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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on December 18, 2018

Date of Meeting: May 22, 2018

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 5:46 p.m., on Tuesday, May 22, 2018, all members having been notified of the time and place thereof.

### 1. ROLL CALL

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

Present:

Regina Romero  
Paul Cunningham  
Paul Durham  
Shirley C. Scott  
Richard G. Fimbres  
Steve Kozachik  
Jonathan Rothschild

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

Absent/Excused:

None

Staff Members Present:

Michael J. Ortega  
Michael Rankin  
Suzanne Mesich

City Manager  
City Attorney  
Assistant City Clerk

**City Clerk Note:** The minutes of May 22, 2018, as approved by the Mayor and Council, contained a clerical error on page 19. Within the text of the corrected document, deleted text is ~~struck through~~ and corrected text is in **bold**. RWR;yl 12/19/18

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

**a. INVOCATION**

The invocation was given by Rabbi Ruven Barkan, Congregation Anshei Israel.

**b. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Council Member Shirley C. Scott.

**c. PRESENTATIONS:**

1. Mayor Rothschild proclaimed November 10, 2018 to be “YMCA Community Military Ball Day”. Ted Maxwell and John Almquist accepted the proclamation.
2. Mayor Rothschild proclaimed the week of May 20-26 to be “Emergency Medical Service Responder’s Week”.
3. Mayor Rothschild, assisted by Council Members Romero and Fimbres, proclaimed May 22, 2018, to be “El Guero Canelo” Day. Daniel Contreras accepted the proclamation and was presented with the James Beard Medal Copper Award.

**d. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS**

Mayor Rothschild announced City Manager’s communication number 152, dated May 22, 2018, was received into and made part of the record. He asked if there were any personal appointments to be made.

There were none.

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

Mayor Rothschild announced City Manager’s communication number 153, dated May 22, 2018, was received into and made part of the record. He also announced this was the time scheduled to allow members of the Mayor and Council and the City Manager to report on current events and asked if there were any reports.

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

Current event report was given by Michael J. Ortega, City Manager.

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

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

Mayor Rothschild announced City Manager's communication number 154, dated May 22, 2018, was received into and made part of the record. He also announced this was the time scheduled to allow Boards, Committees and Commissions to report on their activities during the past year, as well as, anticipated future activities.

Report was given by Margot Garcia, Transit Task Force (TTF) Chairperson.

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

**5. LIQUOR LICENSE APPLICATIONS**

Mayor Rothschild announced City Manager's communication number 155, dated May 22, 2018, was received into and made part of the record. He asked the City Clerk to read the Liquor License Agenda.

**b. Liquor License Application(s)**

**New License(s)**

1. Lindy's, Ward 2  
8995 E. Tanque Verde Rd.  
Applicant: Thomas Robert Aguilera  
Series 12, City 21-18  
Action must be taken by: May 13, 2018

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

2. The Buffalo Spot, Ward 6  
760 N. Tyndall Ave.  
Applicant: Jamie Allyson Standage  
Series 12, City 23-18  
Action must be taken by: May 19, 2018

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

3. Rincon Market, Ward 6  
2513 E. 6th St.  
Applicant: Peter Thomas Wilke  
Series 10, City 24-18  
Action must be taken by: May 27, 2018

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

NOTE: State law provides that for a new license application “In all proceedings before the governing body of a city...the applicant bears the burden of showing that the public convenience requires and that the best interest of the community will be substantially served by the issuance of a license”. (A.R.S. Section 4-201)

Person Transfer(s)

4. Rincon Market, Ward 6  
2513 E. 6th St.  
Applicant: Peter Thomas Wilke  
Series 7, City 25-18  
Action must be taken by: May 27, 2018

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

5. Safeway #959, Ward 2  
6363 E. 22nd St.  
Applicant: Nicholas Carl Guttilla  
Series 9, City 26-18  
Action must be taken by: May 31, 2018

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

6. Safeway #963, Ward 2  
6600 E. Grant Rd.  
Applicant: Nicholas Carl Guttilla  
Series 9, City 28-18  
Action must be taken by: June 3, 2018

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

7. Safeway #3203, Ward 1  
1350 N. Silverbell Rd.  
Applicant: Nicholas Carl Guttilla  
Series 9, City 29-18  
Action must be taken by: June 3, 2018

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

8. Safeway #3964, Ward 2  
9595 E. Broadway Blvd.  
Applicant: Nicholas Carl Guttilla  
Series 9, City 30-18  
Action must be taken by: June 3, 2018

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

9. Safeway #961, Ward 3  
2854 N. Campbell Ave.  
Applicant: Nicholas Carl Guttilla  
Series 9, City 31-18  
Action must be taken by: June 3, 2018

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

NOTE: State law provides that for a person to person transfer Mayor and Council may consider the applicant's capability qualifications and reliability. (A.R.S. Section 4-203)

Person/Location Transfer(s)

10. Iron Johns Brewing Company, Ward 6  
222 E. Congress St.  
Applicant: Kevin Arnold Kramber  
Series 7, City 18-18  
Action must be taken by: May 13, 2018

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

11. Galaxy Luxury+, Ward 2  
100 S. Houghton Rd.  
Applicant: Thomas Robert Aguilera  
Series 6, City 27-18  
Action must be taken by: June 3, 2018

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

Public Opinion: Written Argument in Support Filed

NOTE: State law provides that for a person and location transfer Mayor and Council may consider both the applicant's capability qualifications reliability and location issues. (A.R.S. Section 4-203; R19-1-102)

c. Special Event(s)

1. Old Pueblo Rugby Football Charities, Inc., Ward 6  
900 S. Randolph Way  
Applicant: Matthew Schmidt  
City T61-18  
Date of Event: May 24, 2018 - May 27, 2018  
(Professional Baseball Game)

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

2. Old Pueblo Rugby Football Charities, Inc., Ward 6  
900 S. Randolph Way  
Applicant: Matthew Schmidt  
City T62-18  
Date of Event: May 31, 2018 - June 3, 2018  
(Professional Baseball Game)

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

- d. Agent Change/Acquisition of Control/Restructure

NOTE: There are no application(s) for agent changes scheduled for this meeting.

It was moved by Vice Mayor Cunningham, duly seconded, and carried by a voice vote of 7 to 0, to forward Items 5b1 through 5b11 and 5c1 through 5c2 to the Arizona State Liquor Board with a recommendation for approval.

## 6. CALL TO THE AUDIENCE

Mayor Rothschild announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for items scheduled for a public hearing. He said speakers were limited to three-minute presentations.

Mayor Rothschild also announced that pursuant to the Arizona Open Meeting Law, individual Council Members may ask the City Manager to review the matter, ask that the matter be placed on a future agenda, or respond to criticism made by speakers. However, the Mayor and Council may not discuss or take legal action on matters raised during “call to the audience.”

Vice Mayor Cunningham asked if members of the audience could be updated on what happened at the Study Session with regard to the re-naming of Alvernon Park.

Michael Rankin, City Attorney, stated as discussed during the Study Session, Consent Agenda Item h relates to the commemorative recognition of Jeffrey H. Ross. He said based on the agreement between the stakeholders, it was staff’s intention to amend the Resolution in front of the Mayor and Council so that the first section read, “The Mayor and Council approve the commemoration of Jeffrey H. Ross as follows, within the park, one sign would identify “Alvernon Park,” and below that, the sign would say, “Jeff Ross Memorial”. He said at a separate location in the park, there would be a memorial plaque commemorating Jeffrey H. Ross.

Comments were made by:

Ray Pesqueira  
Nancy Huff  
Francesca Jarvis  
Jackie Lyle

Donald Ijams  
Margaret Drugay  
Richard Roati  
Tom Starrs

John Ross  
Heather Ross  
Sharon Otstot  
Karen Greene

Vice Mayor Cunningham requested the City Attorney to follow up with Mr. Starrs on the item he brought up during Call to the Audience.

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

**7. CONSENT AGENDA – ITEMS A THROUGH L**

Mayor Rothschild announced the reports and recommendations from the City Manager on the Consent Agenda were received into and made part of the record. He asked the City Clerk to read the Consent Agenda.

**a. APPROVAL OF MINUTES**

1. Report from City Manager MAY22-18-164 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of November 8, 2017

**b. INTERGOVERNMENTAL AGREEMENT: WITH VARIOUS AGENCIES FOR PARTICIPATION IN THE ARIZONA CHILD ABDUCTION RESPONSE TEAM**

1. Report from City Manager MAY22-18-171 CITY WIDE
2. Resolution No. 22895 a Resolution of the Mayor and Council of the City of Tucson, Arizona, authorizing and approving an Intergovernmental Agreement (IGA) among the City of Tucson, the Town of Oro Valley, the Town of Marana, the Town of Sahuarita, the City of South Tucson, the City of Sierra Vista, the City of Nogales, the City of Florence, the City of Apache Junction, the City of Chandler, the Town of Gilbert, the Town of Maricopa, the City of Mesa, the Town of Paradise Valley, the City of Phoenix, the City of Scottsdale, the Court of Maricopa, the City of Glendale, the County of Navajo, the City of Page, the City of Peoria, the County of Pinal, the City of Show Low, the City of Tempe, the Pima County Sheriff's Department, the Arizona Department of Public Safety, the Federal Bureau of Investigation, and future jurisdictions that are legally authorized to join this agreement for participation in the Arizona Child Abduction Response Team (CART); and declaring an emergency.

**c. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE FISCAL YEAR 2017 BODY-WORN CAMERA PROGRAM**

1. Report from City Manager MAY22-18-163 CITY WIDE

2. Resolution No. 22890 relating to Grants and Tucson Police Department; approving an Intergovernmental Agreement ("IGA") between the City of Tucson ("City") and Pima County ("County") providing funding from the Office of Justice Programs ("OJP") through its Bureau of Justice assistance for award of the Fiscal Year 2017 (FY17) Body-Worn Cameras Program Grant ("Grant"); and declaring an emergency.
- d. REAL PROPERTY: ACQUISITION OF FEE TITLE TO A PORTION OF THE FORMER HUGHES ACCESS ROAD
1. Report from City Manager MAY22-18-156 WARD 5
  2. Resolution No. 22891 relating to Transportation, Real Property and Economic Initiatives; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, a fee title interest to a portion of the former Hughes Access Road; and declaring an emergency.
- (This item was continued to the meeting of June 5, 2018, at the request of staff.)
- e. REAL PROPERTY: ACQUISITION OF PROPERTY ADJACENT TO THE LOS REALES LANDFILL
1. Report from City Manager MAY22-18-157 WARD 5
  2. Resolution No. 22892 relating to Real Property and Environmental Services; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, property adjacent to the Los Reales Landfill; and declaring an emergency.
- f. REAL PROPERTY: VACATION AND SALE OF SURPLUS RIGHT OF WAY ON 10TH AVENUE AT GRANT ROAD
1. Report from City Manager MAY22-18-158 WARD 3
  2. Ordinance No. 11549 relating to Transportation and Real Property; vacating 10th Avenue Right of Way located at West Grant Road; declaring it surplus City-owned Property; authorizing the sale thereof; and declaring an emergency.
- g. GRANT APPLICATION: TO THE FEDERAL TRANSIT ADMINISTRATION FOR URBANIZED AREA FORMULA FUNDS, SURFACE TRANSPORTATION PROGRAM FUNDS AND BUSES AND BUS FACILITIES
1. Report from City Manager MAY22-18-167 CITY WIDE



2. Resolution No. 22893 relating to Transportation and Mass Transit; authorizing and approving the submission of Federal Transit Administration (FTA) Applications; Grant #AZ-2018-011-00 for Surface Transportation Program (STP) Funds; and FTA Grant #AZ-2018-012-00 for Urbanized Area Formula Funds (Section 5307) and Buses and Bus Facilities (Section 5339); and declaring an emergency.
- h. PARKS AND RECREATION: NAMING ALVERNON PARK THE "JEFFREY H. ROSS MEMORIAL PARK"
1. Report from City Manager MAY22-18-168 WARD 6
  2. Resolution No. 22894 relating to Parks and Recreation; authorizing and approving the renaming of Alvernon Park to: "The Jeffrey H. Ross Memorial Park"; and declaring an emergency.
- Michael Rankin, City Attorney, said the Resolution would be revised to reflect an agreement between the stakeholders to approve the commemoration of Jeffrey H. Ross as follows: within the park, one sign would identify, "Alvernon Park", and below that, the sign would say, "Jeff Ross Memorial". At a separate location in the park, there would be a memorial plaque commemorating Jeffrey H. Ross.
- i. GRANTS: GRANT-IN-AID AGREEMENT WITH THE TOHONO O'ODHAM NATION FOR OURY POOL
1. Report from City Manager MAY22-18-173 WARD 1
  2. Resolution No. 22897 relating to Finance; approving Grant-in-Aid Funding from the Tohono O'odham Nation ("Nation") for Oury Pool Bath House renovations; authorizing the Director of the Department of Finance to enter into the agreement between the City of Tucson ("City") and the Nation for such project; and declaring an emergency.
- j. TUCSON CODE: AMENDING (CHAPTER 19) REDUCING THE RECREATIONAL VEHICLE SURCHARGE
1. Report from City Manager MAY22-18-165 CITY WIDE
  2. Ordinance No. 11550 relating to Taxation; amending Tucson Code Section 19-66(b); reducing the recreational vehicle surcharge to zero; and declaring an emergency.
- k. FINAL PLAT: (S17-075) 18TH STREET BUNGALOWS, LOTS 1 THROUGH 4
1. Report from City Manager MAY22-18-159 WARD 5

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

1. CHIEF OF POLICE: AMENDMENT TO EMPLOYMENT AGREEMENT

1. Report from City Manager MAY22-18-174 CITY WIDE
2. Ordinance No. 11553 relating to the Tucson Police Department; approving the Employment Agreement with Christopher J. Magnus as the City of Tucson Chief of Police; and declaring an emergency.

Michael Rankin, City Attorney, announced a correction to the Ordinance. He said the amount in Section 3 would be amended to read \$210,000.00, instead of \$205,000.00, as mentioned during the afternoon's Study Session.

Council Member Kozachik asked for confirmation on item h, regarding the re-naming of Alvernon Park and thanked the groups for working together on it.

It was moved by Council Member Kozachik, duly seconded, and passed by a roll call vote of 7 to 0 that Consent Agenda Items a – 1, with the exception of Item d, which was continued at the request of staff and including the amendments to Items h and l be passed and adopted and the proper action taken.

8. **PUBLIC HEARING: AMENDING TUCSON CODE (CHAPTER 27) RELATING TO AN INCREASE IN WATER RATES FOR FISCAL YEARS 2019 THROUGH 2022**

Mayor Rothschild announced City Manager's communication number 166, dated May 22, 2018, was received into and made part of the record. He said that this was the time and place legally advertised for a public hearing on the proposed increase to water rates.

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

Comments were made by:

Russ Bond	Yolanda Herrera	Jennifer Rawson
Elizabeth Pinapfel	Mark Oswald	Rene Pina
Daniel Stormont	Gene Griffiths	W. Mark Day
Jana Segal		

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

Mayor Rothschild asked the City Clerk to read Ordinance 11551 by number and title only.

Ordinance No. 11551 relating to Water; amending certain portions of the Tucson Code, Chapter 27, Water, Article II, rates and charges; Section 27-32.1, monthly reclaimed water service charges; Section 27-33, monthly potable water service charges; and Section 27-34, charges for fire protection service for Fiscal Year (FY) 2019, FY 2020, FY 2021, and FY 2022; and setting an effective date.

Suzanne Mesich, Assistant City Clerk, stated the Ordinance included a July 2, 2018 effective date for Fiscal Year 2019; July 1, 2019 effective date for Fiscal Year 2020; July 6, 2020 effective date for Fiscal Year 2021; and July 5, 2021 effective date for Fiscal Year 2022.

(NOTE: Council Member Fimbres departed at 7:27 p.m., and returned at 7:30 p.m.)

Mayor Rothschild stated there were two things that concerned him. He said he knew staff did their best to try to address families that were on a fixed or low income, but he did not know how great the City's outreach program had been. He stated he also knew there were fixed costs for certain meters used where it did not matter how little water was used. He said there was something about that that did not feel completely right to him.

Mayor Rothschild said on the other end of the spectrum, there was the issue of reclaimed water, which essentially addressed a predominant constituency. He said that particular constituency had not seen any increases when everyone else had, which he felt was an equity issue, but understood that because of the volume they used, those numbers as they went up became relatively significant, relatively quickly into that business.

Mayor Rothschild continued explaining his position regarding the item. He commented that a four-year rate increase plan created stability, and that because of the City's previous good management of water, they had increased the water table in this desert. He said, however, he was leaning towards a two-year rate increase plan for a couple of reasons. He said one, there were still things that could be worked out and wanted to give people time to work it out and two, he could say four years for everybody and two years for golf, which he did not think was fair either.

Council Member Romero commented that she was not supporting the water rate increase proposal from Tucson Water (TW). She said in her ten years of service, the last nine times she voted "yes" on water rate increases. She continued to explain her decision. She said under the old model of, "if you use more you pay more," was the right message that was being sent out, but within the last four years, TW had not been sending the message of conservation. She said the trend of charging more increases on monthly services charges had been going up.

Council Member Romero stated this particular proposal was proposing a thirty percent increase in monthly service charges, thus taking away the conservation signal that

should be sent to each and every water rate customer. She said thirty percent on a fixed income could be a family or a senior citizen who might not be able to qualify for the City's low income assistance program. She commented that she supported rate increases on reclaimed water even though she was concerned about the model golf used. She said she also supported water rate increases across all rate payers.

Council Member Romero remarked she did not think it was a good idea for any of the City's rate payers to have more than a twenty-six percent increase in their water rates with the four year model in front of the Mayor and Council. She said she also agreed that a two year model was best, even though she was not going to support the current proposal. She said one of the biggest reasons she was not supporting the increase was because of the Water Infrastructure Incentive Program (WIIP) her colleagues had approved earlier in the year.

Council Member Romero stated the WIIP created a \$2.5 million a year program that would hand those water infrastructure dollars to corporations that came to Tucson. She said she was not supporting the WIIP because she had never seen, in any of the City's incentive programs that attract jobs and economic development, where the City took money from people and residents to give it to corporations. She commented that the WIIP did exactly that and used the City's precious water resources as an incentive, which she felt was a wrong signal to send.

Council Member Romero explained that within the next four years, thirty percent increases in administrative service charges and a 26.1% increases in the rest of the water rates was wrong and created a \$2.5 million "pot" to give to corporations and taking it out of the pocket of people like Ms. Ross. She said she did not think it was fair and they should not have ever voted for the WIIP.

Vice Mayor Cunningham commented he was a little nervous approving a four-year increase. He said encouraging conservation was important. He said his first concern, in looking at the golf piece, was that TW was charging by both the ccf and the acre foot at a certain acre foot usage. He stated that the City did not get to "wheel" all of their reclaimed water allotment and by doing so, they was helping the City somewhat.

Vice Mayor Cunningham his second concern was that TW was requesting to go from \$13.53 to \$15.00 and even as far as \$16.33 the following year. He said it made him a bit nervous going all the way up to \$20.00 over a four year period, which was a little high. He recapped how far the City had come with their water usage and allotment.

Vice Mayor Cunningham stated that the proposal, if approved as it stood, the average residential user, as long as they cut their ccf use by two, their bill would only go up six cents for the next four years. He said some pieces of the proposal were good. He continued stating that the proposal still put TW in line with other water utilities around the state and country where they were not in the higher percentile of rates.

Vice Mayor Cunningham commented there were still some things that could be done to possibly help reduce the fixed cost rate. He said currently the minimum to qualify for the low income program, on a single person's household income was \$1271 a month. He said the average monthly Social Security check was \$1405 per month. He suggested tweaking the low income program minimum of \$1271 a month closer to the \$1405 so that some of the retirees on fixed incomes did not feel the bite of the fixed charge.

Vice Mayor Cunningham explained that the City had a robust and awesome reclaimed water infrastructure system which was paid primarily by the golf courses. He said he had two problems with "sticking it" to golf, over the next four year period. One was that it was not a nice thing to do and two, closing nine to fourteen golf courses added to the problems golf was already experiencing. He said he preferred a one-year rate increase plan and hoped they could have some time to work things out and tweak the plan. He said he would support a one-year water rate increase, but not a four-year increase.

Council Member Fimbres asked staff to remind the Mayor and Council about the status of the low income program and how it would change with the new proposal. He also asked how low income was defined.

Timothy Thomure, Tucson Water Director, said the current limited income program had one set of qualifications in play. If someone qualified for it, they qualified for a fifty percent reduction in their total water bill. He said the proposed addition to that was that there would be an option for the consumer to either take the fifty percent reduction or a fixed rate of payment assistance off their water bill that was more than the base rate even as the base rate increased.

Mr. Thomure reiterated that if someone qualified for the limited income program and the increase to the base rate was covered under that proposal, they could actually end up with more than fifty percent off of their water bill if they were a low water using limited income customer. He said the new option provided for a conservation incentive on top of that. He also mentioned they had a meeting with AARP to talk about income thresholds and to develop a proposal to tweak the limited income plan.

Mr. Thomure stated that the limited income program was a program that TW could bring back to the Mayor and Council, at any time, regardless of whether action on the rates was taken at the evening's meeting. He said the program could be augmented or altered and how it was applied subsequently.

Council Member Scott asked about the service charges and if it was true that the rates were being increased by a high amount.

Mr. Thomure commented there was some truth in that and some corrections he needed to make. He explained that one of the speakers spoke about going to ninety or ninety-nine percent, which was not true. He said currently, the fixed revenues collected

were about twenty-five percent. He stated that the new plan proposed to bring that fixed revenue recover up to thirty percent, which was the low end of industry standards. He clarified industry standards for a public water utility was to have thirty to fifty percent of their revenues come from fixed charges and TW was well below the low end of the range, while it was correct it was a cumulative thirty percent, it was correct in that it would go up approximately twenty dollars in year four, was actually indexed to get TW to twenty-nine percent. He said it was about revenue stability and being at the low end of the range by no means was it open-ended, “raise it as much as we can” or try to get to ninety percent or higher fixed revenue.

Council Member Scott asked if the industry standard was the gauge by which TW was governed. She asked what that meant.

Mr. Thomure said it was not a law or regulation; it was about financial stability, a policy, which spoke to the ability of a financial plan to hold up over a period of time by having fixed revenues. He commented that if they thought in terms of what happened during the last recession when there were significant impacts across the economy, one of the big impacts was to TW where everything was in variable revenues and they dropped down to a point where they only had eleven days of operating cash.

Mr. Thomure stated TW should be at one hundred twenty to three hundred days of operating cash and this new proposal was not to drive them even to the three hundred days, but was to assure them against a catastrophic loss of revenue. He said the volume metric rates were still in the higher tiers and they still went up year-by-year in the proposal.

Council Member Scott commented that someone made the statement that the lower water users were paying more in rates. She asked if that was correct.

Mr. Thomure stated that the lower the water usage was, the lower the water bill would be. He said it was true that if the base rate was increased, the net percentage on a total water bill, as a lower water user, would be higher than as a higher water user. He stated increasing the base rate had a proportionate higher percentage rate on the lower water usage which again tied back to the financial stability of trying to not fall below twenty percent which TW was trending toward in trying to get to stability.

Council Member Scott asked if the City of Tucson was known, beyond its own City borders, for its water conservation.

Mr. Thomure responded, as mentioned earlier, Tucson was the water utility of the year for Arizona.

Mayor Rothschild commented that the City of Tucson was just voted as the number one water conservation city in their class throughout the United States.

Council Member Scott replied she was not at all surprised the history of Tucson had been published in international letters stating similar kinds of things. She said it was good Tucson was being recognized for this. She continued stating that some years ago, the City was forced by the federal government to move away from ground water. She informed there were a lot of wells all over Tucson and the basin. She stated the City was told to shut the wells down and not use them again; and that they must buy Central Arizona Project (CAP) water.

Council Member Scott commented the City went from ground water to surface water. She asked what the financial implications of that were and if TW controlled the costs associated with CAP water.

Mr. Thomure responded Council Member Scott was correct in that the last two decades, TW had to make the transition of local ground water, which Tucson did not have to pay for, to imported Colorado River water. He said that impacted TW's budget by \$23-\$25 million a year. He stated, in looking back at rate increases, and talking about the percentages in 2010 and since then, Tucson was looking at annual rate increases of ten, nine and even eight percent for a period of years. He said most of that was to pay for the infrastructure to use the water being imported and to get up to the point where TW could purchase their water.

Mr. Thomure commented that currently, TW was still looking at debt from those activities and they were still working through that. He said looking at those charts of what the City's debt picture looked like, it got better as they moved forward. He also said, as they looked at what that had done, as far as their ability to have rate increases proposed over the next four years, they were the lowest rate increases since 2010 and the lowest cumulative rates because they still had investments to be made.

Council Member Scott asked about the Citizen's Water Advisory Committee (CWAC). She stated that CWAC was created in order to hear from the public and TW on what their plans were and for them to become fully aware and educated on the issues TW was confronted with. She asked what their vote was regarding the proposal.

Mr. Thomure responded CWAC's vote was in favor of what was proposed by staff, but for the first two years only. He said they went through every detail of the operating and capital budgets and they fully agreed with their needs, the amount of revenue required and looked at their cost of service and how charges were allocated, either to reclaim or customer users. He stated that revenue needed to be recovered from somewhere, reclaim water user or residential potable user.

Mr. Thomure explained that their entire chemistry was all reviewed with CWAC and they voted to recommend to the Mayor and Council, an agreement for the first two years, including the reclaimed rate increases. He said they also recommended that if the Mayor and Council were to adopt all four years, that they only adopt the reclaimed increase for the first two years out of the four. He confirmed it was a general agreement and complete agreement on two years.

Council Member Scott pointed out that, when a company came into town, from her understanding, the majority of people rejoiced. She referred to companies such as Amazon, Caterpillar and Raytheon who was expanding. She stated this meant jobs for the City for local people and wealth. She explained that when wealth was generated; it then off-set any kind of “perks” or “incentives” the City might offer. She asked if the City would then close their doors, shut down completely and say they were not interested in having these types of investments for people who live here and their children or grandchildren to have opportunities to work, produce wealth and enjoy this lifestyle that everyone was here to enjoy. Or should the City then say it was a choice to be made to create good jobs, create wealth which offered opportunities and an off-set to any incentives that were small, relatively speaking, to a company.

Council Member Scott commented there were two points of view in this situation and TW was at the heart of it all. She said shutting down wells and going to surface water that had to be paid for, including the infrastructure that carried it to the City, was something everyone was experiencing and could not be controlled how much TW had to raise their rates to cover these costs. She asked, living in the desert, what happened to the water that would normally accumulate in the aquifer, did it sink and go away or did it stay.

Mr. Thomure responded that when the local ground water was not utilized, the water table rose underneath Tucson and the vast majority stayed in the local aquifer where it could be used in the future. He said while TW was required to move from ground water to surface water, which was absolutely the right thing to do, the ground water was still a long term backup supply for any unforeseen circumstances and even foreseen circumstances where there might be a shortage of CAP water. He said preserving the ground water preserved Tucson’s ability to be sustainable.

Council Member Scott asked if TW was using all of the allocation they could get from CAP water and what was being done with it if it was not being used immediately.

Mr. Thomure stated that in most years, TW purchased all of the CAP water they had the rights to and they either used it in that year or if their rights were greater than what was used, which they were, was recharged in the aquifer locally for future use. He said in 2017 and 2018, TW did not plan to purchase their full allocation because they made a choice to work with other Colorado River basin communities to leave some of the water Tucson had rights to in Lake Mead. He commented that Lake Mead was within five to six feet of a shortage in elevation.

Mr. Thomure said TW collectively understood the benefits of delaying a shortage until they could get additional water into the ground and until they had more resilience for that shortage. He said the Mayor and Council, for 2017 and 2018, allowed TW to amend the order to leave a contribution to Lake Mead.



Council Member Scott asked if the City of Tucson was the only jurisdiction that banked water, was there any other entity that used our facility for that purpose and did they pay the City to do that.

Mr. Thomure responded there were several other entities that either stored or banked their water allotment in the City's facilities; Arizona Water Banking, the City of Phoenix was currently storing thirty-six thousand, five hundred acre feet and the State of Nevada also had water stored in Tucson. All entities paid the City a significant amount of money to have their water stored in our facilities.

Council Member Scott reiterated that the City of Phoenix was storing water in Tucson which they were paying for and had a right to get back someday. She said Tucson had the facilities built in place that TW foresaw the need to do and invest in; therefore were great in looking at a long-term vision and being able to offset some of the expense by allowing other jurisdictions to store their water allocation. She commented that TW had done an excellent job in taking care of this precious commodity.

It was moved by Council Member Scott, duly seconded, to pass and adopt Ordinance 11551, as recommended by the Citizen's Water Advisory Committee with the increase to rates for two years instead of the four years originally proposed.

Discussion was held regarding what CWAC's recommendation was, four years on the rate increase with only two years on the reclaimed water or two years on everything.

Mayor Rothschild asked Council Member Scott what her intention of the motion was.

Council Member Scott replied she was trying to echo CWAC's recommendation and asked for clarification on that.

Mr. Thomure responded that CWAC's recommendation was to approve what was proposed by staff but only for two years which included the reclaimed water.

Council Member Durham asked about the reclaimed water rates. He said he had an email from George White, The Lodge at Ventana Canyon CEO, who told him that the City's reclaimed water rates had increased over thirty percent within the last six years.

Mr. Thomure responded that he had to verify that information but was not surprising to him. He said the more years added on to the math, the higher the percentage rate. He said predominantly, for Mr. White's operation, their largest expense was the reclaimed water for their golf facility. He said when talking about their domestic use, it was much less than the reclaimed use.

Council Member Durham reiterated that Mr. White was referring to their reclaimed water use only.

Mr. Thomure stated the recent history on the reclaimed water use, they had a standard reclaimed water rate, an environmental rate which was governed by a whole different set of factors which was not part of what TW was proposing to increase and then there were some contracted reclaimed water rates. He said Mr. White was one that had a contracted reclaimed water rate.

Mr. Thomure said for the last two years, there was no increase to either the standard rate or the contracted rates. The two years prior, there was no increase to the standard rate, but increases to the contacted rates until they reached parity with the standard rates. He informed the Mayor and Council that for most operations that paid the standard rate, they did not have any rate increases for four years, but there were a number of contract holders that did not have a rate increase for two years, but had increases in the years prior.

Council Member Durham asked what rate Pima County Parks paid for reclaimed water as well as City parks.

Mr. Thomure responded that Pima County paid the environmental rate which was governed by an Intergovernmental Agreement (IGA) between the City of Tucson and Pima County. He said it was informed by the fact that Pima County owned some of effluent that was generated locally. He continued saying that the City of Tucson owned a lot of the local effluent that became reclaimed water but not all of it. He said the Town of Oro Valley owned effluent that was wheeled by the City to their facility, as well as, Pima County. He said when you provide the effluent, the source water; they would then pay the environmental rate. He stated City parks also paid the environmental rate. He commented that was not always the case, but was the case today.

Council Member Durham said the Tucson Greens Committee (TGC), who addresses golf matters, proposed that City golf courses should pay the same rate as City parks. He asked for staff's perspective on that proposal.

Mr. Thomure stated one factor was that City golf was not something they had discussed at length as a City Leadership Team, so his following comments were his opinion and his opinion only. He said there were complications to that idea that they had not had a chance to explore. One was that both TW and City golf were Enterprise activities. He said he had not researched what the implications were for that relationship between two different Enterprise funds that should be self-supporting in their own right to have a rate change of that nature.

Mr. Thomure said another factor was the bond covenants and other things TW had as a utility that had to be researched before any change of that sort could occur. He said one more aspect was the competitiveness aspect, which was outside his lane, but if there was a significant change of that sort on the rate pay for water by City Golf, compared to other Golf Course Enterprises that would be something the Mayor and Council needed to evaluate the pros and cons of doing so.

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Mr. Thomure recommended that the City Manager work with his ~~Team~~ **team** to evaluate the options because that was something that if TW moved on, customers from one rate to another, that was not affected by the Mayor and Council's vote that evening. It was an action that could happen at any time, possibly during budget discussions. He said there was also the opportunity to explore rates that City Golf could pay; none of which had been explored. He said he felt it was premature to take action on that and he was not even sure if that could happen during the evening's meeting.

Council Member Durham explained that what TGC was really arguing was the City Golf might be an Enterprise Fund, but they were really questioning whether it should be an Enterprise Fund. He said parks was a service and felt golf was also a service. He said he researched the cost and it would, based on fiscal year 2017 numbers, reduce revenues for TW by \$543,000 and shift that cost to City Golf.

Council Member Romero commented that that dollar amount would be put back on the rate payer since someone had to pay for it.

Council Member Durham stated he could agree with the two years and also a sliding scale for the limited income program.

Council Member Kozachik stated the City needed to have a financially stable water department. He said he had always said that the two most important issues the Mayor and Council had to deal with was the budget and water security. He reiterated that ensuring the water department was financially stable was key. He encouraged TW to meet with AARP to figure out a way to get the phased limited income qualifiers. He also mentioned reclaimed water rates had not gone up in four years and all of the rest of the rate payers had been subsidizing that system and had not been paid for by the golf industries, but by everyone else at a subsidized level. He said he was supporting the two-year plan going forward.

The motion to pass and adopt Ordinance 11551 as recommended by the Citizen's Water Advisory Committee, with the increase to rates for two years instead of four years was passed and adopted by a roll call vote of 6 to 1 (Council Member Romero dissenting).

RECESS: 8:30 p.m.  
RECOVENE: 8:40 p.m.

Mayor Rothschild called the meeting back to order. All members and staff were present as they were at the beginning of the meeting.

**9. PUBLIC HEARING: ZONING (C9-06-32) THE BRIDGES PAD - KINO PARKWAY MAJOR AMENDMENT TO PAD-15, SUB-AREA B, R-3 TO OCR-1, CITY MANAGER'S REPORT, ORDINANCE ADOPTION**

Mayor Rothschild announced City Manager's communication number 161, dated May 22, 2018, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on a request to amend the underlying zoning of the Bridges PAD-15, Sub-Area B from Residential (R#) to Office/Commercial/Residential (OCR-1). He said the proposed amendment was to allow for the development of a GEICO Regional Headquarters, and to make the underlying zoning consistent across the PAD District.

Mayor Rothschild asked if the applicant or representative was present and if they were agreeable to the proposed requirements.

Don Bourne, Bourne Companies representing BP Bridges came forward and said they were agreeable to the proposed requirements.

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

Comments were provided by:

Michael Guymon	Suzanne Vinall	Sara O'Neil
Bruce Wright	Willie Blake	Earl O'Neil
James Christopher	Cassius Chandler	Dennis Lattrell
Ted Maxwell	Felicia Chandler	

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

Mayor Rothschild asked the City Clerk to read Ordinance 11552 by number and title only.

Ordinance No. 11552 relating to Zoning: amending zoning district boundaries in the area located east of the Union Pacific Railroad tracks, south of 36th Street, west of Campbell Avenue and north of Interstate-10 in case C9-06-32, the Bridges Planned Area Development (PAD-15), major amendment to Sub-area B (B-I, B-II, B-III, and B-IV), changing base zoning from R-3 to OCR-1; and setting an effective date.

Council Member Fimbres reiterated the proposed requirements to the applicant and/or representative to ensure that they continue to work with the neighborhoods and stakeholders as this area was being developed.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 7 to 0, to approve the request for zoning as recommended by the Zoning Examiner and pass and adopt Ordinance 11552.

**10. PUBLIC HEARING: APPEAL - (HPZ 17-69) MIRAMONTE TOWNHOMES, 450 SOUTH MEYER AVENUE**

Mayor Rothschild announced City Manager's communication number 162, dated May 22, 2018, was received into and made part of the record. He said this was the time and place legally advertised for a public hearing on an appeal of the Planning and Development Services Department Director's decision on a Historic Preservation Zone (HPZ) Case. He said the appellant was Jody Gibbs, on behalf of the Barrio Historico Historic Zone Advisory Board. He asked the City clerk to read the order for the appeal.

Suzanne Mesich, Assistant City Clerk, announced the order for the appeal was as follows:

1. Appellant – Jody Gibbs, Barrio Historico Historic Zone Advisory Board
2. Applicant – Jose Ceja, Exa Architects, Inc.
3. Rebuttal by Appellant and Applicant if time remains
4. Public Hearing for other persons desiring to address the Mayor and Council (five minutes each)
5. Response by the Planning and Development Department Director (PDSD), if any.
6. Mayor and Council questions to the parties or any other persons appearing in front of them who may have relevant information in order to establish the reasons for the decision.
7. Mayor and Council discusses/acts on the case

Ms. Mesich stated the time limit for each side to present their case was ten minutes, either in direct address to the Mayor and Council or in rebuttal and can be divided in any way they choose, however the limit was ten minutes.

Mayor Rothschild stated that the City Attorney would summarize the procedural questions for the case, but it was a very narrow matter based on he would say. He asked both the appellant and the applicant how they wished to divide their time.

Jody Gibbs, Barrio Historico Historic Zone Advisory Board (BHHZAB) and Jose Ceja, Exa Architects, Inc., both responded they wanted five minute presentations with five minutes for rebuttal.

Michael Rankin, City Attorney, informed the Mayor and Council that the item was an appeal filed by the Chair of the Advisory Board, on behalf of the Board, with regards to the decision made by the PDSD Director's to approve the application in this case. He said under the *Unified Development Code (UDC)*, the Board had the option to appeal the decision.

Mr. Rankin stated the Mayor and Council could take one of three actions;

1. Affirm the Director's decision which meant denying the appeal and granting the application,
2. Reverse the Director's decision which had the effect of granting the appeal and denying the application, or finally,
3. Modify the Director's decision by granting the application, but adding additional conditions the Mayor and Council might determine are appropriate to implement the purpose of the *UDC* and the applicable regulations.

Mr. Rankin commented that under the *Code*, the Mayor and Council would decide the appeal that evening based on the application, together with the testimony, evidence and other information considered in the prior proceedings, along with the information in the Communication and staff reports and testimony to be heard during the public hearing.

Mr. Rankin said that the Mayor and Council shall consider the provisions, the purpose, the intent of the standards in the *UDC*, that apply to the appeal and the design and technical standards in place for the Barrio Historico HPZ. He stated the Mayor and Council decision was the final action for the purposes of carrying out the provisions of the *UDC* with respect to this application. He asked the PDSD Director to summarize the decision that was the subject of the appeal.

Scott Clark, Planning and Development Services Department Director introduced his team on the case: Allison Deihl, Acting Historic Preservation Officer (HPO), Michael Taku and Marty McCune, also from the Historic Preservation Office. He explained the historic review process was a two-tiered process. He said there was the preliminary staff review where PDSD looked at the application to determine whether it required special relief, meaning something that had to go before variance or a Mayor and Council Special Exception. He commented that when they saw something like that, the applicant is notified in writing. He said for a historic review, the application is forwarded to the Historic Advisory Board, which in this case, was Barrio Historico HZAB.

Mr. Scott stated BHHZAB was then obligated to review the application, make a recommendation and then forward their recommendation to the Tucson-Pima County Historical Commission's Plans Review Subcommittee (TPCHC PRS). He said the TPCHC PRS reviews the application, makes a recommendation, and forwards the recommendation to him, as the PDSD Director. He stated in making his decision, he considered the recommendations from the BHHZAB, TPCHC PRS and input from the City's HPO.

Mr. Scott commented that by the time an application reaches the Director's office, it has typically been reviewed twice by the HPO staff, the HZAB and the PRS all within approximately sixty days. He said the application in question followed and exceeded the process having been reviewed twice by the HZAB and twice by the PRS. He said in each

review, the applicant made amendments to the application in an attempt to satisfy questions by the HZAB and the PRS.

Mr. Scott informed that the BHHZAB denied the application twice, on September 11, 2017 and December 11, 2017. He said following the first review, the applicant produced a second set of plans, reduced the number of units and reduced the number of parking spaces to create more open space. He said following the process outlined in the *UDC*, the application was forwarded to the PRC on December 14, 2017, where they reviewed the application, required the applicant to consider the recommendations made by the BHHZAB and concerns raised by the Tucson Historic Preservation Foundation and return to the PRS within a month.

Mr. Scott stated that on January 25, 2018, the applicant returned, for what was a fourth review. He said the PRS noted that the revised design appropriately addressed all of the identified concerns raised during the design review process and voted 5 to 0 to approve the application.

Mr. Scott continued that on February 16, 2018, after considering the input from the BHHZAB, the TPCHC PRS and the City's HPO staff, which included a total of four formal reviews, with approximately fifteen subject matter experts providing review and feedback, he approved the application. He said he felt the application's design had the totality of the process, demonstrating compatibility and consistency with the design standards without creating a false sense of history. He said the total process took one hundred seven days, in part due to the applicant's willingness to make revisions which extended the review time. He said that was the basis and process on which he made his decision to approve the application.

Jody Gibbs, Barrio Historico Historic Zone Advisory Board Chair, stated he was not personally filing the appeal that per the *Code* it could only be filed by the Advisory Board, which was voted on in an open meeting that was properly noticed and voted 6 to 0 to file the appeal. He named the people making the decision were himself, Bob Vint, Ken Bacher, Mary Lou Heuett, Karen Costello, Armando Montano. He said there were several things they were appealing.

Mr. Gibbs stated the developer produced a scheme and the scheme was unanimously rejected by the BHHZAB and the TPCHC PRS. He said the developer then submitted a second scheme that was again rejected unanimously by the *Code*. He explained when things are rejected they just do not say they do not like it; they give exactly what is a violation of the *Code*. At this time, he said the developer came in with third scheme and the PDS Director made a decision that the BHHZAB did not need to review it; it was okay for the PRS to review and the planning staff liked it. He said unfortunately, the *Code* does not state that, it states that the third scheme needs to be reviewed by the HZAB, then goes to the PRS.

Mr. Gibbs states that the PDS Director attempted to prevent the HZAB from reviewing the project. He said, as stated in the *Code*, it had to be reviewed by the HZAB.

He commented that on the project itself, the third scheme, which the BHHZAB was saying should not be approved, the standard in the Barrio were the historic buildings. He said the project came in with two-story units, which there were no two-story units in Barrio Historico, and these units had balconies, windows and doors. He said another concern in the third scheme, was that the Director waived the setbacks, which he stated Mr. Scott did not have the power to waive per the *Code*.

Mr. Gibbs said if you applied what was stated in the *Code*, setbacks and the rear setbacks, there would not be fourteen units, but only nine. He said the PDSB Director did not have the power to, as he did say, he was waiving the setbacks. He stated the *Code* stated they had to abide by the historic setbacks. He continued stating that the proposed building for had a one-story building and a two-story building in back of it in the same unit. He said there was not such building form in the Barrio Neighborhood, nor such roof form in the Barrio. He reiterated that the *Code* stated they had to build according to the prevailing building and roof form in their development zone, which this project did not do.

Mr. Gibbs commented that if the Mayor and Council looked at the project drawings, they would see that the project was almost all building and asphalt. The total amount of private outdoor space per unit was eight feet by twenty feet. He said the *Code* stated that there must be private outdoor space comparable to the historic buildings surrounding the property and a certain amount of the site must be open space. He stated the project had four bedrooms, but PDSB was saying it was only two bedrooms, a den, and an office. Therefore, he said the BHHZAB said the developer should come back with a one-story building, an appropriate roof form, appropriate outdoor space, appropriate setbacks, appropriate parking, and appropriate building type.

Mr. Gibbs stated that the issue was not he said or what the Director said, but were things being run by what the *Code* said. He commented it was not imaginary, the *Code* was primarily numeric, setbacks were numeric, as well as, building heights, open space; it was not a question of opinion. He said the BHHZAB was urging the Mayor and Council to not approve the request, remand it back to the process for review.

Jose Ceja, Exa Architects, Inc., stated they began the process well over a year and a half ago. He said they met with the BHHZAB several times, even prior to submitting anything the first go round with a preliminary design concept and obtained feedback from them in order to address their concerns. He commented that they had followed the process, met with BHHZAB several times and also met with the TPCHC PRS a couple of times. He said the last time they met with the PRS, they basically approved the plans after all of the concerns had been addressed.

Mr. Ceja said he believed the plans they had put together, the concept and ideas, were well within the Barrio. He noted they had reduced the amount of units from fifteen to fourteen. He said this was a new project and was not going to match the existing characteristics of the Barrio itself. He stated they took some of the components and the height of the buildings they chose, allowed them to provide for two-story units. He stated



there were several two-story the buildings in the area, and the buildings in his project were not any taller than the surrounding buildings.

Mr. Ceja commented they believed they had addressed all the concern, had gone through the process, met with all the City departments they were required to address their concerns regarding the appropriate access points. He said he felt all the issues had been resolved and the information and plans they put together, met those requirements.

Mr. Gibbs gave his rebuttal statement. He said the issue that was brought about the developer going through the process a long time, was “nuts” because the wrong schemes were brought in, reviewed, and rejected on a couple of instances in the order they were supposed to be. He stated when the third scheme was submitted; the TPCHC PRS reviewed it out of order to which the PDSD Director allowed for it to happen without it being reviewed by the BHHZAB. He commented that it did not matter how many times the developer had to come back, what was important was that the plans met the *Code*.

Mr. Gibbs clarified the comment made about the two-story buildings already in the development zone. He said there were the historic zone and the development zone. The standard in the development zone was usually that the buildings on both sides were part of Kennedy, Meyer and Simpson where there were not any two-story buildings. He said even if there was, none of them had a roof form density, and lack of open space as the proposed development did. He said the way you maintained a historic zone was to build buildings that meet building type, roof form, setback, materials, detail, and open space like the surrounding historic buildings.

Mr. Gibbs stated the City of Tucson was not the only entity using this type of code; it was the exact same code being used in Savannah, New Orleans, and Boston. He said their older buildings were different buildings, but were required to do the exact same thing. He noted they were not trying to tell the developer that their project was “dead,” but to come back with one-story buildings with the appropriate roof, setback, open space, etc., etc., as stated in the *Code*. He said the problem with the project was that the PDSD Director thinks he could simply state he would waive the setbacks; which the *Code* did not give him the power.

Mr. Gibbs commented that when the Director said he reviewed it with his staff, he was very skeptical because there were people in PDSD that knew he could not just waive it. He said his response was that he wished their development well, thought they were nervous and were jamming the site building more because they were townhouse buildings; not people who normally build in the Barrio. He reiterated the buildings in the Barrio were one-story buildings, with outdoor space, without a conglomeration of roofs and without very, very high density with no outdoor space.

Mr. Gibbs stated the BHHZAB was simply saying the *Code* required the HZAB to review the projects, and perhaps it was an educational piece for PDSD, the Developer and the Mayor and Council. He specified historic zones were a huge asset to the City.

He said a very important task for the Mayor and Council to decide in policy was which was more important, the BHHZAB in total or a single project. He commented that the economic benefits the HZAB's had, drew hundreds of thousands of people to Tucson because it was a unique part of the City.

Mr. Gibbs pointed out the Tucson Historical Preservation Foundation also rejected the second and third schemes of the project and said, in writing, that if the project went forward, it would have an enormously detrimental impact on the Barrio Historico Historic Zone.

Mr. Ceja began his rebuttal by commenting that they went through the process, which was time consuming, but was not the issue. He said they followed the process, went through the TPCHC PRS, and made the changes per the recommendation. He said again, he believed the plans met the requirements and felt it was a great project for that location. He stated he was proud to be a part of the process and at the end of the day, once the building was completed, the community will be pleased.

Mayor Rothschild stated reference had been made that there were four formal reviews by fifteen subject matter experts and a number of revisions were made. He asked if that reference was correct.

Mr. Clark stated he was correct. He said the four reviews were two by the BHHZAB and two by the TPCHC PRS and the total number of people between staff and the two committees was fifteen.

Mayor Rothschild stated there had been some proposition made by Mr. Gibbs that the matter needed to go back for review until the BHHZAB gave some approval. He reiterated the review process and asked what the legal standing was.

Mr. Rankin stated he was entirely satisfied that entire process requirements by the *Code* had been followed to get to the current place. He said in the HZAB review process, not specifically just the BHHZAB, but in any HZAB process their approval was required for an application to move on to the Commission and ultimately to the Director for a decision, projects could be solved indefinitely at the HZAB level. He remarked that was not how the process worked; both the HZAB and quite frankly the TPCHC PRS were advisory bodies and made recommendations that inform the Director's decision with respect to an application, which that process was satisfied.

Mayor Rothschild confirmed that the HZAB was exactly that, it was advisory. He said Mr. Gibbs also indicated that at their level, the first level, the project never received approval. He stated that at the second level, the TPCHC PRS recommended approval of the third revision based on compliance of the requested changes. He confirmed that was the level that then "kicked" the project to the third level, the PDSD Director.

Mayor Rothschild commented there some questions about setbacks and building height. He asked if what had been presented conformed with both the required setback and building heights in the *Code*.

Mr. Clark responded the *UDC* states that setbacks for new construction, or alterations/additions to a non-contributing property, shall maintain the per via link street in the interior yard setbacks. He said it was not a mathematical calculation, but trying to set the setback off of an adjacent structure that was contributing.

Mayor Rothschild asked if it was fair to say it was an aesthetic matter.

Mr. Clark commented it was more about staying line with the historic character of the neighborhood.

Mayor Rothschild asked, what was called Faux Historical, which was identical to old historical, how that was currently reflected in the historical community and was it something that was approved of.

Allison Deihl, Acting Historic Preservation Officer (HPO), responded it was not considered appropriate to duplicate historic buildings. She said the intent, with the Secretary of Interior Standards that were followed nation-wide and in the *Code*, was to encourage compatible development that was not mistakable for original development.

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

Comments were made by:

Stephen Paul	Teresita Majewski	Greg Kuykendall
Karen Costello	Roshelle (last name not noted)	
Paul Horbatt	Philipp Neher	Demion Clinco

(Council Member Fimbres departed at 9:40 p.m., and returned at 9:45 p.m.)

Mayor Rothschild, after Ms. Majewski's presentation, said he had a better understanding of the process. He confirmed that the TPCHC PRS looked at the concerns being made, reviewed them with the Developer, made recommendations for changes, reviewed them again, and finally made a recommendation for approval based on the changes made. He continued saying the TPCHC PRS was asking the Mayor and Council to deny the appeal.

Chris Kimmerly, Miramonte Homes, confirmed they were never denied by the TPCHC PRS as stated by Ms. Majewski. He said, over the last thirty years, Miramonte Homes had done more in development than any other builder in Tucson and he took great pride in their work. He said out of the projects they had done, none of them were townhomes and took great umbrage to being referred to as that. He stated they had done

everything that had been requested of them and was not quite sure what he was doing their at the evening's meeting.

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

Mayor Rothschild asked the City Clerk to read Ordinance 11552 by number and title only.

Mr. Rankin interjected and said there was no Ordinance relating to the item. He said since the Mayor and Council closed the public hearing to hear the appeal, the next step was for them to take one of the three actions he described at the beginning of the meeting to; either affirm the Director's decision and deny the appeals, reverse the decision and grant the appeal, or if there were additional conditions to impose to the Director's decision, the Director's decision should be modified.

Council Member Kozachik asked if the *UDC* required the BHHZAB to approve the plans or simply review them and did he have any concerns procedurally with the questions raised with respect to how the item came to the Mayor and Council

Mr. Rankin replied to review the plans and make recommendations. He said he did not have any concerns, but felt it was important to clarify the process the request had gone through and how it was outlined by the TPCHC Chair. He said the request was heard and acted upon twice by the BHHZAB, moved to the TPCHC PRS and again heard twice, never being rejected, but advised the applicant to return with corrections before recommending approval of the request. He stated it then went to the PDSO Director who reviewed the independent recommendations of both of those bodies in coming to a decision, which was the appeal in front of them.

Council Member Kozachik asked, if when the TPCHC PRS approved the request, they approved it with conditions as well.

Mr. Rankin reiterated that it was a recommendation of approval that had two hearings by which the applicant was asked to make some modifications, were brought back and second time, and ultimately approved with conditions.

Mayor Rothschild asked if the applicant had made all of the modifications made by the TPCHC PRS.

Mr. Scott replied they had and the conditions were added into his decision and confirmed they were talking about the TPCHC PRS conditions.

Council Member Kozachik commented that the request had gone through exhaustive reviews, was reviewed four times, irrespective of whether or not both Boards agreed on it, and had experts on both sides disagree. He said he was not going to sit on the dais trying to re-design it for either side because that was a very subjective call. He

said he did have some questions about the quantitative questions asked about some the two-story building in the area and waiving of the setbacks.

Ms. Deihl stated she wanted to make it clear that the *Code* did not refer to the number of stories when talking about height, it referred to height alone; the number of feet. She said in this case, the applicant was using the height of buildings within the development zone to determine how high they could go. She said there were, as previously stated, several two-story buildings within the Barrio Historico Historic Preservation Zone and this project would not be the only two-story building. She said it was not the entire zone that was considered; it was only those (the development lots) within the development zone that were immediately adjacent to the subject parcel.

Ms. Deihl said the setbacks, again, was not expressed in the *Code* quantitatively and was not entirely sure of that particular portion of the Director's decision.

Mr. Clark replied that the setbacks were looked by the Zoning Administrator in April and it was a decision made to go with the prevailing setback of the structure, but there was also, later in the process, a requirement by the Tucson Department of Transportation (TDOT) to increase the setback for a site visibility triangle. He said he thought they got the best of worlds, public safety and something that mirrored what was going on in the development zone. He said the *Code* stated that prevailing setbacks would be used.

Council Member Kozachik commented that questions were raised with regards to the three and four bedroom design and as it related to parking.

Ms. Deihl pointed out the historic design review process, did not include review of interior floor plans; therefore that was not relevant in this case. She said there were other issues mentioned such as parking and open space that were not part of the *Code* that historic review was concerned with.

Council Member Kozachik asked if they were part of the review that PDSD went through.

Ms. Deihl responded they were and said after historic design review occurred; plans still went through the same level of zoning review that any other project went through.

Council Member Kozachik asked if three to four bedroom designs versus parking in the courtyards versus reducing density of courtyards was incorporated in to the design. He also asked if all of that had been worked out.

Mr. Scott replied PDSD would take a look at those during the zoning process and there would be some discussion about the parking because he believed there would be some struggles there, but could be worked out with individual parking plans or other arrangements made. But, he said, they had to work with the developer. He said

currently, what was being shown were one-car garages and fourteen on-street parking spaces. He stated they would look at that during the review process to see if that was truly the accommodation needed in that zone.

Mayor Rothschild wanted clarification that if the appeal was to be denied, there was still additional review to be made by PDSD with regard to the matter.

Mr. Scott responded affirmatively and said this was only the historic review process.

Council Member Kozachik commented that a grant was recently received for preservation of this area on the National Register. He said the question really did then become a subjective aesthetic repetitive townhomes versus the row houses. He asked how that was weighed out.

Mr. Scott replied one of the references he looked at was the Tucson Architecture Book that referred to the Montiel House, built back in the turn of the century which was eventually expanded to be seventeen rooms which was a row house, single block. He said type of row occurring in Barrio Historico had been seen.

Council Member Romero asked staff to respond to the concerns of the BHHZAB regarding enclosed garages on first floors, partial second stories out of character with the Barrio and balconies.

Mr. Scott stated that the interior design was not looked at during the historic review process. He said he knew the Developer had setback the second story to give a more compatible appearance with a single story building and those were the considerations PDSD looked at, as well as, the TPCHC PRS. He said he relied a great deal on the PRS's review.

Council Member Romero stated the BHHZAB had concerns about these issues. She asked if staff had seen the Barrio Historico Historic District Design Guidelines.

Mr. Scott responded he was familiar with the Barrio's District Design Guideline and stated he also ran the projects through the City's HPO staff and sought their guidance on whether things were compatible.

Council Member Romero asked if Mr. Scott had seen the section titled, Historic Site Characteristics and Site Elements. She said the Site Elements talked about very precise heights of walls and fences, carports and driveways, where they should be located, off the street parking. She said it went through all types of construction and alterations to existing buildings, as well as, how the doors and windows looked. She stated all of those architectural elements made the world of difference in terms of being able to preserve the characteristic and uniqueness of this particular historic zone.

Council Member Romero stated that this particular historic zone, and reminded everyone at the dais, that they should not approve a project that would de-value the historic uniqueness of the City's neighborhoods. She commented that Tucson was the only city that had a neighborhood with the characteristics of the historic barrio, much of which had been torn away and would never come back. She asked why they would decide to go with an architectural project that did not make sense in the Barrio and the neighbors did not want.

Council Member Romero suggested giving the process time, reverse the Director's decision and go back to the drawing board to ensure something was being built that made sense in the Barrio and was valuable to the entire community.

Council Member Durham stated that Mr. Gibbs made the point of not having any the two-story buildings and staff's response was that what mattered was building height not the number of stories.

Ms. Deihl responded that was correct according to the *Code*.

Council Member Durham stated there were concerns about the waiver of prevailing a twenty foot setback on Simpson. He asked staff to remind him of what their answer was to that.

Ms. Deihl stated that as far as the waiver for the setback, that had to do with the site visibility issue according to what Mr. Clark explained. She said had it not been for that issue, she believed the plan was to match the line of the existing building on that block. She said it was to setback slightly further than it would have otherwise been.

Council Member Durham asked why Mr. Gibbs was critical about the waiver of setbacks.

Ms. Deihl responded she did not know.

Council Member Durham said the one aspect of the neighborhood he thought was predominant was variability. He said in looking at the Simpson Street rendered elevation, he did not see much variability, as well as Meyer Avenue. He stated he had studied the materials and there was some evidence in the neighborhood of gabled roofs and dormers. He said he was concerned that this project had no variability in the design and asked staff to comment on it.

Ms. Deihl stated she relied pretty heavily on the review conducted by the PRS; the Committee included experts in architecture and professionals who were used to looking at these types of things more than she was. She said she did know that in this particular design, it was one long wall along Meyer, which was modified as a result of the feedback from the Barrio and PRS. One unit was taken out and pass-throughs were created between some of the buildings and the setbacks were slightly modified.

Ms. Deihl commented that as far as the repetition and the rest of the building, she acknowledged it was there and continued to trust the opinions of the professionals on the PRS. She stated she did not see any reason not to go with the plans since the PRS did not see any cause to object to the modified plans.

Council Member Kozachik said there was no way to avoid a subjective judgement but wanted to try and get around it. He said a quantitative evaluation was not going to get them there and played into a much wider discussion about the value of Neighborhood Plans. He stated the Mayor and Council had the option to remand the case back for further review and that was what he wanted to do.

Mayor Rothschild clarified the three choices the Mayor and Council were given by Mr. Rankin regarding the case. He said due to the difficulty involved he would also like to remand the case for further review to allow time for all parties to work out the best possible plan. He said he felt they could get a lot closer than where they were. He asked the City Attorney if that was possible.

Mr. Rankin responded with “no.” He said he knew the Mayor and Council were used to certain other procedures where remanding something back, such as to the Zoning Examiner for recommendations, was an option. He stated the case before them was an appeal on the Director’s decision. He said the *Code* was very specific about the options to act on the appeal.

Council Member Kozachik asked if they voted no, where did it go.

Mr. Rankin replied the *Code* made it very clear that once the Council made its decision that was it for the application process. He said, obviously, if the decision was to affirm the Director’s decision and deny the appeal, then it was approved.

Council Member Kozachik asked if they could continue the item to offer the parties a chance to come together.

Mr. Rankin stated they could continue the item before acting on it; but remanding it to another body was not allowed.

Council Member Kozachik because of all of the concerns in the room that evening, and the broader question of the value of neighborhood plans and this was a special area, he wanted to recommend that the item be continued and give the parties a chance to meet together to try to come to some type of middle ground.

It was moved by Council Member Kozachik, duly seconded, to continue the item to give the parties involved a chance to meet and try to come to some type of consensus.

Council Member Romero asked about the BHHZAB.



Council Member Kozachik commented that the BHHZAB was still involved and one of the parties that need to meet.

Mayor Rothschild stated all of the players were present in the room, Mr. Scott, Ms. Deihl, the builders, PRS, and the BHHZAB. He said they needed to sit down, understand that they were not always going to get their way for a door here or there.

Mr. Rankin stated there were a couple of things he wanted to recommend to the Mayor and Council. First, he said, by continuing the item, that meant it was still an appeal before them. He said the ex-parte restrictions applied; no communications with the Council because they were acting in their capacity.

Mayor Rothschild commented he wanted that to be clear because today and the last few days, he received approximately twenty-five emails and said that was out.

There were some outbursts from the audience about contacting members of the Mayor and Council.

Mr. Rankin reiterated to the public that, “no persons shall contact the Mayor and Council.” He stated to the Mayor and Council that if they did receive emails, they needed to ignore them because they were sitting in their capacity as the appellant body.

Mr. Rankin also stated, in continuing the item, the Mayor and Council needed to make it date certain so that it came back when it was supposed to.

Council Member Kozachik said he wanted the item to return to the Mayor and Council at its June 19, 2018 meeting.

Council Member Scott stated she assumed the public hearing was closed and could not be open; the item was simply a continuance to go through the thought process to bring it back for the appeal.

Mr. Rankin affirmed the public hearing had been closed pursuant to the process.

Mayor Rothschild explained to the public that they were not acting as the Mayor and Council; but as a judicial body, similar to if they had a case in front of Superior Court and people went around to the back of the room and started speaking to the judge. He said that was not allowed and could taint the entire process for everyone.

Outbursts from the audience continued. Mayor Rothschild asked the City Attorney to respond.

Mr. Rankin advised that Barrio Historico was still in the process if the item was continued and extended to another day. He explained that the only other alternative was to act on the appeal.

Council Member Kozachik explained he was suggesting there was value in bring the parties together and giving everyone in the room a chance to come to a middle ground and give the item some closure. He said there was no behind the scenes dealing; it was the players in the room getting back together to try and sort it out.

Mr. Rankin stated there were some complicating factors; if people were anticipating there would be discussion with the Board or with the PRS, those were public bodies that met in public meetings.

Council Member Kozachik asked who Mr. Rankin suggested should be involved to break the tie.

Mr. Rankin responded ultimately it was coming back to the judicial board on way or another and what they could consider as evidence in making a decision was information and material they heard from the prior proceedings and from the evening's proceedings, including the public hearing.

Council Member Kozachik asked if Mr. Clark could go out and solicit information because he was the one the recommendation was coming from.

Mr. Rankin said he did not see a course, because of the nature of the proceedings of the hearing to try and broker a solution.

Council Member Romero asked what happened if the Mayor and Council were to decide to reverse the Director's decision.

Mr. Rankin replied if the Director's decision was reversed and grant the appeal based on a finding that they did not find the application was compatible with the purposes and standards of the HPZ or applicable Technical Standards, then the application would be denied and for the project to move forward, there would have to be a subsequent application that would go through the entire process.

Council Member Kozachik commented that appeared to be the option staff was presenting to the Mayor and Council since they all had concerns. He withdrew his original motion and made a subsequent motion.

It was moved by Council Member Kozachik, duly seconded, to reverse the Director's decision.

Mr. Rankin recommended, for the record and for that motion, that it be stated the motion was based on their determination the application, including the set of conditions that were recommended, the Mayor and Council felt were not compatible with purposes and standards of the HPZ and applicable Technical Standards.

Mayor Rothschild recapped the owners had a lot of work done, but could start the project over, given what was heard, and hopefully expedite through back to where they were.

Mr. Rankin replied that was up to the owners.

Mayor Rothschild said the other question was that it would be nice to get an understanding that the plans need to be reviewed by the BHHZAB every time there was a change.

Mr. Rankin explained, to be clear on the process, the *Code* was actually quite clear. The applicant really only had to go once to each, the Board and PRS for their recommendations for it to go to the Director.

Council Member Kozachik stated, to be clear from their end, and the only reason he made the motion, because there did not appear to be a way forward within the legal constraints they were operating under.

Mayor Rothschild stated that if the Mayor and Council voted to grant the appeal, Miramonte could take the work they had done, shop it around to wherever they needed to and then when it got back to the appeal process, all of the restraints were off with regard to who they could talk to.

Vice Mayor Cunningham inquired if there was anything built before on the lot in question and were there any photos from the 1930's and 40's.

Mr. Clark replied the lot was currently vacant and he did not know if anything had been there prior.

Discussion continued; comments were made by the public.

Mr. Rankin reminded the Mayor and Council that the public hearing was closed and they needed to move forward with a vote.

Vice Mayor Cunningham stated he was curious and asked if the lot was demolished by the current group or prior to that.

The motion to reverse the Planning and Development Director's decision to grant the appeal and deny the HPZ application was passed by a roll call vote of 6 to 1 (Council Member Fimbres dissenting).

## **11. FINANCE: TENTATIVE ADOPTION OF FISCAL YEAR 2019 BUDGET**

Mayor Rothschild announced City Manager's communication number 172, dated May 22, 2018, was received into and made part of the record. He asked the City Clerk to read Resolution 22881 by number and title only.

Resolution No. 22881 relating to Finance; adopting a tentative budget for the 2018/19 Fiscal Year and fixing times and places, confirming time and place 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.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 7 to 0 to pass and adopt Resolution 22881.

Mayor Rothschild announced the final hearing on the budget was scheduled for the meeting of June 5, 2018.

**12. FINANCE: PROPOSED SALE OF WATER SYSTEM REVENUE OBLIGATIONS, SERIES 2018**

Mayor Rothschild announced City Manager's communication number 169, dated May 22, 2018, was received into and made part of the record. He asked the City Clerk to read Ordinance 11543 by number and title only.

(Note: Council Member Kozachik departed at 11:05 p.m.)

Ordinance No. 11543 an ordinance relating to Finance: authorizing the Finance Director or Chief Financial Officer of City of Tucson, Arizona, to cause the sale and execution and delivery pursuant to an Obligation Indenture of Water System Revenue and/or Revenue Refunding Obligations, in one or more series, evidencing proportionate interests of the holders thereof in installment payments of the purchase price to be paid by the City of Tucson, Arizona, pursuant to a Series 2018 City Purchase Agreement; authorizing the completion, execution and delivery with respect thereto of all agreements necessary or appropriate for the refinancing or financing of costs of acquiring improvements to the storage, treatment and distribution facilities of the water system of the City and related financing costs including the delegation to the Finance Director or Chief Financial Officer of certain authority with respect thereto; authorizing the preparation and delivery of an Official Statement with respect to such Series 2018 obligations; ordering the sale of such Series 2018 obligations; authorizing the execution and delivery of a Continuing Disclosure Undertaking with respect to such obligations; authorizing the Finance Director or Chief Financial Officer to expend all necessary funds therefor and declaring an emergency.

Vice Mayor Cunningham asked, since the four-year rate increase was not passed at the evening's meeting, how that affected the sale of these bonds.

Timothy Thomure, Tucson Water Director, replied the two year adoption was consistent with the sale of the bonds so there was no change.

It was moved by Council Member Durham, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Kozachik absent/excused) to pass and adopt Ordinance 11543.

**13. PERSONNEL MATTERS: REAPPOINTMENT OF THE CITY ATTORNEY**

Mayor Rothschild announced City Manager's communication number 175, dated May 22, 2018, was received into and made part of the record. He asked the City Clerk to read Ordinance 11554 by number and title only.

Ordinance No. 11554 relating to the City Attorney; appointing the City Attorney; and declaring an emergency.

It was moved by Council Member Romero, duly seconded and passed by a roll call vote of 6 to 0 (Council Member Kozachik absent/excused), to pass and adopt Ordinance 11554.

Michael Rankin, City Attorney, expressed his gratitude for his continued employment with the City and also thanked his wife and children.

**14. ADJOURNMENT: 11:06 p.m.**

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council would be held on June 5, 2018, at 5:30 p.m., in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

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MAYOR

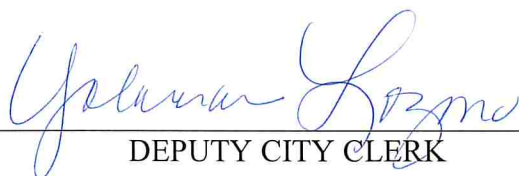
ATTEST:

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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 22nd day of May 2018, and do hereby certify that it is an accurate transcription.

A handwritten signature in blue ink, appearing to read "Yolanis Lozano", is written over a horizontal line.

DEPUTY CITY CLERK

RWR:jg:cl