done, he thought it was important that they went ahead and moved forward. The reservations he had was for the fee to be a fee, as opposed to being simply a tax by another name, and it needed to be related to the actual impacts on the public. The current method of calculating those fees depended on the square footage of the business, but there were two other important variables that were not really included. One of those variables was the specific kind of business. There was a wide difference in impacts depending on the particulars of what kind of business it was. The other variable was the same business in different locations would have different impacts. It was important, in his view, that the City of Tucson did not have an impact fee that ignored those two important variables. Over the years, he had come to feel that this was an important issue. One reason was simply fairness, and if the same impact fee was charged to businesses that had different impacts, it was not a fair and was not a good public policy. On a fairness issue, the impact fee should depend on the actual impacts of the business on the public infrastructure. There was another reason he thought was more compelling, almost twenty years ago, he co-chaired the Regional Transportation Plan that developed the Pima Association of Government's transportation plan, called the Baja Plan. After a year and a half, he concluded one of the primary reasons Tucson's transportation problems continued to grow faster than the population was because Tucson did not charge for impacts. By having a flat fee, the City was actually giving a competitive advantage to those businesses that used the most public infrastructure. Therefore, while he supported having these impact fees go forward now, there was no reason to delay on it, and he urged the Council to go back and review how these fees were calculated. He thought it was important those fees depended on more than just the square footage of the businesses as a matter of fairness and promoting the efficient use of public services.

Ramon Gaandarse, executive director of the Metropolitan Pima Alliance, explained they were a non-profit organization of about one hundred and twenty members. One of their goals was to effect public policy in a manner that best recognized the contributions of their members. Those members being the commercial industry and builders. He said he had contacted some of the Council Members by phone or their staff that day and that evening. This issue was so complex, he remembered working on it when he was with the Tucson Chamber of Commerce back in 2003 or early 2004. One of the things he was going to come up and talk to them about was about the certificate of occupancy versus collecting at building permit or grading. He thought, after talking with some of the members in the audience and making a few phone calls during the Study

Session, he preferred to bring this topic back in a couple of weeks and sit down with the entire industry to find out where everyone really stood. He thought if they were going to do this fairly, it would be important to offer suggestions by the entire industry and that was the direction the Metropolitan Pima Alliance would take. If they were going to do the process right, do it right. He did not think they were against any fees or the implementation of any commercial impact fees, but they certainly wanted to do it right. The last speaker talked about the fees and if they wanted to look into how the fees were calculated. He said he remembered it was a tough process and he knew Gary Oaks from the City did an excellent job with it, and if they were going to discuss that he would like to be part of that discussion as well. He would prefer to see if they could continue the item for two weeks, get the industry together, and come back with a proper proposal for the Council and go from there.

Patty Richardson represented the Tucson Association of Realtors. She said she would like to respectfully request the Council continue this item for thirty days based on the discussion that happened at the Study Session and the fact that many of those in the industry worked for months with many meetings trying to understand how impact fees should be generated and be applied, what would be a fair implementation, especially with commercial projects and nonresidential projects. That would allow them to get the same stakeholders back together and figure out what would work, so it would work for everyone. The previous item on the agenda was a perfect example of working together.

Don Bourne said he spent a lot of time on this issue with a number of the Council Members. He said it had been eighteen months and they spent a lot of time talking about the pros and cons of commercial impact fees. The first thing he wanted to say was that he did not want to talk out of both sides of his mouth. He believed they needed to figure out how to improve the transportation situation in Tucson and as commercial developers they ought to be willing to pay their fair share. He said it was important to say because he thought everyone needed to figure out how to solve all the problems in Tucson and work together. Having said that, he thought there were two primary issues. One was that Tucson needed to stay competitive with other communities that the City might compete with for commercial developments. As an example, they were doing a one hundred and twenty two thousand square foot building for Mysis Healthcare. Mysis Healthcare was a major employer in Tucson and had three or four office buildings. There had been talk about them leaving the Tucson community. They had worked with them for several months and one of the major topics of most of their meetings started with the question, "What's the situation with impact fees?" Those fees, during the discussions when they were being contemplated, varied greatly and Mysis made it clear if there was a possibility of the fees being at a certain level they would probably elect not to build. That was one negative case and he did not want to use it as a scare tactic, but he thought Tucson should be competitive.

Mr. Bourne said the other thing that was important was the City made a lot of money with sales tax. On a three hundred thousand square foot shopping center, he said it was important to understand some of the rough economics. A three hundred thousand square foot shopping center might generate about three hundred dollars a square foot.

Using three hundred dollars per square foot, it was ninety million dollars a year in sales and two percent of that was a million eight per year. If there was an impact fee of roughly three or three and a half dollars, that was about a million dollars in an impact fee. He said having gone through all of this at length, the impact fees they ended up with were reasonable. It came down to making sure all the developers were not hurt in the process. In the current development industry, City construction projects such as road construction was bad and prices had gone through the roof. As a result, if a person were trying to secure a tenant and fix a rent while trying to make sure costs were managed, this could be a significant cost to a budget after making it down the road. It could be detrimental to a person's business and turn a profitable project into a project that could lose money. From his standpoint, speaking on behalf of a number of other commercial developers, he thought the concept of having a phase-in over time was reasonable. He had gone back and looked at Vice Mayor Leal's initial ordinance, Ordinance 10053, which was reasonable. He looked at the dates and thought July 15, 2006 was probably too narrow of a window. He said if they could push that date out to the end of the year, he personally found that a reasonable compromise. If there were any other issues that needed to be discussed, he would be happy to talk about it further.

Michael Toney said he could not agree with the development being so industrious, as it was a noncreative form of revenue generation. When plants, rabbit holes, and chinchillas were bulldozed, he did not support the development. He also wanted to talk about the ruby laser computer idea that could be a multimillion-dollar business. Nothing went against the small business approach to developing the most sophisticated computer in the world. He said the City of Tucson could let the businesses come in, wreak havoc and not provide funds. He left it to the City to find a justifiable solution and the have ability to rearrange in the future if they chose to do so. He said the development impact fees for the businesses were justifiable and they had the future to finesse and change the fees in his perspective.

Robert Reus said enough already, the City of Tucson was currently five to fifteen years behind the times on impact fees. He did see both sides of the argument, and suggested the City go ahead with the fees. There was a problem with the business climate in the City and it needed work, but delaying impact fees was not going to help. They all needed to get to work on improving the business climate in the City. In a leap of faith, he started a business in Tucson and he was not getting help from anyone, nor did he expect to. He stated he would be successful nonetheless, because he had experience in business, but Tucson needed to start building the business climate. They could not keep letting business flounder the way it currently was. Tucson needed prosperity for everyone, therefore he requested for the City to work on that, but pass the impact fees that evening.

It was moved by Council Member Trasoff, duly seconded, and carried by a voice vote of 7 to 0 to close the public hearing.

Mayor Walkup asked the City Clerk to read Ordinance 10238 by number and title only.

Ordinance No. 10238 relating to development impact fees for roads and parks; amending Ordinance 10095 to amend Section 23A-86(2) of the Tucson Code; changing the phase-in period for assessment and payment of impact fees on nonresidential development; establishing an effective date; and declaring an emergency.

Council Member Uhlich said she would like to make a motion and then have some comments after which she had comments of her own.

It was moved by Council Member Uhlich, duly seconded, to implement nonresidential impact fees per the original timeline adopted by Mayor and Council, that being that fifty percent of fees would begin to be collected effective July 15, 2006, with full fees collected eighteen months later which would be January 15, 2008. To account for those projects in development, those projects that had development plans or comparable site plans approved by the City by October 2, 2006, should be exempt from the fees in this action.

Council Member Uhlich said she did appreciate the comments, and as the audience could see, this had evolved from the original notion of one hundred percent implementation effective on July 1, 2006. She said what she was trying to do and what her colleagues on the Council were attempting to do, was navigate competing interests in the community. Their goal was to maximize revenues so they could sustain a quality of life that would create an environment where businesses could succeed. Council Member Uhlich said they could all recognize that crumbling infrastructure and a degrading quality of life also affected the business environment. She hoped people could see in this motion they were being responsive, while again setting a timeline. She also wanted to be clear what this motion did specifically, was to set in place the timeline. The direction to staff would be to come back to them in thirty days with this timeline in the ordinance, so they could review it one final time. She said she knew that in the agenda book they did not have the full ordinance. She asked the City Attorney to provide the language of the actual full ordinance that they were deliberating. She knew there were comments forthcoming, but one thing she wanted to make clear was with the grandfathering in of projects, for example, that had development plans approved October 1, 2006, the Council needed to make clear this meant substantial development plans. This was not put a brick or two up on the land to get some hard zoning in and call it a development plan. She said Mr. Rankin would help them with the language, make it clear for developers, and make sure they could consistently interpret this and move forward on the many other issues that were related to impact fees. She said she looked forward to working with everyone here and others on this in the future.

Michael Rankin, City Attorney, said if the motion went forward, he would be happy to return with the changes reflected in the motion and incorporate that into a larger section of the ordinance so they could read it in context and act on it at that time. It would be appropriate to do that, since the changes were substantial from what was advertised this evening. It would be more prudent to come back to adopt those changes, and do it cleanly.

Council Member Uhlich asked if a thirty-day timeline would be appropriate.

Mr. Rankin said a thirty-day timeline would give him plenty of time for him to prepare.

Council Member Trasoff said when she first brought this up in December 2005, and she first made the motion to do this, her original vision had been full implementation by July 1, 2006. That was based largely on the amount of comments she heard over the last several months from people who felt there was a basic lack of fairness in how this had happened. She said working on this process in the last week had been interesting, illuminating, and very gratifying. In coming to this modification, and it was something that she was very supportive of, she thought they needed to listen to the business community and their concerns, but also needed to look at the overall fairness and equity. She said the people who spoke that evening spoke very well about their concerns and she said they were not changing what was accomplished a couple of years ago, but were merely changing the timetable on it. They had tried to be sensitive to the comments they had heard by adjusting it to the October 2, 2006, date and then by implementing the fifty-percent and the one hundred percent eighteen months later.

Council Member Trasoff said, as they discussed at the Study Session, there would be a separate process that the Council would begin to look at. The approach would be more holistic toward impact fees, looking at it long term, and look at what the other possibilities were. All of that would be weighed against other relevant fees in other jurisdictions that might not have impact fees, but had construction taxes. They had to look at what was fair, equitable and appropriate for the community, because everyone, including taxpayers, paid. Council Member Trasoff did not think that was fair, because it impacted the City's bonding authority and put stress on the general fund through the certificates of participation that all too often had to be used. She said if they considered all of those things and had a good process when they entered the next phase of looking at impact fees, that it would be very productive if they looked at what happened this time. She said she was very supportive of doing this, getting this in motion as quickly as was feasible, and she thought the dates they had come up with were ones that hopefully worked for the business community as well as for the community as a whole.

Council Member Scott said it was very important to those out in the community who were dealing with this particular issue that would directly affect their wallets and their business. She hoped they knew this Council was addressing right now a timeline and that there was a larger ordinance that into which this was being incorporated and that this did not stifle or stop any further conversation on this matter. The community affected and any interested parties should feel free to contact any and all of the Council and in particular those subcommittees they had because they wanted to hear from them in particular as this went forward. She wanted them to know there was a limited focus of this particular ordinance but there would be a larger review and discussion available to all.

Vice Mayor Leal said he supported the comments Council Member Scott made. He thought it was important to say what they were doing today was fairly limited. A lot of issues had been taken off the table and they were focusing primarily on the timeline issue and returning to a formulation the Council had voted on in the past. He thought Mr. Bourne said it right when he said there need to be attention paid to the difference between acquiring revenues for impact fees, and not losing the ability to get sales tax. If the timeline was the wrong formulation, he thought they necessarily cut off their nose to spite their face. He said with this formulation, they had the right balance and he thought it would work right. He said returning to it was a good thing. Those already in the process would be grandfathered in, and that was also the right formulation. They would then open up and continue the conversation with the stakeholders around any pertinent issues pertaining to impact fees in the months to come. He said this was modest, very prudent, and had good balance to it.

Mayor Walkup asked if there was any further discussion, upon hearing none, he asked for a roll call vote.

The results were:

Aye: Council Members Ibarra, West, Uhlich, Scott and Trasoff;
Vice Mayor Leal and Mayor Walkup

Nay: None

The motion was declared passed by a roll call vote of 7 to 0.

10. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY FOR A LOW-INCOME UTILITY BILL ASSISTANCE PROGRAM

Kathleen S. Detrick, City Clerk, announced Item 10 relating to the low-income utility bill assistance program would be continued to the meeting of January 10, 2006 at the request of Council Member Trasoff.

11. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 4, dated January 4, 2006, was received into and made a part of the record.

It was moved by Council Member Scott, duly seconded, and passed by a voice vote of 7 to 0, to approve the reappointment of Sam J. Rugel to the Electrical Code Committee; reappointments of Greg Carlson and Naomi Navarro to the Board of Appeals; reappointments of Brent Woods, Edwin D. Morgan and David Eisenberg to the Building Code Committee; appointments of Linda Drew, Jerry Anderson and Michael Grassinger and reappointments of Janet Marcus, Richard Fe Tom, Tom Doucette and James Brooks to the Metropolitan Housing Commission; and ratification of Dinah L. McGlory to the Pima County/Tucson Women's Commission.

Mayor Walkup asked if there were any personal appointments to be made. There were none.

12. ADJOURNMENT 6:46 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, January 10, 2006, 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 4th day of January 2006, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:rm/ao