



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on June 18, 2019.

Date of Meeting: January 8, 2019

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 5:32 p.m., on Tuesday, January 8, 2019 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
Paul Durham
Richard G. Fimbres
Steve Kozachik
Jonathan Rothschild

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

Absent/Excused:

Shirley C. Scott

Council Member Ward 4

Staff Members Present:

Michael J. Ortega
Michael Rankin
Roger W. Randolph

City Manager
City Attorney
City Clerk

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

a. INVOCATION

The invocation was given by Pastor Larry Munguia, The S.O.B.E.R. Project

b. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by the entire assembly.

c. PRESENTATIONS:

1. Mayor Rothschild proclaimed January 21st to be "Martin Luther King Day of Service".

d. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Rothschild announced City Manager's communication number 4, dated January 8, 2019, was received into and made part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member Romero, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Scott absent/excused), to approve the appointments of Mallory Ress, Glenn Furnier, Maurice Roberts and Grace Schau to the Armory Park Historic Zone Advisory Board (APHZAB); the reappointment of Luke Johnson to the Veterans' Affairs Committee (VAC); John Birkinbine and Marcellus Rusk to the West University Historic Zone Advisory Board (WUHZAB).

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

Council Member Cunningham announced his personal appointment of Norma Coffman to the Tucson Parks and Recreation Commission (TPRC).

3. MAYOR AND COUNCIL/CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Rothschild announced City Manager's communication number 1, dated January 8, 2019, 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 and the City Manager to report on current events and asked if there were any reports.

Current event reports were provided by Vice Mayor Fimbres and Council Members Romero, Cunningham, and Durham.

No report was given.

A recording of this item is available from the City Clerk's Office for ten years from the date of this meeting.

4. BOARDS, COMMITTEES AND COMMISSIONS: REPORTS TO MAYOR AND COUNCIL

Mayor Rothschild announced City Manager's communication number 2, dated January 8, 2019, was received into and made part of the record. He also announced this was the time scheduled to allow a Board, Committee or Commission to provide the Mayor and Council a report on their activities during the past year as well as anticipated future activities.

No reports were given.

5. LIQUOR LICENSE APPLICATIONS

Mayor Rothschild announced City Manager's communication number 3, dated January 8, 2019, 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. District Tavern Eat, Ward 3
1535 N. Stone Ave.
Applicant: Noel Chester
Series 12, City 92-18
Action must be taken by: January 14, 2019

Planning & Development Services Department and Revenue Division-Investigations have indicated the applicant is in compliance with city requirements.

Tucson Police Department has indicated the applicant is not in compliance with city requirements.

This Item was considered separately.

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)

NOTE: There are no application(s) for person transfers scheduled for this meeting.

c. Special Event(s)

1. Tucson Botanical Gardens, Ward 6
2150 N. Alvernon Way
Applicant: Mary Ann Confrey
City T143-18
Date of Event: February 2, 2019
(Fundraiser)

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

2. Sonoran Glass School, Ward 1
633 W. 18th St.
Applicant: Lynn Kathryn Davis
City T144-18
Date of Event: February 8, 2019
(Flame Off Torchworking Competition)

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

3. Empower Coalition Inc., Ward 6
198 S. Granada Ave.
Applicant: Eric Matthew Hutchens
City T145-18
Date of Event: February 16, 2019
Fundraising dinner for non-profit veteran organizations)

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

4. Our Lady of La Vang Parish, Ward 5
800 S. Tucson Blvd.
Applicant: Julia Van Le
City T146-18
Date of Event: February 2, 2019 - February 3, 2019
(Vietnamese New Year 2019 Festival)

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

d. Agent Change/Acquisition of Control/Restructure

1. H2O, Ward 6
61 E. Congress St.
Applicant: Kevin Arnold Kramber
Series 6, City AC19-18
Action must be taken by: January 12, 2019

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

2. Zen, Ward 6
121 E. Congress St.
Applicant: Kevin Arnold Kramber
Series 6, City AC20-18
Action must be taken by: January 12, 2019

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

3. Sullivan's Steakhouse, Ward 3
1785 E. River Rd.
Applicant: Andrea Dahlman Lewkowitz
Series 12, City AC21-18
Action must be taken by: January 18, 2019

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 Council Member Cunningham, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Scott absent/excused) to forward liquor license applications 5c1 through 5c4, and 5d1 through 5d3 to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Application(s)

New License(s)

1. District Tavern Eatz, Ward 3
1535 N. Stone Ave.
Applicant: Noel Chester
Series 12, City 92-18
Action must be taken by: January 14, 2019

Planning & Development Services Department and Revenue Division-Investigations have indicated the applicant is in compliance with city requirements.

Tucson Police Department has indicated the applicant is not in compliance with city requirements.

Roger W. Randolph, City Clerk, announced the item to be considered separately was Item 5b1, District Tavern Eatz, located in Ward 3.

Council Member Durham asked if the applicant was present and made reference to receiving three speaker cards in support of the application and one in opposition. He called upon the first speaker.

Oscar Tovar said he worked at the District Tavern Eatz from November 27th to December 31st of 2018, and stated he did not see eye to eye with the applicant, Noel Chester. Referencing his experience, he noted that management was not present during hours of operation, the restaurant was run as a bar rather than a restaurant, minors were consuming alcohol, and drugs were used in the restaurant. He explained he worked there seven days a week; approximately sixty-five hour per week, thus no one could discredit what he observed. He concluded stating that the place was not managed right, not the way a restaurant should be managed. He also reiterated seeing minors consuming alcohol on two occasions, possibly three and drug use.

Council Member Durham thanked the Tucson Police Department (TPD) for their thorough report. He stated the applicant said inspectors from the Arizona State Liquor Board as well as officers from the TPD visited her place of business at unrepresentative times. He requested a letter from the applicant's accountant demonstrating forty percent of the sales generated were from food. When the letter was received it showed forty-one percent of the revenue came from food.

Council Member Durham wanted to remind the applicant that Series 12 Liquor Licenses were refilled annually and she must be able to present, at that time, that forty percent sales from food requirement was being met and she was subject to audit. He voiced his intent to forward the application with a recommendation of approval contingent upon the applicant's understanding that the place cannot be a TPD hot spot, the forty percent sales from food requirement must be met continuously, and the place must be managed correctly and operate as a restaurant. He then asked the applicant or any other member of the audience to speak on the issue.

Michael Rankin, City Attorney, recommended the applicant address the issues presented by Council Member Durham considering the evenings proceedings were part of the record that would go to the State.

Mayor Rothschild asked the applicant to come forward and advised her not to talk herself out of anything and clarified a record was being made from the evening's proceedings making it a good opportunity to establish a record on her behalf. He also explained there were two substantial reasons to deny a liquor license; one was saturation and the other was an unqualified applicant. He said a third reason in this scenario, was ensuring Ms. Chester was applying for the correct license, and the question before the Council that evening was whether the forty percent sales from food requirement was currently being met, how this could be proven, and how they would remain in compliance.

Noel Chester, Applicant, thanked the Mayor and Council for their advice and support. She went on to explain she had been in possession of a Series 6 Liquor Licenses in Pima County for approximately fifteen (15) years never having any non-compliance issues and when the decision was made to establish a restaurant, it was only logical to keep the previous brand name, "The District Tavern Eatz".

Ms. Chester referenced a diagram of the premises which showed the kitchen was at least fifty percent of the establishment. She explained the decision for a restaurant was an opportunity to branch out from what she had always done and referenced a recent partnership with Kelzi Bartholomaei, a Ward 3 merchant and owner of Mother Hubbard's Restaurant, who would provide the needed expertise to properly run a restaurant. She thanked the Mayor and Council for their time.

Mayor Rothschild questioned whether a motion had been made by Council Member Durham.

It was moved by Council Member Durham, duly seconded, to forward the application to the Arizona State Liquor Board with a recommendation of approval.

Council Member Cunningham asked the applicant if food was served during all hours of operation including after last call and if the place was operating more hours as a restaurant than it would as a bar.

Ms. Chester replied yes.

The motion to forward Item 5b1 to the Arizona State Liquor Board with a recommendation for approval, with the understanding that the establishment must not be a hot spot for police activity, must continue to meet the forty percent requirement for food sales, and be well-managed and operate as a restaurant was carried by a voice vote of 6 to 0 (Council Member Scott absent/excused).

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. He said 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:

Roger Score
Robert Reus

Raquel Baranow
Corinne Matesich

Barbara Crummett
Santiago Camacho

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 D

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 JAN08-19-12 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of June 5, 2018
3. Mayor and Council Special Meeting Minutes of June 5, 2018
4. Mayor and Council Study Session Minutes of June 5, 2018

b. TRANSPORTATION: APPROVING EMERGENCY TREATMENT FOR THE ATTERBURY WASH SEWER EROSION HAZARD

1. Report from City Manager JAN08-19-5 WARD 4
2. Resolution No. 22978 relating to Transportation and Watercourse Amenities, Safety and Habitat (W.A.S.H.) Ordinance Watercourses; authorizing and approving the Atterbury Wash Emergency Sewer Erosion Hazard Protection; and declaring an emergency.

- c. FINAL PLAT: (S18-077) BELLEVUE COMMON, LOTS 1 THROUGH 4
 - 1. Report from City Manager JAN08-19-9 WARD 6
 - 2. 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.
- d. FINAL PLAT: (S18-073) MELWOOD PLACE, LOTS 1 THROUGH 5
 - 1. Report from City Manager JAN08-19-6 WARD 1
 - 2. 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.

It was moved by Council Member Durham, duly seconded and passed by a roll call vote of 6 to 0 (Council Member Scott absent/excused), that Consent Agenda Items a – d, be passed and adopted and the proper action taken.

8. PUBLIC HEARING: (C8-18-05) AMENDING (CHAPTER 23B) THE UNIFIED DEVELOPMENT CODE RELATING TO DOWNTOWN AREA INFILL INCENTIVE DISTRICT

Mayor Rothschild announced City Manager's communication number 11, dated January 8, 2019, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on a proposed amendment to the Unified Development Code updating the Infill Incentive District (IID) provisions and allowing the IID to remain in effect with no sunset date.

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

Comments were made by:

Chris Gans	Richard Mayerr	Rory Juneman
Martha McClements	John Burr	Allyson Soloman
Kristen R. Cardenas	Larry Kappler	

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

Mayor Rothschild identified the primary issue was the need to extend the IID before the end of month otherwise it was set to expire. He requested confirmation from staff.

Michael Rankin, City Attorney, affirmed the current expiration date was January 31, 2019.

Mayor Rothschild mentioned there was a Mayor and Council meeting scheduled for January 23, 2019. He then stated that all but one of the individuals who spoke on the subject, were in support of keeping the IID as opposed to simply letting it expire. He recommended that the Council extend the sunset date of the IID as it now stood in order to allow more time to make revisions.

Council Member Cunningham stated he was prepared to make a motion to advance the continued IID and push it out a couple of months. He said, based on the discussions held with individuals that evening and throughout the week, extending the sunset day to 2023 or even 2024 was fine. He said his understanding was that this was a constant evolving process. He referenced discussions held concerning building setbacks, transit oriented projects, the permeability and designs of open space, all of which were aspects of the IID that he wanted to see revised without the restrictions of a short deadline.

Mayor Rothschild reiterated dealing with the deadline portion of the IID at the evening's proceedings in order to have the ability to reconvene on the subject at a later date and thus more appropriately address other issues.

Council Member Kozachik reminded the Mayor and Council of the agreement made a year ago to not rush to vote on material presented. Instead, the Mayor and Council should take whatever time necessary to properly address all aspects of the issue being voted on thus supporting the idea to extend the sunset date, however long necessary, to address the points previously discussed and those that would still come up. He then reflected on the downtown corridor ten years ago noting how this space was fundamentally different now and would continue to change. He said he would support extending the sunset date at this time.

Council Member Kozachik briefly touched upon concerns raised regarding Historic Preservation Zones (HPZ). He explained the Planning Commission (PC) reviewed this item and forwarded to the Mayor and Council with "no recommendation" due in part to the PC being uncertain as to what they were dealing with since they were charged with reviewing the entire IID. Because of this, he recommended that the HPZ aspect of the IID for the text amendments and height be sent back to the PC for their review.

Council Member Kozachik stated some of the tweaks that he wanted to have considered, and not wait four years to do that, was to revisit the whole notion regarding student and/or multi-family housing. He said he wanted to have a conversation of any

projects that happened within the IID that had a residential component to at least be subject to the special exception process so that conversation could be had. He also discussed the inclusion of more compelling language with regards to parking and transit options and how to use this to incentivize development in a transit-oriented development corridor.

Council Member Kozachik proceeded to touch on the concept of public open spaces referencing the existing IID text which stated that five percent of the gross floor area must be public open space. He mentioned, however, how that five percent was often time internal to the construction and not truly accessible to the public and even then, the Planning and Development Services (PDSD) Director had the authority to waive the five percent requirement entirely.

Council Member Kozachik referenced the idea of working with University of Arizona College of Architecture, Planning and Landscape (CAPLA), hosting a design training for the Design Review stating this should a part of the IID. He summarized his proposal of extending the sunset date for the IID such to allow the review of the aforementioned issues at the same time not extending too long such that the issues was no longer present. He once again proposed pulling the HPZ aspect of the IID and sending it to the PC for their review.

Mayor Rothschild summarized the proposal as setting a date to reconvene and extend the IID for a couple of years otherwise it would be gone.

Council Member Kozachik clarified all the Mayor and Council would be doing was to extend the sunset date long enough to address the issues and concerns raised, thus honoring the commitment made to the people to not vote on complex issues until they have been properly reviewed and vetted. He suggested extending the IID sunset date to March at which point staff would have been able to address some of the issues and concerns allowing for a discussion of a more permanent sunset date.

Mayor Rothschild explained extending the sunset date for a couple months or a couple years would not make so much of a difference, since the IID would not be going away regardless.

Council Member Kozachik explained the difference would be that there might be some issues that could be taken care of presently rather than in a couple of years.

Mayor Rothschild acknowledged this, reiterating the issue that the Council could ask staff to review the testimonies given and return ninety days but at those ninety days there may still be unresolved issues bringing them to square one.

Council Member Cunningham said the neighbors would lose their leverage to make the changes if the sunset date was extended for a couple of years. He agreed with Council Member Kozachik stating this was the reason for a public hearing; to hear what everyone had to say, figure everything out and reconvene to find the solution.

Council Member Romero agreed with Council Members Kozachik and Cunningham stating the IID sunset date should be extended sixty days to allow for its review and consideration and at the same time provide leverage that would otherwise not be present were the IID to be extended further. She noted the desire to hear from the Planning and Development Services director, have them hear the recommendations and concerns held by community members, and using that information to possibly create a presentation to be discussed at a future Mayor and Council Study Session.

Council Member Romero stated she agreed, partly, with the recommendation to extend the IID for a couple of years but also understood the need for its continuous review. She also discussed some details she would like to have discussions on, such as, the addition of dynamic maps so that successes in one area can be implemented in others, green spaces and the notion of public versus private spaces, transit oriented development and clearer language as to what transit oriented development means for developers using the IID.

Mayor Rothschild explained his concerns in deciding how long to extend the IID sunset date referring to the discussions of transit incentives, public open space, design review and how these were merely suggestions with no real plan of action. He asked, rhetorically, how long it would take staff to analyze these ideas and come up with a plan of action. He questioned whether sixty days would be enough. If not, what would be the appropriate time.

Council Member Cunningham suggested extending the sunset date from January 31, 2019 to March 31, 2019, instructing staff to send the HPZ portion to the Planning Commission, and also have staff meet with the Council Offices and stake holders to discuss the final details. He then asked if he was allowed to make the aforementioned a motion.

Mayor Rothschild the City Attorney to give his input.

Mr. Rankin explained the sunset date for the IID was embedded in the Code thus extending the sunset date would require a text amendment. He suggested that because the version of the Ordinance presented to the Mayor and Council for consideration included all the amendments that were described in the Mayor and Council Communication as well as the elimination of the sunset date as opposed to an extension. Therefore, he advised the Mayor and Council to establish a time frame they wanted the sunset date to be extended to and in turn staff would create a specific ordinance to accomplish this for their consideration at the next Mayor and Council meeting.

Mr. Rankin explained this allowed the Mayor and Council time to review the issues and concerns that were raised and provide further direction to staff based on what they wanted to see going forward.

Mayor Rothschild asked PDS, given what they had heard, what a reasonable timeframe was to return to the Mayor and Council.

Scott Clark, Planning and Development Services (PDSD) Director, noted March 31, 2019 was a good date explaining it would allow staff to align themselves with the appropriate stakeholders considering some of the issues involved complex design. He said they would take that opportunity to reach out to the design community and determine what would be needed in order to make said amendments.

Mayor Rothschild suggested using the April 9, 2019, meeting because the second meeting in March was an early meeting on March 19, 2019.

Council Member Cunningham mentioned having this in two meetings, once on the March 19, 2019 meeting and again at a second meeting for contingencies.

It was moved by Council Member Kozachik, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Scott absent/excused), to return on January 23, 2019, with an Ordinance extending the current sunset date to April 9, 2019, and direct staff to refer the Historic Preservation Zone height component back to the Planning Commission for further review.

Mayor Rothschild asked if there was any further discussion on the matter.

Council Member Romero made reference to concerns brought up by stakeholders on the west side regarding a small portion of the IID map that covered Historic Designations, specifically the Tucson Origins Heritage Park. She explained the neighbors and stakeholders in the area were concerned about because they did not want the IID as incentives to develop in historic and culturally sensitive areas. She said they preferred to have an HPZ of that space without the incentive to development those pieces of land. She asked for an explanation of what staff was thinking.

Mr. Clark explained that the safest way to protect areas with cultural resources was through a designation on said areas such as what was done on Sentinel Peak and Chuk-shon. He suggested a corridor to connect Sentinel Peak to Mission Gardens to Chuk-son and on to the river. He explained this to be the best way to ensure long term protection that would not be compromised.

Mr. Clark explained the IID also provided protection for historic structures and while it incentivized development in reducing setbacks, reducing parking and providing other incentives, you could not demolish a historic building under the IID. He explained that completely removing the IID would revert the area to its underlying zoning which did not have historical protection.

Mr. Clark advised the Mayor and Council to perhaps request staff to determine the most sensitive areas, how to best protect these areas, and the pros and cons of the IID versus the underlying zoning were.

Council Member Romero clarified it was sites not historical buildings but they were, however, cultural and archeological sites, the foundations of the Convento and archeological resources for the City. She explained the zoning in those areas was

currently R2 and the task at hand was finding a way to protect the Hohokam area, the Mission Garden, and the Convento. She explained that stakeholders and neighbors in the area wanted to move the map to South of Cushing St. where there were no archeological resources. She wanted to know the best way to ensure these areas were protected for future generations.

Mr. Clark reiterated that the most effective way to protect these areas was through a historical designation which would force any activity in that area to be presented before the Mayor and Council.

Council Member Romero asked if there was a way to work on the IID and the historic designation concurrently.

Mr. Clark explained staff could present a proposal during the April 9, 2019, meeting showing the potential options for protecting the site at the same time discussing how that area would want to be developed moving forward.

Council Member Romero stated there were some areas where development was welcomed and she would want the IID to incorporate those areas but the culturally significant locations are also very close to these areas. She requested staff draft something that would incorporate the IID in desired areas while protecting those areas with historical and archeological resources.

Mr. Clark affirmed stating something would be presented during an upcoming Mayor and Council meeting.

Council Member Durham made reference to page six of the memorandum presented to the Mayor and Council by the PDSD. He read verbatim, "staff have considered this request and believe that the removal of the Tucson Origins Heritage Park from the IID is not the most effective avenue to achieve the goals put forth in the letter from Friends of Tucson Birthplace due to the following reason." He said five bullet points were listed and asked staff to expand on the third bullet that "the IID boundary has not changed since 2009 and would likely require recalculation of state required criteria necessary for establishment of the IID."

Mr. Clark explained State Law required that when the IID was established, that they look at blight, economic incentives and jobs. He said wherever that boundary was set, it was based on the conditions needing improving. He said if they were to change the boundary, they needed to know where to move it to.

Mr. Clark said his recommendation was for the future establishment of metrics regarding blight, population, crime and economics that were going on in the area in order to actively measure areas that would benefit from the IID and in retrospect use the notion of a dynamic IID map/boundary. He explained that moving the map/boundary did get tricky since the location of the IID map was not the only thing changing thus warning against moving the boundary prior to a comprehensive analysis.

Council Member Kozachik presented a scenario in which an individual wants to build something on 4th Avenue and did not use the IID but rather used the underlying zoning and demolished a historic building. He posed the question that if this individual decided to sell the parcel, could buyer choose to use the IID on that parcel.

Mr. Clark explained that to his knowledge, there was nothing against that in the existing Code.

Council Member Kozachik requested clarification that the IID, in an example such as the previously mentioned scenario, would not effectively prevent the demolition of a historic building.

Mr. Clark clarified that if someone intentionally purchased the building, demolished the structure, and sold the building, the new owner would be able to use the IID. He also explained that the amendment was intended for that type of scenario.

Mayor Rothschild explained that to his understanding, if someone demolished a historic building they could use the IID. However, the question lies when dealing with a subsequent owner. He asked the City Attorney how easily that could be dealt with.

Mr. Rankin responded stating whether it was easy or not, it could be dealt with.

Mayor Rothschild reiterated for the record that a vote was previously made and the Council would revisit the topic at a future meeting.

(Note: Council Member Kozachik departed at 7:15 p.m.)

9. PUBLIC HEARING: (C8-18-04) AMENDING (CHAPTER 23B) THE UNIFIED DEVELOPMENT CODE RELATING TO MEDICAL MARIJUANA ZONING

Mayor Rothschild announced City Manager's communication number 10, dated January 8, 2019, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on the Medical Marijuana Ordinance sunset date and a proposed amendment to the Unified Development Code.

Mayor Rothschild announced the public hearing was scheduled to last for no more than one hour and speakers were limited to five minute presentations.

(Note: Council Member Kozachik returned at 7:18 p.m.)

Comments were made by:

Al Wiruth

Raquel Baranow

David Schmutz

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

Mayor Rothschild requested the Planning and Development Services (PDSD) Director, to summarize and explain what was being voted on for this particular item.

Scott Clark, Planning and Development Services (PDSD) Director, explained the vote that evening would be to amend the medical marijuana ordinance to allow for twenty-five percent floor space within the lobby of a medical marijuana dispensary. He deferred to Mr. Dan Bursuck, PDSD Lead Planner, to further explain.

Daniel Bursuck, Planning and Development Services Department Lead Planner, explained the other aspects of the amendment were to include clarification on odor mitigation, churches and religious usage, and making sure there was an updated parks list.

Mayor Rothschild asked whether the amendments would include verbiage on the internal architecture with regards to retail space versus other spaces.

Mr. Bursuck affirmed, explaining the current ordinance calls for twenty-five percent of the gross floor area to be retail space. He explained the issue was discussed during stakeholder meetings, as well as, meetings with the public in which the consensus was that the twenty-five percent sales area requirement could be better used for storage areas and/or office space.

Vice Mayor Fimbres asked how the new ordinance dealt with odor complaints. He also asked for clarification as to why the clarifying language for religious institutions was needed.

Mr. Bursuck explained the ordinance added in a regulation that required an HVAC facility to filter the air or for the business to employ best practice methods as determined by the zoning administrator. He explained the business would also be required to submit an odor mitigation report plan when they bring in their plans for zoning review.

Mr. Bursuck explained this issue was brought up during public and stakeholder meetings in which concerns regarding the inclusivity of other religious organizations were brought up considering the current verbiage reads "church". He explained the ordinance would include amended text to include temples, mosques, and other institutions of that nature.

Council Member Kozachik requested clarification, that the twenty-five percent sales floor area versus the gross area aspect of the ordinance did not allow for expansion of the footprint of the building, but simply redefined the inner dividers of the building.

Mr. Bursuck affirmed.

Council Member Kozachik stated the amendments regarding odor mitigation and the religious institutions verbiage were reasonable. He requested clarification as to how

the ordinance would define a park, for example, a parklet was being installed at Campbell Avenue and Grant Road. He said he did not want to be overly restrictive on how that was being defined, but said there needed to be some sort of pocket park in a neighborhood, Himmel Park, etc.

Mr. Bursuck explained 'parks' would be identified as they have thus far to include any publically owned and maintained park excluding linear parks and greenways.

Council Member Kozachik summarized if the park fell under the category of a city owned parks by Tucson Parks and Recreation it would be included in the setback provisions.

Mr. Bursuck affirmed.

Council Member Kozachik requested staff to address the concerns regarding no size limitation seeking clarification as to what would be the appropriate venue or forum to address these concerns.

Mr. Bursuck said that was correct and explained they were part of the zoning ordinance and could be changed. He clarified that through their research and meetings there had only been one zoning violation related to medical marijuana facilities since 2010 which had been an illegal growth size in an enclosed place that was remedied by the owner when the issue was addressed. He explained that as of now, size limitation was not an issue. He referenced other municipalities such as Ahwatukee, as well as, others in Northern Arizona whom also had an unlimited size limitation for industrial zones, which were the most intense zones and the most appropriate place for them.

Council Member Kozachik asked whether the setback requirements for industrial zones were the same as for residential zones.

Mr. Bursuck explained there were no setback requirements in residential zones. He stated this was in line with many other cities and in the State such as Flagstaff, Mesa, Oro Valley, Pima County, Sahuarita and Tempe, all of whom have no residential setback requirements for their facilities. He explained this was largely due to the fact that a lot of commercial zones had residential zoning behind them and adding setback requirements would be severely restrictive.

Mayor Rothschild requested the City Clerk read Ordinance 11612 by number and title only.

Ordinance No. 11612 relating to Planning and Zoning; amending the Tucson Code, Chapter 23B, Unified Development Code, Section 4.9.9; and setting an effective date.

It was moved by Vice Mayor Fimbres, duly seconded and passed by a roll call vote of 6 to 0 (Council Member Scott absent/excused) to pass and adopt Ordinance 11612.

10. ZONING: (C9-18-12) BONANZA 550 LLC – BONANZA AVENUE, SR TO RX-2, CITY MANAGER'S REPORT

Mayor Rothschild announced City Manager's communication number 7, dated January 8, 2019, was received into and made part of the record. He also announced this was a request to rezone approximately 10.4 acres from SR to RX-2 zoning. The rezoning site was located on the southeast corner of Bonanza Avenue and Colette Street.

Mayor Rothschild indicated that staff recommends authorization of RX-2 zoning subject to certain conditions, including limiting the homes to one-story as proposed by the applicant, with a maximum height of 22 feet, as shown on the revised Preliminary Development Plan dated October 11, 2018 and the Zoning Examiner recommends approval of RX-2 zoning subject to conditions, including a condition limiting the homes to a maximum height of eighteen (18) feet, to make them compatible with the surrounding homes.

Mayor Rothschild asked if the applicant or a representative was present and if they were agreeable to the proposed requirements as set forth by the Zoning Examiner. He asked the applicant to come forward, state his name and relationship to the property.

Paul Yetzi, Rick Engineering Company, introduced himself as a consultant for the applicant. He voiced the preference to have the flexibility of going up to a maximum of twenty-two feet. He explained that when the initial request was made, the project had both single and two story homes with the proposal to make five of the lots single story with a height limit of eighteen feet. He explained that the project now included twenty-three homes and would appreciate the flexibility for architectural diversity at a twenty-two foot height limit. He stated they were in agreement with the staff's recommendation.

Mayor Rothschild reiterated, for clarification purposes, they were agreeable to all of the terms and conditions but wanted the Mayor and Council to consider a height greater than eighteen feet.

Mr. Yetzi concurred.

Council Member Cunningham mentioned there were several things to consider; first, that the developer came in with a substantially higher number of homes that of which was a lot lower now averaging one home per every 2.25 acres. Additionally, he explained, the lot size was going to be twelve thousand square feet, larger than most lots in new construction. He explained that, to his understanding, the twenty-two feet was to allow for some architectural pieces that were unique to sustainable and energy efficient homes and that the extra four feet was necessary for this. He stated this was a reasonable

request and added that the neighbors were very happy that no two-story homes would be built.

Mayor Rothschild summarized Council Member Cunningham's stating his motion would be to accept the proposal given by the Zoning Examiner but amended to the twenty-two feet.

It was moved by Council Member Cunningham, duly seconded, to authorize the request for rezoning as recommended by the Zoning Examiner, but with all homes being single-story and having a maximum height of twenty-two feet.

Council Member Kozachik asked if it was the twenty-two feet plus the four foot parapet as allowed by the *Unified Development Code (UDC)* or twenty-two feet all in.

Mr. Yetzi stated it was twenty-two feet as measured by the Code, as specified by the *UDC*.

Council Member Kozachik stated the height would then be twenty-six feet and asked if this was what the rest of the Council understood.

Council Member Cunningham stated he was under the impression it would be twenty-two feet all in.

Council Member Kozachik asked if the *UDC* allowed for a four foot parapet.

Mr. Yetzi acknowledged and explained that since these were single story homes, it was very unlikely for the height of a deck to be twenty-two feet. He explained they would be building sloped roofs rather than flat roofs.

Mayor Rothschild asked if they were then looking at twenty-two feet all in.

Mr. Yetzi responded they were looking for twenty-two feet as measured by the *Code* explaining the height was measured in different locations.

Council Member Cunningham asked if parapets would be included for any of the homes.

Mr. Yetzi explained they have not yet identified the specific builder which was why they were looking for the flexibility. He explained that under the Flexible Lot Development (FLD), the code allows for a height of twenty-five feet and explained they voluntarily lowered to twenty-two feet. He added that by *Code*, the neighbors were allowed to thirty feet on their lots.

Council Member Cunningham recommended allowing the twenty-two feet explaining the area was modestly dense and it was overall a good project.

The motion to authorize the request for rezoning as recommended by the Zoning Examiner, but with all homes being single-story and having a maximum height of twenty-two feet, was carried by a voice vote of 5 to 1 (Council Member Scott absent/excused; Council Member Kozachik dissenting).

11. FINANCE: APPROVAL TO REIMBURSE PARK AND CONNECTIONS PROJECTS WITH GENERAL OBLIGATION BONDS

Mayor Rothschild announced City Manager's communication number 13, dated January 8, 2019, was received into and made part of the record. He asked the City Clerk to read Resolution 22979 by number and title only.

Resolution No. 22979 relating to delegation of the City's authority to declare official intent to reimburse projects to be financed or refinanced with the proceeds of the City's bonds, certificates of participation and other financing obligations to certain officers, and to declare the City's official intent to reimburse itself for certain public parks projects with the proceeds of general obligation bonds.

Council Member Kozachik asked, if the resolution was to commit general fund money in both fiscal year 2019 and 2020 with the agreement that the fund would be made whole with the sale of General Obligation Bonds when Proposition 407 went into effect.

Joyce Garland, Assistant City Manager, affirmed that the bonds would be sold in the spring and that by the end of fiscal year 2020 the general fund would be fully repaid.

Council Member Kozachik asked when the first bonds would be sold.

Ms. Garland explained they would be sold in the spring of 2020.

Council Member Kozachik stated there would be no real impact to the general fund.

Ms. Garland explained there would be no real impact on expenditures and that it would be more of a cash loan in which cash would be borrowed from the general fund and repaid from the sale of the bonds.

Council Member Kozachik questioned the verbiage in the material which read "with the intent to reimburse". He asked if this was legally binding or if the reimbursement would be up for debate come that time.

Michael Rankin, City Attorney, explained this was simply the legal language needed in order to accomplish what had been described.

It was moved by Council Member Kozachik, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Scott absent/excused) to pass and adopt Resolution 22979.

12. CITY MAGISTRATES: APPOINTMENT OF SPECIAL CITY MAGISTRATES AND FIXING COMPENSATION

Mayor Rothschild announced City Manager's communication number 8, dated January 8, 2019, was received into and made part of the record. He requested the City Clerk read Ordinance 11613 by number and title only.

Ordinance No. 11613 relating to City Magistrates; pursuant to Tucson Code § 8-2.2, appointing Kenneth B. Bowman as Special City Magistrate to serve upon call by the Presiding Magistrate of the Tucson City Court; fixing compensation; and declaring an emergency.

It was moved by Council Member Romero, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Scott absent/ excused), to pass and adopt Ordinance 11613.

Mayor Rothschild requested the City Clerk read Ordinance 11614 by number and title only.

Ordinance No. 11614 relating to City Magistrates; pursuant to Tucson Code § 8-2.2, appointing Frederick S. Klein as Special City Magistrate to serve upon call by the Presiding Magistrate of the Tucson City Court; fixing compensation; and declaring an emergency.

It was moved by Council Member Romero, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Scott absent/ excused), to pass and adopt Ordinance 11614.

13. ADJOURNMENT: 7:48 p.m.

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council will be held on Wednesday, January 23, 2019, 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 January 2019, and do hereby certify that it is an accurate transcription.


DEPUTY CITY CLERK

RWR:ja:rg