



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on May 10, 2005

Date of Meeting: April 5, 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 6:03 p.m. on Tuesday, April 5, 2005, all members having been notified of the time and place thereof.

1. **ROLL CALL**

The meeting was called to order by Vice Mayor Dunbar, Mayor Pro-Tempore, and upon roll call, those present and absent were:

Present:

José J. Ibarra	Council Member Ward 1
Carol W. West	Council Member Ward 2
Shirley C. Scott	Council Member Ward 4
Steve Leal	Council Member Ward 5
Fred Ronstadt	Council Member Ward 6
Kathleen Dunbar	Vice Mayor, Council Member Ward 3

Absent/Excused:

Robert E. Walkup	Mayor
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Staff Members Present:

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

2. INVOCATION AND PLEDGE OF ALLEGIANCE

(Note: The Invocation and Pledge of Allegiance were taken out of order and conducted at the Public Housing Authority meeting, which was held at 5:30 p.m.)

11. CITY MAGISTRATES: APPOINTING A CITY MAGISTRATE

(Note: This item was taken out of order.)

Mayor Pro-Tempore Dunbar announced communication number 158, dated April 5, 2005 would be received into and made a part of the record. She stated there were a lot of people in the audience wanting to speak, but it was not a public hearing. To be fair, there would be two Commissioners speaking, Ms. Terrazas would speak, and two people on her behalf would speak. Mayor Pro-Tempore Dunbar stated the Council was having problems interpreting the report and asked Judge Riojas to give a presentation first.

Judge Antonio Riojas, Presiding Magistrate, said the Council had received statistical summaries of the Judicial Performance Review (JPR). This was based on an instrument used by the Arizona Supreme Court for judges throughout the state. Three groups of people were given surveys on each judge. These included the staff, attorneys, and litigants. Each person was asked to rank the judge on various items as superior, very good, satisfactory, poor, or unable to rate on a number of categories. Superior Court compiled the numbers the Council had seen. The survey results stated the number of returns for each category and the number of votes for each category.

Discussion ensued regarding the methodology used during the survey and the number of surveys received.

Council Member Scott asked if were there any documents presented to the City Magistrate Merit Selection Commission that the Council had not seen.

Judge Riojas stated the only documents he was aware of, in addition to the surveys, were from the people filling out the surveys who had a right to submit written comments. Those comments were given to the City Magistrate Merit Selection Commission. As part of the modification of the reappointment process, he was asked to do an annual evaluation of each Magistrate, so they also got his annual evaluation of Judge Terrazas from the preceding year. He was only aware of those documents and Council would need to ask the City Magistrate Merit Selection Commission if they received more documentation.

Michael Rankin, City Attorney, stated it was exactly those documents that would have been provided to Council during Executive Session which under the Arizona State Supreme Court decision in the Doning versus the City of Tucson case had been deemed to be confidential and privileged.

Council Member Scott asked if the Citizens' Committee saw them where they bound for life to keep them secret.

Mr. Rankin answered yes, they returned the items to the Clerk after the completion of their executive session prior to making their recommendation.

Mayor Pro-Tempore Dunbar recognized Judge Terrazas.

Judge Terrazas read into the record a written statement regarding why she should be reappointed.

Mayor Pro-Tempore Dunbar called on Commissioner Dick Dunbar, Vice Chair of the City Magistrate Merit Selection Commission.

Commissioner Dunbar, representing the Magistrate Merit Selection Commission, gave an overview of the make up of the Commission. Regarding the meeting that was held he said the Commission operated in executive session and he stated he was not allowed to discuss particulars of the individual discussions.

At the request of Council Member Scott, Commissioner Dunbar stated he was married to Vice Mayor Dunbar and that he was a resident of the City of Tucson.

At the request of Council Member Scott, Mr. Rankin advised that the marital relationship between the Vice Mayor and Commissioner Dunbar does not present a conflict of interest under the relevant Arizona Statutes.

Mayor Pro-Tempore Dunbar stated for the record that she sat on the Magistrate Merit Selection Commission for five years before being elected to the Arizona Legislature. She asked if there were any other questions for Commissioner Dunbar.

Council Member Ronstadt asked Commissioner Dunbar if he had been given evaluations from previous violations, there had to be at least one in the past.

Commissioner Dunbar stated at the end of every meeting materials given to the Commission by the court were collected and destroyed. There were no materials available from four years ago, or two years ago, or even from the past meeting.

Council Member Ronstadt stated there was an indication two members of the Commission had been through the process before.

Commissioner Dunbar stated it was Sally Reynolds and himself.

Council Member Ronstadt asked if they were able to give a historical perspective based on the last evaluation.

Commissioner Dunbar stated he was silent during the entire piece.

Mayor Pro-Tempore Dunbar asked Commissioner Dunbar what was the vote of the Commission.

Commissioner Dunbar stated the vote was unanimous to not reappoint as summarized in the letter to Mayor and Council.

Mayor Pro-Tempore Dunbar asked how many years Judge Terrazas had been on the bench.

Commissioner Dunbar stated it had been twelve years.

Council Member Ibarra asked what the vote was of the Commission at the last reappointment.

Commissioner Dunbar stated he had made the motion to reappoint Judge Terrazas, but that he did not recall the vote.

Council Member Ibarra thought it was a unanimous vote also and the Commission had gushing comments, as he recalled. During the last two reappointments, the Commission only had positive response and gleaming remarks regarding Judge Terrazas.

Council Member Ibarra asked what the issues were that led to the recommendation not to reappoint.

Mr. Rankin stated Commissioner Dunbar could not discuss any of the specific discussions that occurred in Executive Sessions. He could identify categories or elements that were of concern to the Commission.

Council Member Ibarra said the Council could have gone into Executive Session to find out the information. He stated it would be more appropriate to do it in public and people would not think a deal was made in the back room. Council Member Ibarra asked Commissioner Dunbar to be general in the aspects of it all.

Commissioner Dunbar said the issues were dealing with service not the statistical data they received. The issues had to deal more with an employee of the City of Tucson, the demeanor as a person working in City Court, demeanor with working with coworkers, and the treatment of people that come in contact with the court system. It did not have to do with specifics related to judicial knowledge, judicial fairness or practice of law. It had more to do with how they are as an employee and how they handle questions relating to issues brought to the Commission's attention by some of the people who testified in Executive Session.

Council Member Ibarra said as a judicial aspect, as a profession in the knowledge of the law, they want a judge who had a strong knowledge of the law, and a strong background.

Commissioner Dunbar stated that was the reason why there were four attorneys appointed by the Bar to the Commission.

Mr. Rankin stated he needed to cut it off before it went into specific discussions of the Executive Sessions. He stated Commissioner Dunbar was in an awkward position because he was being asked to engage into an open discussion about something he was under legal obligation not to divulge.

Council Member Ibarra asked of the respondents who gave back information if they were an average resident who had gone in front of Judge Terrazas. Was that one of the things the Commission looked at.

Commissioner Dunbar stated there were four categories of surveys. There were the staff, witnesses, jurors, and litigants. It was the number of responses from staff that was considerably larger than usual.

Council Member Ronstadt asked if during Executive Session were they were provided with Judge Riojos' evaluation.

Commissioner Dunbar answered yes.

Council Member Ronstadt then asked if it had an effect on the germination on the Commission's determination.

Mr. Rankin rephrased the question and asked if it was something that was considered prior to the recommendation being made.

Commissioner Dunbar answered yes.

Mayor Pro-Tempore Dunbar stated Judge Terrazas was asked to pick out two speakers to speak on her behalf. She had selected James Nesci as one of them.

James Nesci, Criminal Defense Attorney, spoke in support of Judge Terrazas.

Mayor Pro-Tempore Dunbar called on Lori Oien.

Lori Oien, Commissioner on the Magistrate Merit Selection Commission, said the decision not to reappoint was not taken lightly. She had wished the Mayor and Council would have gone into Executive Session and saw what the Commission had seen to help them make their decision, the Council was only seeing part of it.

Mayor Pro-Tempore Dunbar called on John Piazza.

John Piazza, City Prosecutor, said his current assignment was in Judge Terrazas' courtroom and he was there on his own behalf and not representing the City Prosecutor's office. Mr. Piazza spoke in support of Judge Terrazas.

Council Member Scott asked what the City of Tucson's policy was when they receive anonymous comments on the comment line or otherwise.

Michael Letcher, Deputy City Manager, stated it depended on the item received. In the past there had been items personally directed that were not substantiated. Those items were not followed up on if it was a personal attack. If it was anonymous it would be hard to get in contact with the individual.

Council Member Scott stated the newspapers do not publish anonymous letters to the editors. They feel if one had a comment to make one should stand by it and print their name.

Mayor Pro-Tempore Dunbar asked for a point of clarification. People were allowed to come forward, but their names were not included in order to protect them.

Mr. Rankin stated the Judicial Performance Reviews and the narrative comments, which would have been looked at by the Magistrate Merit Selection Commission were anonymous. He said the surveys were provided to the attorneys who practice in front of the judge. The goal of the process was to get as many of the surveys returned as possible so there could be some type of representative sample. The policy was the surveys remain anonymous to encourage participation rather than having people who were going to practice in front of the judge signing their name to an evaluation of that judge, for obvious reasons.

Council Member West stated when she was a college teacher, students would evaluate her each term and the performance evaluations were anonymous, so she understood the process. She did not think those kinds of rating surveys were unusual.

She said four years ago she voted in favor of retaining Judge Terrazas. Sometime afterwards, the *Arizona Daily Star* had published an article stating the recently reappointed judge had a rating of below fifty percent. She had constituents who called her and asked her how she could have voted in favor of the reappointment. At the time, the Council received no information and they were only given the information from the Magistrate Merit Selection Commission. This time she received a folder full of material, which she read. There were letters that the judge had seen and there were also some damaging phrases that she had rebutted. Council Member West stated she had not shared it with anyone nor would she. For that reason, she was hoping the Council would have gone into Executive Session, as those were personnel records. It would have been a good idea if Council had gone into Executive Session, because the surveys did not tell them much. Some of the information she had received in the folder gave her cause for concern. When the meeting was over, she would be giving the folder back to the City Clerk so it would not be distributed to anyone. Because of the experience, she thought when the Council appoints a Magistrate Merit Selection Commission to review those materials in Executive Session, they needed to look seriously at their recommendation.

Council Member West thought Judge Terrazas was a bright and hard working person. Where things fell apart were on the judicial temperament side of things and that was important in a judge.

Council Member Ibarra stated he remembered the article also. He wondered if they were not able to talk about details, the chairman was not able to be specific, and no one else could be specific because of executive session materials attached, why the article contained a lot of information that was released to the press that was executive session material. No one ever found out why or how the information was released. Council Member Ibarra stated that now one of his colleagues was using that information as the main issue to vote against the reappointment. It seems like it was not being treated in a fair and equitable manner.

Council Member West said because she was concerned about the information that was released previously, she read very carefully all the information in the folder and based on it she could make a decision that was not based on newspaper articles four years ago.

Council Member Leal said this was difficult because of the two parts of the system, the statistical part and the anonymous comments. As history had shown anonymity had been a curtain for injustice to hide behind, but at the same time anonymity provides some security on the part of individuals who may comment without fear of reprisals.

Council Member Leal found it ironic that they were talking about a judge. He wondered what was the most important part of the job. Trying to discover justice, trying to render justice, and what was looked at when trying to reappoint them. Again, it called further into question the process. When information got into the press and they started using statistics, which were already skewed and constituents were calling the Council offices concerned about the statistics, it was like every step of the process got more unreal. Less dealing with reality and less dealing with what had happened to the person's life in the courtroom over time.

Council Member Leal thought it was meaningful to hear that two attorneys from opposing sides agree on the integrity and the working relationships Judge Terrazas had with the community that came before her bench. The Magistrate Merit Selection Commission had to make a decision based on information and processes that missed the point. Council Member Leal was there when she was reappointed last time and saw the recommendations she received.

It was moved by Council Member Leal, duly seconded, to pass and adopt Ordinance 10138 reappointing Judge Terrazas.

Council Member Ronstadt said the Presiding Magistrate's recommendation and job appraisal were not anonymous. So there was testimony with people who put their name on it. He stated he was disappointed that he was not able to review the materials.

He thought it was unfortunate for Judge Terrazas because it may have changed his position to see what the Magistrate Merit Selection Commission saw and he may have had a different perspective, but he was not given that opportunity. He said that the Good Government Subcommittee tried to change the process to make it more objective, but was shot down for a whole host of reasons. Council Member Ronstadt said the major issues he had were the conflict of interest that exists by having lawyers, police officers, and city staff, whom the judge can directly affect, come and testify. He wished he had been given the opportunity to review the materials. All he could rely on was the seven to zero vote from the Commission.

Council Member Scott stated concerns of one member of the Council having a packet of information that no one else had seen.

Mayor Pro-Tempore Dunbar stated everyone had been delivered the packet of information.

Council Member Scott asked if the packet was public documents.

Mr. Rankin stated he needed to look at the packet and see what was included. The things that would be treated as confidential would be the same things that were set aside for the Council's possible consideration in executive session which would have been the narrative comments in the individual evaluations. The statistical summaries that were provided or any information in the packet that was provided by Magistrate Terrazas to support her position would be subject to release, as long as they did not include those other things.

Council Member West stated she had received the packet from the Judge. There was additional letters in the packet and some of it was sensitive.

Council Member Scott said she had some concerns of what the results of the Magistrate Merit Selection Commission's recommendations had been of late. A casual observer might note, and this might be coincidental, that they had not recommended anyone lately who was a minority.

Council Member Ronstadt said he found the comment offensive. The Council Member was alleging there was a conspiracy among the Magistrate Merit Selection Commissioners. She would need to provide evidence and to him that was slander.

Council Member Scott said that it might appear to the public as being so. She had not made any accusations and she would make it very clear if she had.

Council Member West asked the vice chair of the Magistrate Merit Selection Commission to speak if it was true.

Commissioner Dunbar stated Presiding Magistrate Riojas came before them with a unanimous recommendation.

Mayor Pro-Tempore Dunbar said she could only think of one that came with a divided vote on a recommendation. This was the first she could remember in twelve years that there was a vote for non-reappointment. She was on the Commission four

years ago, the first time Judge Terrazas came forward and it was very divisive. She said the meeting had to be held over several nights and it was extremely contentious and was not a unanimous vote at that time.

Mayor Pro-Tempore Dunbar asked if there were any further comment, hearing none she asked the City Clerk to read Ordinance 10138 by number and title only.

Ordinance 10138 relating to City Magistrates; appointing Gilda Terrazas as City Magistrate of the City of Tucson; fixing compensation and declaring an emergency.

Upon roll call, the results were:

Aye: Council Members Ibarra,, Scott, and Leal

Nay: Council Members West and Ronstadt;
Mayor Pro-Tempore Dunbar

Absent/Excused: Mayor Walkup

Motion failed by a roll call vote of 3 to 3.

Mayor Pro-Tempore Dunbar asked Mr. Rankin to explain what would happen next.

Mr. Rankin stated there was no reappointment of Judge Terrazas. Her term would expire on April 6, 2005. She would go into holdover status and would continue to serve as a magistrate until the Magistrate Merit Selection Commission was directed by the Mayor and Council to begin a process for the selection of a new magistrate.

Council Member Ronstadt asked if that could be considered as a future agenda item.

Mr. Rankin said the Council could use the Agenda Committee Meeting as an opportunity to schedule that item.

RECESS: 7:10 p.m.

RECONVENE: 7:21 p.m.

Mayor Pro-Tempore Dunbar called the meeting to order and upon roll call, those present and absent were:

Present:

José J. Ibarra	Council Member Ward 1
Carol W. West	Council Member Ward 2
Shirley C. Scott	Council Member Ward 4
Steve Leal	Council Member Ward 5
Kathleen Dunbar	Vice Mayor, Council Member Ward 3

Absent/Excused:

Robert E. Walkup	Mayor
Fred Ronstadt	Council Member Ward 6

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Pro-Tempore Dunbar announced City Manager's communication number 161, dated April 5, 2005, would be received into and made a part of the record. She 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 West announced the April 13, 2005 town hall on the Safe Assembly Ordinance had been cancelled. Also, the Vista Del Rio Archaeology Park, one of ten Arizona projects received the Governor's Heritage Preservation Award.
- b. Council Member Scott announced:
 1. On April 6, 2005, in the Mayor and Council Chambers, the Planning Commission would continue its Public Hearing on the Houghton Area Master Plan (HAMP).
 2. On April 7, 2005, at the Pima College East Community Room, Ward 4 along with Pima County Board of Supervisor Ray Carroll, the Pima County/Women's Commission, Tucson Medical Center Health Care Senior Services & OASIS Project and Pima Community College East Campus would be sponsoring the "Positive Aging Conference."
 3. On April 20, 2005, there would be a town hall at Desert Sky Middle School in Rita Ranch. The town hall would include information about the

Southeast Area Plan, Tucson Water's long-range plan, the Department of Urban Planning and Design would present the Houghton Area Master Plan (HAMP), and Jim Glock, Director of Transportation, would be present to cover the status of the Regional Transportation Authority.

4. There would be another town hall at Secrist Middle School, April 27, 2005, 6:30 pm. Discussion would be on the Houghton Area Master Plan (HAMP).

(Note: Council Member Ronstadt arrived at 7:24 p.m.)

- c. Council Member Ronstadt invited everyone to attend a town hall on April 6, 2005, at 6:00 p.m. at the Ward 6 Council Office featuring incoming City Manager, Mike Hein.

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

Mayor Pro-Tempore Dunbar announced City Manager's communication number 162, dated April 5, 2005, would be received into and made a part of the record. She also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

Mike Hein, City Manager, reported:

- a. Tucson Fire had moved into two new Fire Stations, Station 20 at River and First Avenue and Station 21 at Tanque Verde and Bear Canyon.
- b. Lutheran Social Ministries in conjunction with the Community Services Department had been awarded a three hundred seventy-five thousand dollar Housing and Urban Development (HUD) grant to provide health and wellness services to residents of the Tucson House and Martin Luther King apartments.
- c. Sun Tran had a successful two days shuttling people to and from the Aerospace and Arizona Days at Davis Monthan Air Force Base. Sun Tran carried nearly thirteen thousand passengers.
- d. A series of free art workshops were being offered at Sun Tran's Ronstadt Transit Center. Art in Reality (AIR) was sponsored by the City of Tucson Department of Parks and Recreation and Pima County Youth Services. The workshops, which were on Wednesdays through June 8, 2005, are geared to fourteen to twenty-one year olds. The next workshop would be Wednesday, April 6, 2005, from 3:30 p.m. to 5:30 p.m.

5. LIQUOR LICENSE APPLICATIONS

Mayor Pro-Tempore Dunbar announced City Manager's communication number 160, dated April 5, 2005, would be received into and made a part of the record. She asked the City Clerk to read the Liquor License Agenda.

Kathleen S. Detrick, City Clerk, announced there were three requests for a new license. Item 5b3, Casa Vicente, had a protest filed and would be considered separately. There were eleven requests for special event licenses. Council Member Ronstadt requested Item 5c7, Artsake Foundation, be considered separately.

b. Liquor License Applications

New License

1. Los Molinitos, Ward 2
2323 N. Pantano Road
Applicant: Wayne Lee Hallquist
Series 12, City 13-05
Action must be taken by: April 10, 2005
Staff has indicated the applicant is in compliance with city requirements.
2. Elle A Wine Country Restaurant, Ward 6
3048 E. Broadway
Applicant: Jeffrey Fulo
Series 12, City 14-05
Action must be taken by: April 10, 2005
Staff has indicated the applicant is in compliance with city requirements.
3. Casa Vicente, Ward 6
375 S. Stone Avenue
Applicant: Vicente Sanchez-Martinez
Series 12, City 15-05
Action must be taken by: April 14, 2005
Staff has indicated the applicant is in compliance with city requirements.
Public Opinion: Protest Filed
Considered separately.

c. Special Event

1. Tucson International Mariachi Conference, Ward 6
900 S. Randolph Way
Applicant: Alfonso Dancil
City T06-05
Date of Event: April 23, 2005
Raise Funds for La Frontera
Staff has indicated the applicant is in compliance with city requirements.
2. Vernacular Architecture Forum, Ward 6
949 E. 2nd Street
Applicant: Brooks Jeffery
City T12-05
Date of Event: April 13, 2005
Opening Reception for Conference

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

3. Vernacular Architecture Forum, Ward 1
140 N. Main
Applicant: Brooks Jeffery
City T13-05
Date of Event: April 16, 2005
Closing Event for Conference
Staff has indicated the applicant is in compliance with city requirements.
4. Comité de Festividades Mexicanas, Ward 1
3700 S. La Cholla
Applicant: Mercedes Guerrero
City T15-05
Date of Event: May 7-8, 2005
To Celebrate Cinco de Mayo
Staff has indicated the applicant is in compliance with city requirements.
5. Friends of St. Michael's, Ward 2
602 N. Wilmot Road
Applicant: Mark Huntzinger
City T16-05
Date of Event: April 16, 2005
Annual Fundraiser
Staff has indicated the applicant is in compliance with city requirements.
6. Tucson Jewish Community Center, Ward 2
3800 E. River Road
Applicant: Lee Ann Sanford
City T17-05
Date of Event: April 17, 2005
Entertainment/Education
Staff has indicated the applicant is in compliance with city requirements.
7. Artsake Foundation, Ward 6
Congress/Aviation/6th Avenue/5th Avenue
City T22-05
Applicant: Jeb Bley Schoonover
Date of Event: April 16, 2005
Fundraiser
Staff has indicated the applicant is in compliance with city requirements.
Considered separately.

8. Fiesta De La Familia (50th Annual), Ward 5
1220 S. 6th Avenue
City T24-05
Applicant: Rebecca Marie Lujan
Date of Event: April 30 – May 1, 2005
Church Fundraiser
Staff has indicated the applicant is in compliance with city requirements.
9. Native Seeds/Search, Ward 6
516 N. 5th Avenue
City T25-05
Applicant: Diana L. Peel
Date of Event: April 8, 2005
Fundraiser Dinner
Staff has indicated the applicant is in compliance with city requirements.
10. Southern Arizona Blues Heritage Foundation, Ward 6
900 S. Randolph Way
City T26-05
Applicant: Mark Oliver
Date of Event: April 9, 2005
Raise Money While Having a Music Festival
Staff has indicated the applicant is in compliance with city requirements.
11. Pima County Interfaith Council, Ward 4
1800 S. Kolb Road
City T31-05
Applicant: Raymond Rodriguez
Date of Event: April 15, 2005
Fifteenth Anniversary Celebration
Staff has indicated the applicant is in compliance with city requirements.

It was moved by Council Member Ronstadt, duly seconded, and carried by a voice vote of 6 to 0 (Mayor Walkup absent/excused) to forward liquor license applications 5b1 and 5b2, 5c1 through 5c6 and 5c8 through 5c11, to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Applications

New License

3. Casa Vicente, Ward 6
375 S. Stone Avenue
Applicant: Vicente Sanchez-Martinez
Series 12, City 15-05
Action must be taken by: April 14, 2005
Staff has indicated the applicant is in compliance with city requirements.
Public Opinion: Protest Filed

Kathleen S. Detrick, City Clerk, stated the first item to be considered separately was item 5b3, Casa Vicente. A protest had been filed and the owner was present. The license is located in Ward 6.

Council Member Ronstadt asked Vicente Sanchez-Martinez, the applicant, to address the Council and state what he had done in regards to the one protest letter.

Mr. Sanchez-Martinez stated he had contacted the protestor who had concerns about any alcohol downtown. He explained to her what type of restaurant he opened, which featured food from Spain and wanted to offer drinks to go with dinner. He said that the business also had a cultural center and was currently opened for lunch so you could eat in Spain without flying. He said that he was a family man, he had two children thirteen and fourteen years old. He was committed to downtown. He had an architecture business downtown also, not far from the restaurant. He had put a lot of his life adventures into this restaurant and hoped that the Mayor and Council would support him in this adventure in culinary arts.

Council Member Ronstadt stated Casa Vicente was a Series 12 liquor license that did not establish location and they were encouraging restaurants in the downtown area.

It was moved by Council Member Ronstadt, duly seconded, and carried by a voice vote of 6 to 0 (Mayor Walkup absent/excused) to forward liquor license application 5b3 to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

c. Special Event

7. Artsake Foundation, Ward 6
Congress/Aviation/6th Avenue/5th Avenue
City T22-05
Applicant: Jeb Bley Schoonover
Date of Event: April 16, 2005
Fundraiser
Staff has indicated the applicant is in compliance with city requirements.

Kathleen S. Detrick, City Clerk, announced the final item to be considered separately was a special event request, Item 5c7, Artsake Foundation. The applicant was present and the item was removed at the request of Council Member Ronstadt. The license is located in Ward 6.

Council Member Ronstadt stated he had asked for this item to be considered separately because it had come to his attention that the Arizona Corporation Commission had revoked the Artsake Foundation's Articles.

Michael Rankin, City Attorney concurred that the Artsake Foundation's Articles of Incorporation had been revoked.

Council Member Ronstadt stated Title IV requires a special event liquor license to have twenty-five percent of the gross revenue from alcohol go to a non-profit organization.

It was moved by Council Member Ronstadt, duly seconded, and carried by a voice vote of 6 to 0 (Mayor Walkup absent/excused) to continue this item for one week so the applicant could work with staff to get the paperwork in order.

6. CONSENT AGENDA ITEMS A THROUGH I

Mayor Pro-Tempore Dunbar 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. She asked the City Clerk to read the Consent Agenda.

A. BOARDS, COMMITTEES AND COMMISSIONS: AMENDING THE METROPOLITAN EDUCATION COMMISSION MEMBERSHIP

1. Report from City Manager APRIL5-05-164 CITY-WIDE

2. Resolution No. 20041 relating to education; adjusting the membership of the Metropolitan Education Commission to change the requirement to appoint a representative from the Metropolitan Tucson Commission on Urban Native American Affairs to a representative from a designated Native American organization; and declaring an emergency.

B. FINAL PLAT: (S04-036) SHOPPES AT RITA RANCH, LOTS 1 TO 5

1. Report from City Manager APRIL5-05-168 WARD 4
2. The City Manager recommends that the Mayor and council approve the final plat as presented. The applicant is advised that the building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

Item B considered separately at the request of Council Member Scott

C. INDUSTRIAL DEVELOPMENT AUTHORITY: APPOINTMENTS TO THE BOARD OF DIRECTORS OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF TUCSON

1. Report from City Manager APRIL5-05-166 CITY-WIDE
2. Resolution No. 20042 relating to the Industrial Development Authority; appointing Michael Hammond, Marilyn Robinson, and Ben Buehler-Garcia to the Board of Directors; and declaring an emergency.

D. PARKS AND RECREATION: NAMING THE NEW GYMNASIUM IN THE NORTHWEST NEIGHBORHOOD CENTER AS "HIGGIE", IN HONOR OF RICHARD HIGGINBOTHAM

1. Report from City Manager APRIL5-05-169 WARD 3
2. Resolution No. 20043 relating to parks and recreation; authorizing and approving naming the new gymnasium in the Northwest Neighborhood Center located at 2160 N. 6th Avenue as "Higgie" in honor of Richard Higginbotham; and declaring an emergency.

Item D considered separately.

E. INTERGOVERNMENTAL AGREEMENT: WITH THE PIMA COUNTY DIVISION OF ELECTIONS FOR ELECTION SUPPORT SERVICES

1. Report from City Manager APRIL5-05-165 CITY-WIDE

2. Resolution No. 20044 relating to elections; approving and authorizing execution of the Intergovernmental Agreement entered into by the City of Tucson and the Pima County Division of Elections for services in connection with the City of Tucson's May 17, 2005, Bond Election, September 13, 2005, Primary Election and November 8, 2005, General and Special Elections; and declaring an emergency.

F. IMPROVEMENT DISTRICTS: PARK AVENUE, IRVINGTON ROAD TO VALENCIA ROAD DISTRICT STREET LIGHTING AND SIDEWALK IMPROVEMENT

1. Report from City Manager APRIL5-05-167 WARD 5
2. Resolution No. 20027 a Resolution of the Mayor and Council of the City of Tucson, Declaring its intention to improve by the construction of street lighting and sidewalks, approving assessment district diagram, determining that the proposed work or improvement is of more than local or ordinary public benefit, and determining that improvement bonds be issued by the City of Tucson to represent the costs and expenses thereof, under the provisions of Title 48, Chapter 4, Article 2, Arizona Revised Statutes and amendments and supplements thereto, said improvement to be known as the "Park Avenue, Irvington Road to Valencia Road District Lighting and Sidewalk Improvement," all being within the City of Tucson, Arizona.

G. FINANCE: CONTINGENCY FUND TRANSFER FOR RITA RANCH ANNUAL FAMILY FUN DAY

1. Report from City Manager APRIL5-05-174 WARD 4
2. Resolution No. 20045 relating to finance; approving and authorizing the transfer of five hundred (\$500.00) dollars from the Contingency Fund to the Rita Ranch Neighborhood Association, for the annual Family Fun Day; and declaring an emergency.

This is a request by Council Member Scott. Allocation of funds is as follows: Council Member Scott: \$500.

H. APPROVAL OF MINUTES

1. Report from City Manager APRIL5-05-175 CITY-WIDE
2. Approval of minutes for the regular meeting of the Mayor and Council held on March 1, 2005.

I. INTERGOVERNMENTAL AGREEMENT AMENDMENT: TECHNICAL AMENDMENTS RELATING TO THE FOX THEATRE FINANCING PLAN TO PERMIT FUNDING FROM NEW MARKET TAX CREDITS

1. Report from City Manager APRIL5-05-177 WARD 1

Item I continued to the Mayor and Council meeting of April 12, 2005 at the request of staff.

It was moved by Council Member Ibarra, duly seconded, that Consent Agenda Items A through H, with the exception of Items B and D which would be considered separately and Item I, which would be continued to April 12, 2005, be passed and adopted and the proper action taken.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, Leal, and Ronstadt;
Mayor Pro-Tempore Dunbar

Nay: None

Absent/Excused Mayor Walkup

Consent Agenda Items A through H, with the exception of Items B, D, and I were declared passed and adopted by a roll call vote of 6 to 0.

B. FINAL PLAT: (S04-036) SHOPPES AT RITA RANCH, LOTS 1 TO 5

1. Report from City Manager APRIL5-05-168 WARD 4

2. The City Manager recommends that the Mayor and council approve the final plat as presented. The applicant is advised that the building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

Kathleen S. Detrick, City Clerk, said the first item on the Consent Agenda to be considered separately would be Item B, which had been removed at the request of Council Member Scott.

Council Member Scott suggested the developers of the property work in concert with the property owners to the west to review concerns regarding patio walls. She also recommended the issue of parking and loading zone screening be addressed in accordance with the *Land Use Code* requirements. She understood there may be some deficiencies, and hoped those issues could be resolved in a timely way.

It was moved by Council Member Scott, duly seconded, that Consent Agenda Item B, with a request that the developers work with the neighbors to the west, be passed and adopted.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, Leal, and Ronstadt;
Mayor Pro-Tempore Dunbar

Nay: None

Absent/Excused Mayor Walkup

Consent Agenda Item B was declared passed and adopted by a roll call vote of 6 to 0.

D. PARKS AND RECREATION: NAMING THE NEW GYMNASIUM IN THE NORTHWEST NEIGHBORHOOD CENTER AS “HIGGIE”, IN HONOR OF RICHARD HIGGINBOTHAM

1. Report from City Manager APRIL5-05-169 WARD 3
2. Resolution No. 20043 relating to parks and recreation; authorizing and approving naming the new gymnasium in the Northwest Neighborhood Center located at 2160 N. 6th Avenue as “Higgie” in honor of Richard Higginbotham; and declaring an emergency.

Kathleen S. Detrick, City Clerk, stated there was a clerical correction on Consent Agenda Item D. The caption of the resolution indicated the gymnasium would be named “Higgie”. The actual name should be Richard “Higgie” Higginbotham Gymnasium. The correction would take place throughout the resolution.

Mayor Pro-Tempore Dunbar stated she saw several people in the audience who wished to speak. It was not the time of a public hearing, but if one person wished to come forward the Council would recognize them.

Mayor Pro-Tempore Dunbar stated how special “Higgie” was and how much he had done for Ward 3. She said that he led and organized classes for youth, served on a board that approves neighborhood grants to and had written several grants to help youth in their neighborhoods and planted trees, you name it and he had been there. It was fitting to name the gymnasium after him. She understood he could not be there due to illness and their prayers were with him.

Jewel Nesbitt thanked the Council on behalf of Mr. Higginbotham.

It was moved by Council Member Ronstadt, duly seconded, to pass and adopt Consent Agenda Item D with the clerical correction.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, Leal, and Ronstadt;
Mayor Pro-Tempore Dunbar

Nay: None

Absent/Excused Mayor Walkup

Consent Agenda Item D was declared passed and adopted by a roll call vote of 6 to 0.

7. CALL TO THE AUDIENCE

Mayor Pro-Tempore Dunbar 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. Speakers would be limited to three-minute presentations and asked if there was anyone in the audience wishing to address the Council.

- a. Michael Reynolds explained his concerns regarding Rogers Elementary School and Tucson Unified School District's plans to re-orient the entrance to the school.
- b. Michael Toney encouraged the Mayor and Council to respect density levels when considering annexations along River Road, Mr. Toney also commented on funding for various projects including the Science Center.

8. PUBLIC HEARING: ZONING (C9-02-12) OCHOA – ST. MARY'S ROAD R-2 TO O-2, REACTIVATION AND TIME EXTENSION

Mayor Pro-Tempore Dunbar announced City Manager's communication number 170, dated April 5, 2005, would be received into and made a part of the record. She announced this was the time and place legally advertised for a public hearing on a request to reactivate the rezoning case, and approval of a request for a time extension for the completion of the rezoning conditions for the property located at the northeast corner of St. Mary's Road and Westmoreland Avenue.

Mayor Pro-Tempore Dunbar asked if the applicant was present. No one spoke. She asked the City Clerk if there were any speaker cards.

Kathleen S. Detrick, City Clerk, stated there were no speaker cards.

(Note: Council Member Ronstadt departed the chambers at 7:48 p.m.)

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 5 to 0 (Mayor Walkup and Council Member Ronstadt absent/excused) to close the public hearing.

It was moved by Council Member Ibarra, duly seconded, to reactivate zoning case C9-02-12 and grant the time extension as requested.

Ms. Detrick clarified that the time extension was from January 26, 2005 to January 26, 2006.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, and Leal;
Mayor Pro-Tempore Dunbar

Nay: None

Absent/Excused: Mayor Walkup and Council Member Ronstadt

Motion to reactivate zoning case C9-02-12 and grant the time extension as requested passed by a roll call vote of 5 to 0

(Note: Council Member Ronstadt returned to the chambers at 7:50 p.m.)

9. ZONING: (C9-04-21) WESTERN FINANCIAL – CRAYCROFT ROAD, R-2 TO O-1, CITY MANAGER’S REPORT

Mayor Pro-Tempore Dunbar announced City Manager’s communication number 171 dated April 5, 2005, would be received into and made part of the record. This was a request to rezone property located on the northeast corner of Craycroft Road and Lester Street. The preliminary development plan proposed demolition of an existing single-family residence and construction of a one-story office. The Zoning Examiner and City Manager recommend approval subject to certain conditions. She asked if the applicant or representative was present.

Bill Twitty, the applicant, said he agreed to the proposed conditions.

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

10. ZONING: (C9-04-08) MONTEREY HOMES – BONANZA AVENUE SR TO R-1, ORDINANCE ADOPTION

Mayor Pro-Tempore Dunbar announced City Manager's communication number 159, dated April 5, 2005 was received into and made a part of the record. She asked the City Clerk to read Ordinance 10139 by number and title only.

Ordinance No. 10139 relating to zoning: amending zoning district boundaries in the area located on the east side of Bonanza Avenue at Kenyon Drive in case C9-04-08, Monterey Homes – Bonanza Avenue, SR to R-1; and setting an effective date.

Kathleen S. Detrick, City Clerk, informed the Council that this Item required a three-quarter majority vote to be adopted, which would be all six members of the body present that evening.

Council Member West stated although there were a number of protests, conditions seven through fifteen took care of most of the concerns that were expressed in the protests.

It was moved by Council Member West, duly seconded, to pass and adopt Ordinance 10139.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, Leal, and Ronstadt;
Mayor Pro-Tempore Dunbar

Nay: None

Absent/Excused: Mayor Walkup

Ordinance 10139 was declared passed and adopted by a roll call vote of 6 to 0.

11. CITY MAGISTRATES: APPOINTING A CITY MAGISTRATE

(Note: This item was taken out of order and considered after Item 1.)

12. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Pro Tempore asked if there were any personal appointments.

Council Member Scott announced her personal appointment of Michael Block to the Environmental Services Advisory Committee

13. ADJOURNMENT 7:53 p.m.

The next regularly scheduled meeting of the Mayor and Council will be held on Tuesday, April 12, 2005, 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 5th day of April 2005, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:kav/lp