



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on March 8, 2005

Date of Meeting: February 8, 2005

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:37 p.m. on Tuesday, February 8, 2005, 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
Carol W. West
Kathleen Dunbar
Shirley C. Scott
Steve Leal
Fred Ronstadt
Robert E. Walkup

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

Absent/Excused:

None

Staff Members Present:

Michael D. Letcher
Michael Rankin
Kathleen S. Detrick
Liz Rodriguez Miller

City Manager
City Attorney
City Clerk
Assistant City Manager

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Pastor Ben Shunko of the Beginnings Church, after which the pledge of allegiance was presented by the entire assembly.

Presentation

- a. Mayor Walkup proclaimed the week of February 14 - 18, 2005 to be "Homes for Arizonans Week". Emily Nottingham, Community Services Director, accepted the proclamation.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 62, dated February 8, 2005, would be received into and made a part of the record. He also announced this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

- a. Council Member West announced Thursday, February 10, 2005 there would be a brown bag lunch with a presentation on the Tucson Water Long Range Plan and on Friday, February 11, 2005 there would be a Senior Tea featuring guest Martha Vasquez, speaking on "Love and Relationships"
- b. Vice Mayor Dunbar announced Ward 3 would host a Landfill and Recycling Tour on Saturday, February 19, 2005 at 9:00 a.m.
- c. Council Member Ronstadt announced on February 9, 2005, "Transit on the Move" would begin airing on Access Channel 74. The February 16, 2005 Townhall on the Houghton Area Master Plan would be rescheduled.

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

Mayor Walkup announced City Manager's communication number 63, dated February 8, 2005, would be received into and made a part of the record. He asked for the City Manager's report.

Michael D. Letcher, City Manager, reported:

- a. NBC Nightly News will run a story on continuous chest compression CPR featuring Assistant Fire Chief Joe Gulotta. The show is tentatively scheduled to air on February 10 or 11, 2005.
- b. Liz Miller, Assistant City Manager, announced Maury Povich will feature a Tucson Police Department video in a segment called, "Shocking Moments Caught on Tape" and Tucson 12, the City Channel, has added a new show to its line-up. "Conexion Doce" is a Spanish language program with an emphasis on city issues that affect the Spanish-speaking community.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 60, dated February 8, 2005, would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. Liquor License Applications

New License

1. Wok N' Sushi, Ward 5
4802 S. 6th Avenue
Applicant: Larry R. Lopez
Series 12, City 06-05
Action must be taken by: March 7, 2005
Staff Recommendation: Police, Development Services, and Revenue in compliance.

Person Transfer

2. Wildcat Market & Liquor, Ward 3
3996 N. 1st Avenue
Applicant: Ketankumar G. Patel
Series 9, City 105-04
Action must be taken by: February 18, 2005
Staff Recommendation: Police, Development Services, and Revenue in compliance.

Considered separately

c. Special Event

1. Pima Youth Partnership, Ward 1
3700 S. La Cholla Blvd.
Applicant: Luan E. Wagner
City T01-05
Date of Event: February 20, 2005
Fundraiser
Staff Recommendation: Police, Development Services, and Parks in compliance.

Kathleen S. Detrick, City Clerk, announced under Item 5b there were two requests for licenses and under 5c there was one request. Application 5b2, Wildcat Market and Liquor, was a person transfer and had protests filed. The license would need to be considered separately. The other two applications had recommendations for approval.

Mayor Walkup called on Council Member Ibarra.

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

Person Transfer

2. Wildcat Market & Liquor, Ward 3
3996 N. 1st Avenue
Applicant: Ketankumar G. Patel
Series 9, City 105-04
Action must be taken by: February 18, 2005
Staff Recommendation: Police, Development Services, and Revenue in compliance.

Kathleen S. Detrick, City Clerk, announced liquor license application 5b2, Wildcat Market & Liquor, was to be considered separately. The license is located in Ward 3 and the applicant was present.

Mayor Walkup recognized Vice Mayor Dunbar.

Vice Mayor Dunbar asked the applicant, Ketankumar G Patel, to speak first.

Thomas Aguilera, attorney for the applicant, reminded the Council that this was a person transfer and the relevant inquiry should be made about the applicant's capabilities, not the location. He spoke with Vice Mayor Dunbar's office this afternoon. He was there to answer any questions, if the Council had any. This was a person to person transfer; he did not see those issues raised in the protest. He recommended to the Council to forward this to the State Liquor Board for approval.

Vice Mayor Dunbar asked how the applicant picked out the name "Wildcat Market & Liquor".

Mr. Aguilera stated that in the Tucson area there is something about the wildcats. It was out of respect to Lute Olson and his accomplishments over the years in this town.

Vice Mayor Dunbar asked if any of the protesters were present. There were none in the audience. Vice Mayor Dunbar read one of the protest letters. She stated if there was anything she could do to deny this license she would. However, State law says that what they had to consider was the applicant's capability, qualifications and reliability. When the police did their background check everything was okay.

Council Member Leal stated it was his understanding that "wildcat" is trademarked by the University of Arizona. He wanted to know if the applicant had been

given permission to use “wildcat”. He stated if it is trademarked it is inappropriate to put the University in a position to take legal action.

Mr. Aguilera stated they sat down and talked about that area with the seller of the store. He stated the applicant’s counsel from Phoenix was unfamiliar with the liquor license process so they had asked him to undertake this portion. Mr. Aguilera stated he did meet with neighborhoods and Council Members. He did not know if there was evidence to tie shootings to this market, but they were there as good neighbors and good businessmen. He stated that Vice Mayor Dunbar’s comments were not lost on his ears, nor would they be lost on his client’s.

It was moved by Vice Mayor Dunbar, duly seconded, and carried by a voice vote of 5 to 2 (Council Members West and Leal dissenting), that liquor license application 5b2, Wildcat Market & Liquor, be forwarded to the Arizona State Liquor Board with a recommendation for approval.

6. CONSENT AGENDA ITEMS A THROUGH E

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 IMPROVEMENTS TO THE MIDTOWN LIBRARY

1. Report from City Manager FEB8-05-65 CITY-WIDE
2. Resolution No. 20006 relating to library services; authorizing and approving an Intergovernmental Agreement between the City of Tucson and Pima County for improvements to the Midtown Library; and declaring an emergency.

B. GRANT AGREEMENT: WITH THE GOVERNOR’S OFFICE OF HIGHWAY SAFETY FOR TUCSON CITY COURT’S SCHOOL PROGRAM

1. Report from City Manager FEB8-05-61 CITY-WIDE
2. Resolution No. 20007 relating to City Court; authorizing and approving the grant agreement with the Governor’s Office of Highway Safety for the purchase of equipment and supplies in support of Tucson City Court’s school program; and declaring an emergency.

C. MEMORANDUM OF UNDERSTANDING: WITH SOUTHWEST GAS CORPORATION FOR A TEMPORARY EXTENSION OF THE INCREMENTAL NATURAL GAS FRANCHISE FEE

1. Report from City Manager FEB8-05-66 CITY-WIDE
2. Ordinance No. 10111 relating to franchises; approving a memorandum of understanding with Southwest Gas Corporation extending the incremental natural gas franchise fee; and declaring an emergency.

D. FINANCE: CONTINGENCY FUND TRANSFER FOR GRIDLEY MIDDLE SCHOOL STUDENTS FOR AN EDUCATIONAL TRIP TO WASHINGTON D.C.

1. Report from City Manager FEB8-05-67 WARD 2
2. Resolution No. 20008 relating to finance; approving and authorizing the transfer of two hundred fifty dollars (\$250.00) from the Contingency Fund to Gridley Middle School, to assist with funding an educational trip to Washington D.C. for Gridley Middle School students; and declaring an emergency.

This is a request by Council Member West. Allocation of funds is as follows: Council Member West - \$250.00

E. APPROVAL OF MINUTES

1. Report from City Manager FEB8-05-68 CITY-WIDE

Kathleen S. Detrick, City Clerk, stated there were clerical corrections that needed to be made to the January 11, 2005 minutes. She asked for an approval of the October 11, 2004 minutes on Consent Agenda Item E, and then the clerical corrections would be made to the January 11, 2005 minutes and brought back next week.

It was moved by Council Member West, duly seconded, that Consent Agenda Items A through E (with the exception of the January 11, 2005 Minutes on Item E) be passed and adopted and the proper action taken.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, Leal, and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: None

Consent Agenda Items A through E (except for the January 11, 2005 minutes on Item E) 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. Speakers would be limited to three-minute presentations.

- a. Jim Lockier addressed the Mayor and Council with a recap on the homeless situation and the HUD grants and encouraged the Mayor and Council to undertake various work programs.
- b. Michael Toney commented to the Mayor and Council regarding:
 - Architecture records and financing for UA Science Center
 - Desert Mistletoe
 - The Martin Luther King Apartments

8. ZONING: (C9-02-13) PUEBLO MORTGAGE – SWAN ROAD, R-1 TO O-2, REACTIVATION, TIME EXTENSION AND ORDINANCE ADOPTION

Mayor Walkup announced City Manager's communication number 58, dated February 8, 2005, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10114 by number and title only.

Ordinance 10114 relating to zoning: amending zoning district boundaries in the area located on the east side of Swan Road between Cooper Street and Broadway Boulevard in case C9-02-13, Pueblo Mortgage – Swan Road, R-1 to O-2; and setting an effective date.

Mayor Walkup asked the Council's pleasure.

It was moved by Council Member Ronstadt, duly seconded, to reactivate rezoning case C9-02-13, approve the request for a time extension from February 8, 2005 to February 8, 2006 and pass and adopt Ordinance 10114.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, Leal and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: None

Ordinance 10114 was declared passed and adopted by a roll call vote of 7 to 0.

9. ZONING: (C9-91-14) CIVANO/PULTE – BILBY ROAD, R-2 AND C-2 ZONING, CHANGE OF CONDITIONS AND ORDINANCE ADOPTION

Mayor Walkup announced City Manager's communication number 59, dated February 8, 2005, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10115 by number and title only.

Ordinance 10115 relating to zoning: amending Ordinance No. 9919 to amend rezoning conditions by amending the R-2, RCP Energy Conservation Criteria for the area located at the northeast corner of Bilby Road and Houghton Road in case C9-91-14, Civano/Pulte – Bilby Road, R-2 and C-2 zoning; and declaring an emergency

Mayor Walkup asked the Council's pleasure.

It was moved by Council Member Scott, duly seconded, to approve the request for a change of conditions and pass and adopt Ordinance 10115.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, Leal and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: None

Ordinance 10115 was declared passed and adopted by a roll call vote of 7 to 0.

10. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

Mayor Walkup announced City Manager's communication number 64, dated February 8, 2005, would be received into and made a part of the record. He asked if there were any personal appointments to be made.

Council Member Ronstadt announced his personal appointment of Robert Blizzard to the Commission on Disability Issues (CODI).

11. AGREEMENT: AMENDMENT TO THE LICENSE AGREEMENT WITH SFPP, L.P. dba KINDER MORGAN

Mayor Walkup announced City Manager's communication number 69, dated February 8, 2005, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10116 by number and title only.

Ordinance 10116 relating to licenses; authorizing a Second Amendment to the License Agreement with SFPP, L.P., to use and operate pipeline facilities in certain rights of way within the City of Tucson; and declaring an emergency.

Mayor Walkup asked the Council's pleasure.

It was moved by Council Member West, duly seconded, to pass and adopt Ordinance 10116.

Mayor Walkup acknowledged Council Member Ibarra.

Council Member Ibarra stated he was going to vote against this issue. He felt there could have been better advocates for the area and for the community, that Kinder Morgan could have been more responsible and committed to moving the pipeline, not just participating, and also committed to really addressing the issues of contamination that were caused by their pipeline break and home depreciation in the area. He understood where Mayor and Council were coming from, but he was going to respectfully vote no.

Mayor Walkup acknowledged Council Member Leal

Council Member Leal stated they had plenty of opportunity to understand the embedded issues with the pipeline, both public safety issues and house value issues, and they have also had plenty of time to understand the character and what kind of reasonable expectations they should have dealing with Kinder Morgan. Council Member Leal felt they should have fought harder for the community's interest and not gone as far as the City has to accommodate the financial interest of Kinder Morgan. For those reasons, Council Member Leal was going to vote against this issue.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members West, and Ronstadt
Vice Mayor Dunbar and Mayor Walkup

Nay: Council Members Ibarra, Scott and Leal;

Ordinance 10116 was declared passed and adopted by a roll call vote of 4 to 3.

For the purpose of the emergency clause and that purpose only, Mayor Walkup called for the roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, Leal and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: None

Ordinance 10116 was declared passed and adopted by a roll call vote of 7 to 0, with the emergency clause.

12. ADJOURNMENT 6:08 p.m.

Mayor Walkup announced the Council would stand adjourned until its next regularly scheduled meeting to be held on Tuesday, February 15, 2005, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 W. 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 February 2005, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:dc/sl