



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on June 20, 2006

Date of Meeting: May 16, 2006

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:39 p.m. on Tuesday, May 16, 2006, all members having been notified of the time and place thereof.

1. ROLL CALL

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

Present:

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

Absent/Excused

None

Staff Members Present:

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

Kathleen S. Detrick, City Clerk, announced Susie Rogers would be assisting with anyone in the audience needing Spanish language translation for items listed on the agenda.

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Chaplain Jeff Mockbee, Tucson Police Department, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

- a. Mayor Walkup proclaimed May 21, 2006 to be "International AIDS Candlelight Memorial Day." David Gunton and Les Pierce were present to accept the proclamation.
- b. Mayor Walkup proclaimed the week of May 21 to May 27, 2006 to be "Public Works Week." Jim Glock, Transportation Department Director was present to accept the proclamation.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 240, dated May 16, 2006, would be received into and made a part of the record. He also announced this was the time scheduled to allow members of the Council to report on current events and asked if there were any reports.

- a. Council Member Uhlich announced the Tucson Police Department and the Meth-Free Alliance had partnered with two neighborhoods in Ward 3, Oak Flower and Dodge Flower Neighborhoods, for a special pilot anti-methamphetamine effort. The kick off for the event would be on June 3, 2006.
- b. Council Member Trasoff announced Ward 6 was hosting an open house on the environment, "Go Green" on June 22, 2006. The event was to teach people how to protect the environment. There would be over twenty environmental groups in attendance to provide information and answer questions. Council Member Trasoff also announced that there was a contingent of Brazilian journalists in Tucson as part of the Rotary Exchange, which sends young journalists to other countries.

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

Mayor Walkup announced City Manager's communication number 241, dated May 16, 2006, would be received into and made a part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

No report was given.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 243, dated May 16, 2006, 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. Arco AM/PM, Ward 5
501 W. Irvington Rd.
Applicant: Russell Gene Scaramella
Series 10, City 30-06
Action must be taken by: May 28, 2006
Staff has indicated the applicant is in compliance with city requirements.
2. Arco AM/PM, Ward 2
7601 E. Tanque Verde
Applicant: Russell Gene Scaramella
Series 10, City 31-06
Action must be taken by: May 28, 2006
Staff has indicated the applicant is in compliance with city requirements.
3. Arco AM/PM, Ward 5
4881 S. Campbell
Applicant: Russell Gene Scaramella
Series 10, City 32-06
Action must be taken by: May 28, 2006
Staff has indicated the applicant is in compliance with city requirements.
4. Yukis Sushi Japanese Restaurant, Ward 2
7153 E. Tanque Verde Rd.
Applicant: Ramon Rafael Tovar
Series 12, City 33-06
Action must be taken by: June 1, 2006
Staff has indicated the applicant is in compliance with city requirements.
5. Arco AM/PM, Ward 1
802 W. Speedway
Applicant: Russell Gene Scaramella
Series 10, City 35-06
Action must be taken by: June 2, 2006
Staff has indicated the applicant is in compliance with city requirements.

6. Elks 385, Ward 3
1800 N. Oracle Rd.
Applicant: Alfred Wayne Griffis
Series 14, City 36-06
Action must be taken by: June 8, 2006
Staff has indicated the applicant is in compliance with city requirements.
7. Highnoon Saloon, Ward 4
8248 S. Houghton #140
Applicant: James Willard Boettcher
Series 06, City 38-06
Action must be taken by: June 4, 2006
Staff has indicated the applicant is in compliance with city requirements.
Public Opinion: Protests filed
Considered separately

Person Transfer

8. Local Dough, Ward 6
1702 E. Speedway
Applicant: Karl Joseph Granrath
Series 07, City 27-06
Action must be taken by: May 22, 2006
Development Services Department has indicated the applicant is **not** in compliance with city requirements.
The City Clerk announced that the applicant had withdrawn the application.
9. Sabor, Ward 6
2547 E. Broadway Blvd.
Applicant: Josue Izabal Rodriguez
Series 07, City 37-06
Action must be taken by: June 8, 2006
Staff has indicated the applicant is in compliance with city requirements.

c. Special Event

1. Our Mother of Sorrows Parish, Ward 4
1800 S. Kolb Rd.
Applicant: Thomas M. McGuire
City T31-06
Date of Event: June 2-4, 2006
Annual Church Fiesta/Fundraiser
Staff has indicated the applicant is in compliance with city requirements.

2. Tucson International Mariachi Conference, Ward 1
140 N. Main
Applicant: Chloe Dior
City T32-06
Date of Event: June 9, 2006
Raise Funds for La Frontera Center, Inc.
Staff has indicated the applicant is in compliance with city requirements.

d. Agent Change

1. Panizza Italian Bistro, Ward 6
944 E. University Blvd.
Applicant: Joseph R. Andaloro
Series 12, City AC09-06
Action must be taken by: June 2, 2006
Staff has indicated the applicant is in compliance with city requirements.

It was moved by Vice Mayor Leal, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b1 through 5b6 and 5b9, 5c1, 5c2 and 5d1 to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Applications

7. Highnoon Saloon, Ward 4
8248 S. Houghton #140
Applicant: James Willard Boettcher
Series 06, City 38-06
Action must be taken by: June 4, 2006
Staff has indicated the applicant is in compliance with city requirements.
Public Opinion: Protests Filed
Considered separately

Kathleen S. Detrick, City Clerk, announced Item 5b7, a request for a new license, would be considered separately. The license had protests filed and was located in Ward 4.

Council Member Scott asked the applicant to address the Council with comments he had.

James Boettcher, applicant, said when he worked on leasing his property the church behind the premises was not there. He said he signed the lease two and a half years ago. He said he did not know until two months ago the church was going to be built or he would not have entered into this project. He said he was in a difficult situation. Mr. Boettcher said the bar would not be a strip bar, it would be a neighborhood

sports bar. He said he did not anyone to be mislead by the name of the bar. It was not a shoot-out place, it was going to be a neighborhood sports bar.

Council Member Scott asked Mr. Boettcher if he would be serving food.

Mr. Boettcher said they were going to serve food from the restaurant side. The restaurant side would be closed up at 2:00 p.m. and they were going to serve food from the restaurant side to the bar area.

Council Member Scott thanked Mr. Boettcher and asked the City Attorney, to clarify the issue of the proximity of the church.

Michael Rankin, City Attorney, said as presented in the write up that accompanied this item, the proposed liquor location was within three hundred feet of the building that would be used as a church. Under Arizona Revised Statutes, the license could not be issued for a location that was within three hundred feet of an existing church. However, the statute defined a church in terms of whether the church was built and in use for services at the time the application was submitted. He said his understanding of this case was at the time the application was submitted, they knew the building was going to be a church, but the church had not begun to be used for services. Therefore the statutory prohibition did not apply. Nonetheless, the Council could still take into consideration the location and the proximity of the proposed use of the church.

Council Member Scott thanked Mr. Rankin and asked Mr. Boettcher if he had any conversation with the neighborhood association leadership in the area.

Mr. Boettcher said he did not.

Council Member Scott asked Mr. Boettcher if he knew he could or should have.

Mr. Boettcher said he discovered that the week before and he was informed the church was against the whole thing so he threw it up in the air and left it at that.

Council Member Scott asked if Mr. Boettcher wanted to proceed with the application.

Mr. Boettcher said he would because as far as he knew he had been approved for the liquor license.

Council Member Scott asked if Mr. Boettcher had received a call from anyone from the Ward 4 Council Office that day or recently requesting he contact them.

Mr. Boettcher said he did not.

Council Member Scott thanked Mr. Boettcher and said there had been some protests filed in regards to the application. She asked Ronald Watson to speak.

Mayor Walkup asked if Council Member Scott would be able to limit the hearing to two protestors in light of the number of protestors present.

Council Member Scott responded she would like to have a flavor of what the protests were founded on and she would appreciate anyone who was called upon to address any protest they had that was different from the others.

Ronald Watson said he was a professor of public health and medicine at the University of Arizona and for the last twenty-four years he had been studying alcohol abuse and its consequences. A key component of preventing or reducing alcohol abuse was both churches and preventing exposure to youth from people using alcohol and alcohol facilities. Hence, the three hundred foot limit was an important preventive device for this church. He said alcohol caused about one hundred thousand people to be killed a year. It caused many hundred of thousands of people to be injured in various fashions and the Council was probably very aware of the many different consequences that came from alcohol abuse that put people going to a church or a business establishment at risk. He added he had four grandchildren that lived nearby who would be attending that church so he had a personal as well as a professional interest in the application.

Karen Carter said she was a twenty-one year veteran of public school teaching with fifteen of those years in the Vail School District, including teaching in Rita Ranch for many years. She said she was also a mother, a grandmother, and a member of the church in question. She said she wanted the Council to know Rita Ranch was a neighborhood area. There were schools very close by, not within the three hundred foot limit, but there were three elementary schools and two middle schools in Rita Ranch. Her concerns were for her friends, her children, and her grandchildren. She said the church would be in use roughly six nights a week by two to three congregations. There would be several hundred youth involved. There would often be women at the church setting things up for their women's organization. There would be youth leadership playing basketball and volleyball and all those types of activities at night and in the afternoon. She urged the Council to not approve the liquor license for the safety of everyone involved.

Thomas R. Ingram said he lived the area and had four small children. The oldest of which was twelve years old. Mr. Ingram said some people in their group had made phone calls to see how quickly a taxicab could get there if someone had too much to drink. He said from what they were able to ascertain it would take about forty-five minutes for the quickest taxicab to respond, if they came at all. He said some of the taxicab companies would not go that far out to pick up people.

Council Member Scott added there was no bus service in the area.

Seth Wagenman said he also lived in Rita Ranch near the previous speakers. He said the previous speakers had already mentioned the things he considered important except one particular issue, which was the importance of the belief in God by the community. He said he believed the Council should put the interests of the community

first by supporting the church and its desire to foster faith in God. He said he did not mean to say that Mr. Boettcher was a bad person, but if Mr. Boettcher's cause should fail it would be a slightly smaller loss than if the church should have any incidents occur with its youth.

Craig Earls said he also lived in the Rita Ranch area. He said he would like amplify the information Mr. Ingram gave. He was the person who called the four cab companies the night before at 11:00 p.m. for a ride from the corner of Houghton Boulevard and Rita Ranch to his house on Rainsage Street, which was about two miles. He said three of the four cab companies would not dispatch for a ride that short and the fourth said it would take forty-five minutes if they could get there. He said having spent some time in bars like the one under discussion in his youth, he could imagine he might not want to wait forty-five minutes if he were in the condition to need a ride home. He wanted to emphasize approving a liquor license knowing that adequate alternative transportation was not available made them all morally culpable for anything that went wrong. He said he sympathized for Mr. Boettcher who had gotten himself into a bad situation with the church issue. Mr. Earls said he recognized Mr. Boettcher was clear to proceed, but he thought Mr. Boettcher had picked a bad location knowing that Rita Ranch was essentially a small town on its own with Davis-Monthan Air Force Base separating the community from the main part of Tucson. He said he could think of a lot of other things to go into the strip mall before a bar.

Lieutenant Spencer Crandall said he did not have much to add to what was already stated. He said he wanted to give his apologies to Mr. Boettcher for the situation, however it sounded that under the statute the liquor license could be allowed to be at that location under the letter of the law. But by the meaning or the spirit of the law, the bar was within three hundred feet of the Latter-day Saints chapel. He did not think it should be approved to be there and to influence the type of community or culture that a good Christian church or community would like to have inspiring the youth. He said he was a father of two young children and walked the streets to Safeway and other places. He asked who was to say that someone driving home at night or in the afternoon might possibly be of harm to themselves or to others that walked the street and it was a great concern of his. He said with all respect to Mr. Boettcher, he hoped the Council denied the liquor license.

Margie Hildebrand said she was part of the executive committee for the Rita Ranch Neighborhood Association. Ms. Hildebrand said that afternoon she and Al Wiruth, President of the Rita Ranch Neighborhood Association, found it odd that not too long ago the Council approved the steeple for the church. She said the consideration of a liquor license within three hundred feet was a little strange to Mr. Wiruth. She said Mr. Wiruth asked her to speak at the meeting about the issue. She said she also wanted to mention they would be celebrating Family Fun Day at Purple Heart Park on May 27, 2006, and everyone was invited. She encouraged the Council to vote no on the liquor license.

Dana Staggs said he was there for three different reasons. He said he was one of the bishops that would be at the Latter-day Saints church. He also lived no more than a

half of a mile away by Cottonwood Elementary School. He was a teacher in the Vail School District and he would be transferring to Desert Sky Middle School. He said from a bishop's point of view he sympathized for Mr. Boettcher and said Mr. Boettcher seemed like a nice man. He said he thought Mr. Boettcher was probably advised inappropriately. He said they had owned the lot since December 2001, and whoever advised Mr. Boettcher did not make him aware of that. He said he did not know what kind of message was sent that a bar wanted to be put next to a church. He said most people knew they opposed drinking. They asked their members not to. He said they did not oppose people having the right to drink, it was just the wrong place. He said if Mr. Boettcher was to relocate a mile up the road to Mary Anne Cleveland Way and Houghton Road to the industrial area and he would probably get just as much business. It was just as easy to put a place there away from housing.

Mr. Staggs said from a father's point of view, if someone spent time at Rita Ranch they would see people walking the streets, walking the dog, families taking an evening walk, people exercising, on their bikes, they were out on the streets all the time. It was like going back to Tucson twenty or thirty years ago. He said he could guarantee that if there was a bar and the business it brought, all that would stop as parents would be worried about their children and would not want to be in that environment.

Mr. Staggs said from a schoolteacher's standpoint, it was a growing area with many children and a lot of buses that went by there. There were evening activities, especially sporting events, where children were transported to and they were normally driven around that area. If the buses came from Desert Sky Middle School they would come from Mary Ann Cleveland Way almost into the Vail area. He said he did not think it was the right place. He said he sympathized for Mr. Boettcher but it was just the wrong place to put a bar. It was not just a grill that had beer, it was a bar. He said he encouraged the Council to vote against it.

Darlene Faye said she did not have anything different to add, but she was a mother and had five grandchildren and Rita Ranch was a very family-oriented place. She said the bar was out of place there. She encouraged the Council to not vote for it.

Marilyn Johnson said she would speak for herself and her husband. Ms. Johnson said she was the mother of nine children and lived in Rita Ranch. She said they had been there for the last five and a half years and she was a native Tucsonan. She said the Council had all received her email and they had received many other emails from neighbors, friends, and family in regards to opposition of the bar being established. She said she echoed the feelings previously expressed. She sympathized for Mr. Boettcher, that he did not do his research properly, that he was misinformed that the church would be within three hundred feet of his establishment. She said they not only had three elementary schools, there was another elementary school that was posted and in position to be built in that area. She said they not only had that, but a junior high school and four churches with the Latter-day Saints church being the fifth. It was due to be completed at the end of summer in August 2006. She said she had a strong opposition to the license.

Ms. Johnson said no one mentioned the high school, which was within walking distance of the proposed location. All of the buses coming from Cienega and Empire High Schools round the corner that the bar was trying to established at. The main route going in and out of Rita Ranch was Rita Road. People could approach this saloon from Houghton Road. On any given evening as previously mentioned, families were walking, people had their dogs at the park, children were at the park that was within walking distance to the bar. She said there was a public pool within walking distance to the bar. She said she did not feel it was appropriate for the family rich environment, not only for her nine children, but for everyone else populating the streets, playing basketball, playing with their friends, riding to houses. This was not an appropriate area for a bar to be in. It needed to be further out. It needed to be in another location other than on that corner where buses passed, people were taking their children to sporting events, and parents were out walking and having a family environment in Rita Ranch. Ms. Johnson said she strongly opposed it, and she hoped they did too and she asked the Council to vote no.

Council Member Scott said she appreciated the intensity and interest of everyone who took the time to attend the meeting to comment to the Council on the issue. In addition to the speakers, she had copies of numerous emails regarding the same saloon.

Council Member Scott said there were several reasons she would be suggesting to the Council to deny the application. The Rita Ranch Neighborhood Association was not notified. The church property owner was not notified by the owner of the license. There were many protests on this and there were still some arriving. She said one of the things that struck her as odd, and she hated to mention it but it was important, that someone who over twenty years ago in his past, had several convictions, fines, and served jail time for driving under the influence would think at this time of his life to set up a bar. She said it seemed that it might not be a part of the twelve-step program she was familiar with. She said she thought another venue might be a better choice.

It was moved by Council Member Scott, duly seconded, and carried by a voice vote of 7 to 0 that liquor license application 5b7, Highnoon Saloon be forwarded to the Arizona State Liquor Board with a recommendation for denial.

6. CONSENT AGENDA – ITEMS A THROUGH N

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. FINAL PLAT: (S05-234) HAVEN LANE CONDOMINIUM, UNITS 1 TO 4, COMMON AREAS “A” AND “B”, LIMITED COMMON ELEMENTS 1 TO 4, AND LIMITED COMMON AREA “A”

1. Report from City Manager MAY16-06-244 WARD 3

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

B. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COMMUNITY COLLEGE DISTRICT FOR EDUCATIONAL COURSES AND PROGRAMS

1. Report from City Manager MAY16-06-245 CITY-WIDE
2. Resolution No. 20339 relating to Intergovernmental Agreements; approving and authorizing execution of an Intergovernmental Agreement between the City of Tucson and Pima Community College District (PCC) for educational courses and educational programs provided by Pima Community College District for the City of Tucson; and declaring an emergency.

Kathleen S. Detrick, City Clerk, read into the record a correction to the Resolution for Item B:

“Section 3: City Department Directors are authorized to execute any further addenda as outlined in Article II, Section B, of the Intergovernmental Agreement, and the City Clerk is directed to attest the same.” Prior Sections 3 and 4 were now numbered as Sections 4 and 5.

C. APPROVAL OF MINUTES

1. Report from City Manager MAY16-06-246 CITY-WIDE
2. Approval of minutes for the regular meeting of the Mayor and Council held on April 18, 2006.

D. PUBLIC IMPROVEMENT: WILMOT ROAD, BROADWAY BOULEVARD TO GOLF LINKS ROAD AND 28TH STREET, SWAN – BELVEDERE DISTRICT LIGHTING IMPROVEMENT

1. Report from City Manager MAY16-06-239 WARDS 4 AND 5
2. Resolution No. 20336 Resolution providing for the issuance of City of Tucson Improvement Bond, Series No. 817, for the “Wilmot Road, Golf Links – Broadway and 28th Street, Swan - Belvedere District Lighting Improvement.”

- E. ASSURANCE AGREEMENT: (S04-146) ELSTONE II SUBDIVISION, LOTS 1 TO 10
1. Report from City Manager MAY16-06-248 WARD 1
 2. Resolution No. 20340 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S04-146 of a final plat for the Elstone II Subdivision, Lots 1 to 10; and declaring an emergency.
- F. FINAL PLAT: (S04-146) ELSTONE II SUBDIVISION, LOTS 1 TO 10
1. Report from City Manager MAY16-06-247 WARD 1
 2. City Manager recommends that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- G. FINANCE: SALE OF CERTIFICATES OF PARTICIPATION FOR CAPITAL IMPROVEMENTS, SERIES 2006-A
1. Report from City Manager MAY16-06-238 CITY-WIDE
 2. Resolution No. 20323 relating to real and personal property; authorizing the execution and delivery of a Ground Lease, a Lease-Purchase Agreement, a Certificate Purchase Agreement and a Continuing Disclosure Undertaking; acknowledging and approving the execution of an Amendment and Supplement to a Declaration of Irrevocable Trust and the sale and delivery of one or more Series of Certificates of Participation in the Lease-Purchase Agreement pursuant thereto; and declaring an emergency.
- H. GRANT AGREEMENT: WITH THE ARIZONA DEPARTMENT OF PUBLIC SAFETY FOR THE 2006 MOTOR CARRIER ASSISTANCE PROGRAM
1. Report from City Manager MAY16-06-249 CITY-WIDE
 2. Resolution No. 20341 relating to law enforcement; approving and authorizing execution of a Grant Agreement between the City of Tucson and the Arizona Department of Public Safety for the purchase of a truck and equipment to assist in reducing commercial vehicle collisions and violations; and declaring an emergency.

- I. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR IMPROVEMENTS TO VALENCIA ROAD FROM MISSION ROAD TO INTERSTATE 19 AND PETITION FOR ESTABLISHMENT OF VALENCIA ROAD AS A COUNTY HIGHWAY
1. Report from City Manager MAY16-06-251 WARD 1
 2. Resolution No. 20342 relating to Intergovernmental Agreements and transportation; approving and authorizing the execution of an Intergovernmental Agreement with Pima County for improvements to Valencia Road from Mission Road to Interstate 19; and Petitioning for Establishment of a portion of Valencia Road as a County Highway; and declaring an emergency.
- J. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR IMPROVEMENTS TO COUNTRY CLUB ROAD FROM MILBER STREET TO 36TH STREET AND PETITION FOR ESTABLISHMENT OF COUNTRY CLUB ROAD AS A COUNTY HIGHWAY
1. Report from City Manager MAY16-06-253 WARD 5
 2. Resolution No. 20346 relating to Intergovernmental Agreements and transportation; approving and authorizing the execution of an Intergovernmental Agreement with Pima County for improvements to Country Club Road from Milber Street to 36th Street; Petitioning for Establishment of a portion of Country Club Road as a County Highway; and declaring an emergency.
- K. GRANT APPLICATION: TO THE ARIZONA STATE PARKS BOARD FOR A NATIONAL REGISTER NOMINATION FOR THE JEFFERSON PARK NEIGHBORHOOD
1. Report from City Manager MAY16-06-252 WARD 3
 2. Resolution No. 20343 relating to parks and recreation; approving the application for Historic Preservation Funds to complete a National Register Nomination for the Jefferson Park Neighborhood; and declaring an emergency.
- L. GRANT APPLICATION: TO THE ARIZONA STATE PARKS BOARD FOR IMPROVEMENTS TO THE TEMPLE OF MUSIC AND ART
1. Report from City Manager MAY16-06-254 WARD 6
 2. Resolution No. 20345 relating to parks and recreation; approving the application to Arizona State Parks for Historic Preservation Heritage Funds to complete access improvements to the Temple of Music and Art; and declaring an emergency.

M. ASSURANCE AGREEMENT: (S04-190) VACTOR RANCH SUBDIVISION, LOTS 108 TO 126 AND COMMON AREAS “A”, “B”, AND “C”

1. Report from City Manager MAY16-06-256 WARD 2
2. Resolution No. 20347 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S04-190 of a final plat for the Vactor Ranch Subdivision, Lots 108 to 126 and Common Areas “A” – “C”; and declaring an emergency.

N. FINAL PLAT: (S04-190) VACTOR RANCH SUBDIVISION, LOTS 108 TO 126 AND COMMON AREAS “A”, “B”, AND “C”

1. Report from City Manager MAY16-06-257 WARD 2
2. City Manager recommends that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

It was moved by Council Member Trasoff, duly seconded, that Consent Agenda Items A through N, including the amendment to Item B, be passed and adopted and the proper action taken.

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

Upon roll call, the results were:

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

Nay: None

Consent Agenda Items A through N, including the amendment to Item B, 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 and the Call to the Audience was scheduled to last for thirty minutes.

- a. Brian Delph, Tucson Firefighter's Association President, stated he would be leaving the force and wanted to thank the Mayor, Council and staff for the great relationship that developed with the Tucson Firefighter's Association in the past twenty years. He thanked the Mayor and Council for the budget that was presented, including the benefits to public safety.
- b. Linda Hatfield, representing the white collar Communication Worker's of America, stated that a proposed process for a second opinion on the safety studies was denied. She spoke about the budget, and that they had conducted a wage survey of cities in the Phoenix and Tucson areas. She also requested an explanation as to why there was an additional one percent for public safety officers and only one-half percent for white collar/blue collar employees.
- c. Michael Toney spoke about the palm trees that were removed from La Placita and that the Mayor and Council needed a policy on greens-keeping procedures. He also spoke about the International Visitor and Trade Center.
- d. John Hand spoke in opposition of the El Con Mall change of conditions. He felt stricter guidelines for deliveries and garbage removal was needed. He stated the existing conditions were setting a dangerous precedent and the original time-lines needed to be preserved.
- e. Isabel Garcia, spoke of the April 10, 2006. The Coalition was disappointed in the Police After Action Report and that Council did not take action in the Study Session.
- f. Roy Warden stated that the Tucson Police Department did a sterling job at the April 10, 2006 demonstration at Armory Park.
- g. Caroline Isaacs, representing the April 10th Coalition, requested that the City Council initiate an independent investigation to review the April 10, 2006 demonstration. She requested that the Independent Police Auditor be granted full subpoena power or that an impartial independent investigator be contracted to conduct the investigation.
- h. Russell Dove stated he said he supported the actions of the police on April 10, 2006.

- i. Lorena Howard requested that the Council look at the documentation compiled and requested an independent investigation into the events of April 10, 2006.
- j. Lillian Leighton stated she felt that the Tucson Police Department did a good job in protecting the counter-protesters in a dangerous situation on April 10, 2006.
- k. Al Garcia supported the actions of the police on April 10, 2006 and praised the procedures used by the Police Department.

Mayor Walkup announced that the remaining call to the audience cards would be marked and he would call on those first at the next scheduled Mayor and Council meeting.

8. ZONING: (C9-56-01, C9-74-34 AND C9-88-12) STARBUCKS – EL CON MALL, R-1, R-2, C-1, C-2, AND C-3, CHANGE OF CONDITION AND ORDINANCE ADOPTION

Mayor Walkup announced City Manager's communication number 250, dated May 16, 2006, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10279 by number and title only.

Ordinance No. 10279 relating to planning and zoning: amending Ordinance No. 9730 amending conditions for approval in rezoning Cases C9-56-01, C9-74-34 and C9-88-12, El Con Mall; and declaring an emergency.

Council Member Trasoff said there had been considerable discussions among neighborhood associations, El Con Mall, and the Ward 6 Office about the issue. There were concerns expressed and they tried to address all of them. Council Member Trasoff asked if Lane Oden was present and if he wanted to say anything.

Lane Oden, representing El Con Mall, said he was prepared to answer questions.

Council Member Trasoff said she saw representatives of two neighborhoods in the audience and asked Vince Rabago if he wished to speak.

Vince Rabago, El Conquistador Neighborhood Association President, said he had canvassed the neighborhood association and no one was opposed to the zoning. He said he would echo the comments made earlier by John Hand, with respect to the slippery slope, extending hours of the businesses and pads. The association was not opposing the plan and recognized a restaurant needing additional time for trash pick up. Mr. Rabago thanked Council Member Trasoff and her staff for answering questions and concerns on the matter.

José Rincon, El Encanto Neighborhood Association President, thanked Council Member Trasoff for initiating dialogue with El Con Mall. They learned about the issue late and with Council Member Trasoff's help, they hoped they would be able to adopt a

restricted delivery to Pad 2, to include one delivery for all of Pad 2, not per tenant, but one delivery for the entire pad. Everything else was supported by the neighborhood.

Mr. Rincon said the neighborhood would like the Council's support in moving forward and avoiding the slippery slope to reaffirm the specifics of the development agreement that so many had worked so hard to adopt and put in place. Now that they were trying to implement the development agreement, trying to support the mall and its future economic viability, there was one component that was critical. The El Con Tripartite Commission needed to be addressed and be formalized so there were continuous meetings to provide meaningful dialogue between the neighborhoods and El Con. Those concerns included, but were not limited to lighting issues, noise issues, deliveries, more and more trucks seem to appear on the premises, etc. Mr. Rincon said he appreciated the Council's support and looked forward to implementing the El Con Tripartite Commission.

Lane Oden said that sometimes it was easier to speak after someone because one could understand the issues. It was a negotiation process as they started out asking for quite a bit more, and through the El Con Tripartite Commission, committee meetings, meetings with Ward 6, and attending a neighborhood association board meeting, they carved it down to something more palatable to everyone involved. As to the Tripartite meetings, there was not a problem scheduling them. In the past they tried to schedule a meeting when there was something to discuss or bring up. They had not had much progress at the site. If they could set meetings quarterly or three times a year, they would be happy to do that.

Mr. Oden stated they had put a revision in the conditions as requested by Ward 6, which would require a little more policing on their part. They would keep a log of deliveries and the times they come in and they would be made available at the City's request, to monitor what was going on. Everyone needed to understand that Robinson May and JC Penney were not subject to the loading and deliveries schedule and they probably had the most deliveries. As long as they were there, there would be deliveries at night.

Council Member Trasoff said she understood that the two retail stores were grandfathered into the agreement and that was why they were not required to follow the schedule. She thanked Mr. Oden, José Rincon, and members of El Encanto Neighborhood Association who had met with the Ward 6 Office. The modification was made to include the fact that there would be only one truck delivery per night to Pad 2. The time line would be 10:00 p.m. to 7:00 a.m.

Council Member Trasoff said there was a concern raised, which was addressed in the current conditions, that trucks would come in and idle against the wall or near the El Encanto neighborhood. They had maintained logs of trucks when they came in and out. They had excellent security there that does track down problems. At the request of Ward 6, El Con would add additional signage to the walls that would state, "No Truck Parking, No Idling, Fines Imposed." So it would be very clear that there would be a designated area where trucks would go in order to wait for their delivery times. City staff would

have access to the night logs of the trucks on premises, as needed. The other modifications that were made were for the Pads on Broadway Boulevard. Trash would be picked up between 7:00 p.m. to 9:00 a.m.

Council Member Trasoff said as far as the Tripartite Commission was concerned, even if there were no issues, she requested meetings be held three times per year. Council Member Trasoff stated Ward 6 would be happy to host those meetings. She also said she had heard from Colonia Solana and Montevideo Neighborhoods and they were all in support.

Kathleen S. Detrick, City Clerk, indicated that the items Council Member Trasoff addressed were in the conditions as distributed to Mayor and Council on May 15, 2006 and they were part of Ordinance 10279.

It was moved by Council Member Trasoff, duly seconded, to pass and adopt Ordinance 10279.

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

Upon roll call, the results were:

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

Nay: None

Ordinance 10279 was declared passed and adopted by a roll call vote of 7 to 0.

9. FINANCE: TENTATIVE ADOPTION OF FISCAL YEAR 2007 BUDGET

Mayor Walkup announced City Manager's communication number 255, dated May 16, 2006, would be received into and made a part of the record. He asked the City Clerk to read Resolution 20337 by number and title only.

Resolution No. 20337 relating to finance; adopting a tentative budget for the 2007 Fiscal Year and fixing times and places, confirming time and place to conduct a truth in taxation public hearing and to conduct a public hearing on said budget, to adopt the final budget in a special meeting, to fix time and place to determine the primary and secondary tax levies for said Fiscal Year.

Council Member West stated for the benefit of the audience, Mayor and Council were setting a cap on the amount that was included in the budget. They could still work

on priorities and negotiations. She said it was commendable that the City had a sustainability plan and Mayor and Council was supportive of it.

Council Member West requested that next year they make the budget more user friendly. She wanted it to be friendly for the Council to find things and she wanted it to be citizen friendly.

Council Member West said next year she would like to see staff go back to a February schedule. She pointed out that the legislature was acting and there may be changes that may benefit the pension plan. She thought that at the same time budget capacity was set for sustainability, but still did not know the numbers. For example, she could not find the forty police officers the City would hire, but she found out it was in the budget capacity. The average lay person and others may not be aware of things like that. There were numbers in the Environmental Services budget that were missing because the Arizona Department of Environmental Quality had not given the City the exact numbers as yet.

Council Member West said some items, like the Rio Nuevo budget were nonexistent, but would be in the final budget and she knew there were many reasons for that. She knew the City was doing a good job providing expanding services, Council had to treat employees well too, and that was the bottom line for a lot of them sitting on the dais. She would work with the rest of the Council to assure a more open budget process in the future.

Vice Mayor Leal said he felt Council Member West was right to raise some questions about the way the budget was put together. He thought the reality was better than the document in terms of the thought and planning that went into the strategic plan vision. The evolution of the document had not caught up with the intentions of planning behind it. At the same time, Council had an obligation for the document to be readable for the public and for Mayor and Council. He thought the process and the time table that they all came together to create, should be more user friendly. In past times, participation in discussions had been started in February and he thought it was late this year.

Vice Mayor Leal said for the coming year, Council should have an eye for how the document was put together, how transparent it was, and how Council engages with the various bargaining units and the community around their participation regarding what was in the document. He thought Council would be looking at it in the coming year in preparation for the next time around. The planning work that staff and Mayor and Council had done was the real indicator of where the City was heading.

Council Member West said she handed out a memo regarding her concern about the fact that a lot of the budgets buried in Volume II of the Recommended Biennial Budget, the non-departmental section on page 227, outside agencies, had no performance measures. When she talked to the City Manager, she learned they were listed in the contracts. She said the performance measures were extremely important, and the Council should have the performance measures before the final adoption of the budget, so Council

would know what they were and how they would hold those people and agencies accountable.

Mayor Walkup said Vice Mayor Leal and Council Member West were correct in saying there was a lot of good news in the budget. Council's job was to set policy and talk about policy and sustainability. The notion of giving a backward look from ten years and say what had to be done now, in order to create some kind of condition ten years from now, was an extraordinary important strategy the City Manager put into place.

Mayor Walkup said he was pleased that Council would be able to adopt as a policy to move to 12.4 police officers per one thousand citizens, which would be five hundred and seventy new officers over ten years. He hoped it could be done faster than ten years. Fire would be another three hundred and forty people. Everyone on the Council wanted to meet their obligation to respond to citizens who needed help.

Mayor Walkup said he was pleased that there was funding for City neighborhood streets and was also pleased with what was being done with Parks and Recreation for children, families, and seniors.

Mayor Walkup wished they could have started negotiations with some of the Union representatives earlier because it was a complicated budget. They would have had a chance to understand where items they were interested in were found in the budget, which was difficult to find, and would do a better job in the future. Council would adopt a draft budget that would set the limits, but it did not stop the negotiation process, and he thought there was still room for discussion. He stated Council had a good start for the next two years.

It was moved by Council Member West, duly seconded, to pass and adopt Resolution 20337.

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

Upon roll call, the results were:

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

Nay: None

Resolution 20337 was declared passed and adopted by a roll call vote of 7 to 0.

10. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 242, dated May 16, 2006, would be received into and made a part of the record.

Mayor Walkup asked for a motion to approve the appointments in the report.

It was moved by Council Member West, duly seconded, and carried by a voice vote of 7 to 0, to appoint James Barry and Daniel Sullivan to the Citizen's Water Advisory Committee.

Mayor Walkup asked if there were any personal appointments.

Council Member Uhlich announced her personal appointment of Tom Rhodes as the Ward 3 representative to the Transportation Enterprise Area Management Oversight Commission.

11. ADJOURNMENT 7:08 p.m.

Mayor Walkup announced the Mayor and Council would stand adjourned until its next regularly scheduled meeting to be held on Tuesday, June 6, 2006, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 16th day of May 2006, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:kad/ds