



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
June 15, 2010

Date of Meeting: June 9, 2009

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 5:33 p.m., on Tuesday, June 9, 2009, all members having been notified of the time and place thereof.

1. ROLL CALL

Roger W. Randolph, City Clerk, announced Council Member Glassman was unable to be present for the evening's meeting, but would be participating by telephone. This was allowable under the Mayor and Council Rules and Regulations. Council Member Glassman could vote on all matters in the same way as those members physically present as long as he participated in the discussion. On the evening's agenda, all votes would be done by roll call rather than voice vote.

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

Present:

Regina Romero	Vice Mayor, Council Member Ward 1 (arrived at 5:34 p.m.)
Rodney Glassman	Council Member Ward 2 (electronic attendance)
Karin Uhlich	Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Steve Leal	Council Member Ward 5
Nina J. Trasoff	Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused: None

Staff Members Present:

Mike Letcher	City Manager
Michael Rankin	City Attorney
Roger W. Randolph	City Clerk

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Pastor Dayton Durley, Northwest Community Friends Church, after which the Pledge of Allegiance was presented by the entire assembly.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 301, dated June 9, 2009, 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 to report on current events and asked if there were any reports.

- a. Council Member Trasoff reported on recent activities that stressed the financial difficulties the City was facing, and how the community could overcome those difficulties when working together. She thanked Council Member Uhlich, Mayor Walkup, and the donors who were sponsoring the 4th of July Fireworks.

Council Member Trasoff announced that, at the Tucson Pops Concert she and Mayor Walkup attended, they raised more than ten thousand dollars in response to recent budget cuts from the City and other private donors.

Council Member Trasoff thanked the Neighbors Care, a program through the Pima Council on Aging, for their constant efforts to take care of their neighbors and community as a whole.

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

Mayor Walkup announced City Manager's communication number 302, dated June 9, 2009, was received into and made 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 303, dated June 9, 2009, 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. Target Store T-2140, Ward 3
4040 N. Oracle Rd.
Applicant: Joseph Cordovana
Series 10, City 30-09
Action must be taken by: June 20, 2009

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

Public Opinion: Written Argument In Favor Filed

2. Desayunos Cora's, Ward 5
24 W. Irvington Rd.
Applicant: Jesus Rosales Badillo
Series 12, City 31-09
Action must be taken by: June 21, 2009

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)

3. 7-Eleven #27143C, Ward 2
7084 E. Broadway Blvd.
Applicant: Tracy Victoria Kitchen
Series 9, City 29-09
Action must be taken by: June 18, 2009

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)

c. Special Event(s)

1. Tucson Breakfast Lions Club (TBLC), Ward 5
4823 S. 6th Ave.
Applicant: Wayne Francis Locke
City T39-09
Date of Event: June 19, 2009 - June 20, 2009
(Fundraiser)

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

d. Agent Change/Acquisition of Control/Restructure

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

It was moved by Council Member Uhlich, duly seconded, to forward liquor license applications 5b1 through 5b3 and 5c1 to the Arizona State Liquor Board with a recommendation of approval.

Mayor Walkup asked if there was any discussion.

Council Member Leal asked if Annabelle Nuñez was present, and if she wanted to make any comments about Item 5b2.

Hearing no one, Mayor Walkup asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff; Vice Mayor Romero and Mayor Walkup

Nay: None

The motion to forward liquor license applications 5b1 through 5b3 and 5c1 to the Arizona State Liquor Board with a recommendation for approval was passed by a roll call vote of 7 to 0.

6. 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 for items scheduled for a public hearing. Speakers were limited to three-minute presentations.

- a. Carl Willcoxson spoke regarding his concerns on immigration and traffic issues.
- b. Lynn Quinn asked for the support from the Mayor and Council in acquiring payment from Dearborn Life Insurance Company for the unpaid life insurance of Pam Humphrey who passed due to a car accident.
- c. Robert Reus spoke regarding the City's budget and liability issues.
- d. Emil Bair spoke about his concerns regarding the Colonia Verde Wall Opening.
- e. Joe Sweeney spoke regarding his concerns on immigration issues.

7. CONSENT AGENDA – ITEMS A THROUGH O

Mayor Walkup 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. FINANCE: COMMUNITY SUPPORT FUND TRANSFER TO THE TUCSON FIREFIGHTERS ASSOCIATION “ADOPT-A-FAMILY” PROGRAM

1. Report from City Manager JUN9-09-305 WARD 4
2. Resolution No. 21302 relating to Finance; approving and authorizing the allocation of Two Thousand Two Hundred Ninety-Nine Dollars (\$2,299) from the Ward 4 Office Community Support Fund, Account No. 001-183-1898-268, to the Tucson Firefighters Association “Adopt-a-Family” program; and declaring an emergency.

This is a request by Council Member Scott. Allocation of funds is as follows:
Council Member Scott - \$2,299.00

B. REAL PROPERTY: LEASE AGREEMENT RENEWAL WITH THE 29TH STREET C.A.N. FOR PROPERTY LOCATED WITHIN THE FREEDOM NEIGHBORHOOD CENTER

1. Report from City Manager JUN9-09-307 WARD 5
2. Ordinance No. 10676 relating to real property; authorizing and approving the renewal of the lease agreement between the City of Tucson and the 29th Street C.A.N. for a certain space within the Freedom Neighborhood Center located at 5000 East 29th Street; and declaring an emergency.

C. REAL PROPERTY: ABANDONMENT OF EASEMENTS WITHIN THE FORMER RUSSELL AVENUE ALLEY RIGHT OF WAY

1. Report from City Manager JUN9-09-308 WARD 6
2. Ordinance No. 10677 relating to real property; authorizing and approving the abandonment of the City’s interest in easements within the former Russell Avenue Alley right of way; and declaring an emergency.

D. GRANT AGREEMENTS: WITH THE ARIZONA DEPARTMENT OF HOMELAND SECURITY FOR BASIC EMPLOYEE TRAINING AND THE PARK AND RIDE SECURITY PROJECTS

1. Report from City Manager JUN9-09-310 CITY-WIDE AND WARD 5

2. Resolution No. 21303 relating to grants; approving and authorizing the execution of Subgrantee Agreements between the Arizona Department of Homeland Security (AZDOHS) and the Tucson Department of Transportation for Grant No. 08-AZDOHS-TSGP-444425-01 (Basic Employee Training Project) and Grant No. 08-AZDOHS-TSGP-444425-02 (Park and Ride Security Implementation Project Phase 1); and declaring an emergency.
- E. INTERGOVERNMENTAL AGREEMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY FOR THE SPEEDWAY BOULEVARD AND UNION PACIFIC RAILROAD UNDERPASS IMPROVEMENT PROJECT
1. Report from City Manager JUN9-09-311 WARDS 1 AND 3
 2. Resolution No. 21304 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement for Transportation Funding between the Regional Transportation Authority of Pima County (RTA) and the City of Tucson for the Speedway Boulevard and Union Pacific Railroad Underpass Improvement Project; and declaring an emergency.
- F. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY FOR IMPROVEMENTS TO GOLF LINKS ROAD/WILMOT ROAD INTERSECTION
1. Report from City Manager JUN9-09-312 WARD 4
 2. Resolution No. 21305 relating to Intergovernmental Agreements; approving and authorizing the execution of Amendment No. 1 to the Intergovernmental Agreement between the City of Tucson and the Regional Transportation Authority of Pima County (RTA) for improvements to the Golf Links Road/Wilmot Road Intersection; and declaring an emergency.
- G. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY FOR THE WILMOT ROAD/PARK PLACE INTERSECTION IMPROVEMENT PROJECT
1. Report from City Manager JUN9-09-313 WARD 6
 2. Resolution No. 21306 relating to Intergovernmental Agreements; approving and authorizing the execution of Amendment No. 2 to the Intergovernmental Agreement between the City of Tucson and the Regional Transportation Authority of Pima County (RTA) for improvements to Wilmot Road/Park Place Intersection; and declaring an emergency.

- H. GRANT APPLICATION: TO THE FEDERAL TRANSIT ADMINISTRATION FOR NEW STARTS SYSTEMS GRANT
1. Report from City Manager JUN9-09-314 CITY-WIDE
 2. Resolution No. 21312 relating to Transportation; authorizing and approving the submission of a Federal Transit Administration (FTA) Section 5309 New Starts Systems Grant Application for Federal Fiscal Year 2009, Grant No. AZ-03-0063 in the amount of \$1,980,000; and declaring an emergency.
- I. INTERGOVERNMENTAL AGREEMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY FOR SUN VAN PARATRANSIT EXPANSION VANS PROJECT
1. Report from City Manager JUN9-09-315 CITY-WIDE AND OUTSIDE CITY
 2. Resolution No. 21307 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement for Transportation Funding between the Regional Transportation Authority of Pima County (RTA) and the City of Tucson for Regional Transit Service Improvements: Project P47b – Sun Van Paratransit Expansion Vans; and declaring an emergency.
- J. REAL PROPERTY: ACQUISITION OF PROPERTY LOCATED AT FORT LOWELL ROAD AND CAMPBELL AVENUE FOR INTERSECTION IMPROVEMENT
1. Report from City Manager JUN9-09-309 WARD 3
 2. Resolution No. 21308 relating to real property; authorizing and approving the acquisition of real property at Fort Lowell Road and Campbell Avenue – St. James Methodist Church; and declaring an emergency.
- K. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY FOR THE LOW-INCOME UTILITY BILL ASSISTANCE PROGRAM
1. Report from City Manager JUN9-09-316 CITY-WIDE AND OUTSIDE CITY
 2. Resolution No. 21309 relating to water; authorizing and approving the execution of a Third Amendment to the June 13, 2006 Intergovernmental Agreement between the City of Tucson and Pima County to provide Low-Income Water Bill and Environmental Services Bill assistance for FY 2009 and FY 2010; and declaring an emergency.
- L. APPROVAL OF MINUTES
1. Report from City Manager JUN9-09-319 CITY-WIDE

2. Approval of minutes for the regular meeting of the Mayor and Council held on February 3, 2009.
- M. MEMORANDUM OF UNDERSTANDING: WITH ARIZONA OFFICE OF THE STATE FIRE MARSHAL TO CONDUCT THE PLANS REVIEW FUNCTIONS FOR GOVERNMENTAL BUILDINGS
1. Report from City Manager JUN9-09-320 CITY-WIDE
 2. Resolution No. 21310 relating to fire safety; approving and authorizing execution of a Memorandum of Understanding between the Arizona Office of State Fire Marshal (AOSFM) and the City of Tucson, acting through the Tucson Fire Department (TFD), under which TFD will conduct plans review and related inspections for construction, remodeling, alterations, and additions in state, county, and public school buildings and grounds on behalf of both TFD and the AOSFM; and declaring an emergency.
- N. INTERGOVERNMENTAL AGREEMENT: WITH THE ARIZONA DEPARTMENT OF HEALTH SERVICES FOR THE ASSIGNMENT AND USE OF THE MASS SHELTERING SYSTEM
1. Report from City Manager JUN9-09-306 CITY-WIDE
 2. Resolution No. 21311 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson, for and on behalf of the Tucson Fire Department Metropolitan Medical Response System (MMRS), and the Arizona Department of Health Services for the assignment and use of the Mass Sheltering System (MSS); and declaring an emergency.
- O. FINANCE: COMMUNITY SUPPORT FUND TRANSFER TO WESTSIDE HOPE FOR “THANK A COP DAY”
1. Report from City Manager JUN9-09-322 WARD 5
 2. Resolution No. 21315 relating to Finance; approving and authorizing the allocation of Five Hundred and Eighty-Two Dollars (\$582) from the Ward 5 Office Community Support Fund, Account No. 001-183-1898-268, to Westside Hope to help support the “Thank A Cop Day” Project; and declaring an emergency.
- This is a request by Council Member Leal. Allocation of funds is as follows:
Council Member Leal - \$582.00

It was moved by Council Member Scott, duly seconded, that Consent Agenda Items A through O be passed and adopted and the proper action taken.

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

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff; Vice Mayor Romero and Mayor Walkup

Nay: None

Consent Agenda Items A through O were declared passed and adopted by a roll call vote of 7 to 0.

8. PUBLIC HEARING: APPEAL HISTORIC PRESERVATION ZONE CASE HPZ 08-24 PERREAULT/DEMERS, 901 NORTH 3RD AVENUE

Mayor Walkup announced City Manager's communication number 317, dated June 9, 2009, 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 an appeal from the Development Services Department Director's decision on a Historic Preservation Zone Case. He stated the appellants were the property owners, Therese Perreault and Robert Demers. He asked the City Clerk to read the order for the Appeal.

Roger W. Randolph, City Clerk, announced that the City Attorney would first summarize the procedural questions presented in this case.

Mike Rankin, City Attorney, announced that procedurally, the Mayor and Council could do one of three things:

- 1) affirm the decision by the Development Services Department Director; the effect being to deny the appeal and the application,
- 2) reverse the decision by the Development Services Department Director; the effect being to grant the appeal and application, or
- 3) modify decision by the Development Services Department Director; the effect being to grant the appeal but add specific conditions upon that

Mr. Rankin stated the Mayor and Council may base their decision upon the application, testimony, evidence, and materials presented both in the prior hearings, as well as, the public hearing that evening.

Mr. Randolph announced the Development Services Department Director would present a report and summary of the request that was before the Council.

Ernie Duarte, Development Services Department (DSD) Director, stated the case was an appeal of the denial of a request to install non-wood frame windows in place of the existing historic wood frame windows on a contributing historic structure, located in

the West University Historic Overlay Zone. The property owner replaced the existing wood framed windows with non-wood framed windows prior to obtaining historic review and approval in accordance with the City of Tucson's *Land Use Code (LUC)*, Section 2.88, as was required in the local historic district overlay zone before exterior improvements were started. This code violation was reported to the Community Services Department and a notice of violation was issued. As a result, the property owner submitted a formal Historic Preservation Zone (HPZ) Review and Approval application to the DSD in order to address the violation notice.

Mr. Duarte said the West University Historic Zone Advisory Board (WUHZAB) reviewed the proposal for the non-wood framed windows and recommended denial based on the WUHZAB's guidelines that read, "Like for like materials be used in structures classified as contributing historic." The Tucson-Pima County Historical Commission (TPCHC) agreed with the WUHZAB's recommendation and also recommended denial. The Design Review Board (DRB) subsequently reviewed the application and recommended denial for the use of this type of non-wood frame window.

Mr. Duarte said, based on the recommendations received through the review process for the non-wood frame windows, a denial letter was issued by DSD for the HPZ application on July 29, 2008. He said, as Mr. Rankin pointed out that the Mayor and Council may affirm the denial decision, reverse the denial decision, or modify the denial decision and establish appropriate conditions to implement *LUC* regulations.

Mr. Randolph announced the order for the appeal was as follows:

- 1) Appellants present their appeal
- 2) Response from City staff, if any
- 3) Input from any member of the public
- 4) Other rebuttal as permitted by the Mayor and Council
- 5) The Mayor and Council direct any questions to the parties appearing before them or any other persons who might have relevant information, in order to establish the reasons for the decision
- 6) After the close of the public hearing, Mayor and Council discuss the case and would reach a decision

Mayor Walkup asked the Appellant to present their appeal.

Adam Weismann said he was the legal counsel representing the appellants, Robert Demers and Therese Perreault, and was also representing the appellants on the next item of the agenda. He asked if he could address both issues at the same time.

Mayor Walkup asked the City Attorney for clarification because of the way the items were agendized.

Mr. Rankin said each appeal had to be handled individually, and thought there would probably be some overlapping theme and that the second appeal could be addressed in an abbreviated fashion.

Mr. Weismann said he was in agreement and first wanted to address a procedural item. He presented photographs he thought might be helpful to the Mayor and Council. He said the photographs were already a matter of record as they were presented at the hearing before the DRB a few months ago. Mr. Weismann said he was representing two different parties. In the first case, what Robert Demers and Therese Perreault did was replace their existing wood windows in the West University Historical Zone with, as stated in the agenda, "vinyl clad-framed windows." To correct the record, he said the windows were replaced with aluminum clad-framed windows.

Mr. Weismann said when this case was reviewed by the DRB, the initial movement was actually to overturn the recommendation of the DSD for both appellants, including Demers and Perreault. As the DRB hearing proceeded to the public comment section, the public pointed out that there was a difference between the two appeals. The Demers and Perreault family had done two things; replaced the wood windows with aluminum clad-framed wood windows, and second was a design element change, as seen in the before and after pictures. When the windows were replaced, Mr. Weismann said his clients were unable to find a modern updated high-efficiency window that had the same design element and chose a window with a complimentary design element to replace the original window.

Mr. Weismann said, when he went before the DRB, the hearing officer for DSD was very helpful and announced that Mr. Weismann would be speaking and give a legal argument on behalf of the appellants that many in attendance would not understand due to the legal terms that would be used. With that, he stated he made a mental note as he was waiting to address the DRB that he would not present his case in legal terms and felt that had worked out well with the DRB, since the original motion from the DRB was to approve the renovations for both appellants. He said the change in their decision came after the public comments section, when it was pointed out that there was also a change in the design element, which seemed to tip the scale with the DRB and vote not to overturn the hearing officer's negative recommendation on the Demers and Perreault windows.

Mr. Weismann said the way he presented his case with the DRB was the way he would address the Mayor and Council. He said he wanted to give the Mayor and Council a reason, not a legal argument, to approve the request and overturn the hearing officer's recommendation. He said when looking at the before and after pictures, it was visible to see that his clients replaced their windows with identical windows, in the sense that the surround of the window, the part most visible, was the same. The size and the double hung nature of the window were the same. He said he realized it sounded a bit cute, but wanted to make the point that the material of the window was largely the same as before. The windows were solid wood windows that had aluminum cladding to give them color

and a protective element that was essentially the paint, and it was not what one might think of as aluminum office windows.

Mr. Weismann said his clients did this with the intention of making their home better looking, more energy efficient and to reduce the maintenance on painted wood windows. That was why, as the Mayor and Council could see through the pictures, his clients did what they did. It was not a flagrant attempt to change the nature of the house. He said he wanted to make it clear that, after his presentation and during the public hearing, the Mayor and Council would hear from some of the same people that spoke in front of the DRB that were from the WUHZAB or lived in the West University Historic Zone and said that the issue was that a wooden window must be replaced with a wooden window, full stop. He said he thought the citizens from West University made a fine point by giving the historical perspective outlook.

Mr. Weismann continued that the citizens were not there to make the decision of the Mayor and Council, nor were they the owners of the property in question. He said this was a three-legged process involving the homeowners - his clients, who did the renovation and did their best to make it a beautiful renovation. Then there was the WUHZAB whose job it was to stand up for strict historical standards. Mr. Weismann said the real question was what the Mayor and Council was empowered to do when hearing an appeal. He said that was when, only very briefly, they would get to the law. The law, 9-08 3.9 of the *LUC*, applicable to windows in the WUHZAB read “*of the details listed above; windows are particularly important in defining historical and architectural character.....with this in mind, repair or alterations to windows must be sensitively done.*” He said he felt a legitimate case had already been made since his clients had sensitively made the renovations. His clients chose high quality; expensive materials that they felt were energy efficient and of lower maintenance than wood, but gave the exact same appearance, right down to preserving a design element. He said the *LUC* also stated “*... this generally means that window location; size, shape, function and materials are retained generally.*”

Mr. Weismann concluded by stating that his clients had maintained the location, size, shape, and function of the windows. The materials differed slightly, which his clients never disputed. He said his point was that the Mayor and Council had a reason to overturn DSD’s decision as the Mayor and Council approved the *LUC* and the use of the word “*generally.*” He said his clients “*generally*” complied with replacing their windows with windows in the same location, size, shape, function and material type and felt that if the Mayor and Council wanted this to be like for like, as was pointed out, the *Land Use Code* would have read “*exactly.*” He continued by saying the *Land Use Code* did not say “*exactly*” and he was not making that the legal point. He said he thought that, because the Mayor and Council wanted to give themselves some flexibility in such decisions and at some point would have an appellant who put in over \$30,000 into a window renovation that looked exactly the same as the old window when viewed from the street, with the exception of the design element, they did not match in a modern window.

Mr. Weismann concluded stating the *LUC* empowered the Mayor and Council to make their decision on the basis of his clients having “*generally*” complied, which was how it was written and meant to be enforced. He said he believed that was the reason why the Mayor and Council should approve the renovation for Demers and Perreault.

Mr. Randolph announced the second item in the order of appeal was a response from City staff, if any.

Mr. Duarte said there was no response.

Mr. Randolph announced the third item was input from any member of the public.

Mayor Walkup announced he had received four speaker cards and said speakers were limited to five-minute presentations.

James Bly, West University Historic Zone Advisory Board (WUHZAB) Chair, said the emphasis should be on “advisory”, stating the purpose of the WUHZAB was to provide advice to the City, and the City had the authority to uphold or not uphold the advice provided. The WUHZAB had several zoning violations that came before them in the last year and a half, all because of individuals who did not comply with the historic review process. He said the individuals did the work, got caught, then came in front of the WUHZAB to make legal arguments, such as, the code did not require wood or did not prevent other materials, such as aluminum clad windows, metal roofs or fiberglass windows. He said they also made mercy arguments where individuals say they did not know, they spent a lot of money, what they used was better material because it was more energy efficient, it was green, or it was newer.

Mr. Bly said the WUHZAB was asking the City to enforce the historic design standards established in the *Tucson City Code*, in order to preserve the historic review process. If that was not done, people would continue to ignore the process, make changes to their homes, get caught, then file an appeal expecting the Mayor and Council to overturn two levels of advisory board decisions and a City department decision and let them do whatever they wanted.

Mr. Bly stated the WUHZAB was also asking the City to enforce the design standards for HPZs in order to preserve the historic uniqueness of the neighborhood. He said the HPZ was keeping their neighborhood from being overrun by mini-dorms, much like what was happening to the north of them and other areas around the University of Arizona. He said the WUHZAB was looking at the modern streetcar coming into their neighborhood within the next couple of years, putting additional stress or pressure on the neighborhood for commercial development. He said they needed a City Council who would make it very clear to developers that HPZ requirements would be enforced so that developers could not come in tearing down buildings to put up fast food restaurants or coffee shops and then say they did not know the area was in a historic zone.

Mr. Bly said his comments were for both cases; but on the Perreault/Demers case, he said they were told, at least twice, that they could not put in non-wooden windows. Initially, the appellants had a minor review where a representative from the WUHZAB, the City/County Board, and the City of Tucson went out to the appellant's house. The appellants presented their renovation plans and, at that time, they were told they could not put in the non-wood windows. The appellants then addressed the WUHZAB during an informal review. They did not have a number for the informal review, but still addressed the Board and said they wanted to put in aluminum or vinyl clad windows. The WUHZAB informed the appellants that it was not allowed in the *LUC*. He said the minutes of that meeting were on record in the City Clerk's Office. After the two review hearings, the appellants proceeded with the planned renovations, changing their original design.

Mr. Bly said the appellants originally had very unique diamond shaped windows in their house and the new design changed the window to something completely different. The part of the *Code* that the attorney referred to included, he thought, the word "design", as well as "material." He said they changed both design and the material and should not be allowed to do that. Mr. Bly urged the Mayor and Council to uphold all previous decisions made in this case to preserve the process, the neighborhood and to save their neighborhood from mini-dorms and commercial development after the trolley came in.

Sharon Chadwick, Tucson-Pima County Historical Commission (T-PCHC) and Plans Review Subcommittee member, said she was the commissioner who went out to the house during the minor review and discussed the changes with Ms. Perreault. At that time, she advised Ms. Perreault that the new windows were not of appropriate material and that the current windows really did not need replacing and were not in bad condition. Also, she told Ms. Perreault that there were alternative ways to reduce heat gain, such as installing shades, screens, and awnings. Ms. Perreault was also told she could use trellises and plant vines and trees, all of which would provide shade and prevent any heat gain to the house.

Ms. Chadwick said she also advised Ms. Perreault that the diamond lights were a character-defining element of her house. She said many of the houses in West University were simple bungalows built in the 1920s, some of them in the teens, and had relatively little to recommend them as historic homes. She said no one of any great importance in the community ever lived there, and there was never any special event that had occurred there. What made them historically important was the group; the entire group was the West University Historic District. Ms. Chadwick said anyone could say that it was not really an important house, the change was really a minor change, and it really did not matter much; but if that was said often enough, pretty soon there really would not be that much left to say about the district. She said for those residents owning property in the district, as she did, did not find it difficult to comply with the rules and regulations established by *LUC*, when making repairs to their homes. She said she did not find it difficult to reach an agreement on needed repairs when a representative from the Commission, the Advisory Board, or a City staff visited.

Ms. Chadwick said if those types of renovations were allowed, soon enough there would not be any of the district left to preserve. All homeowners who depended on the historic status of their homes and available tax reductions would be the losers as well as the City. She stated the City as a whole would lose a valuable resource. She urged the Mayor and Council to uphold the decision of the DSD's Director which was based on advice from the WUHZAB, the T-PCHC, and the Plans Review Subcommittee, because that was what the ordinance said, and there had been a long history of interpreting it that way. She said they all followed the ordinance; and someone who just chose not to heed their advice, thinking they could do anything they wanted, should not be allowed to diminish everything the rest of the neighborhood had done and what they depended on.

Margaret Thornton said she was present with Michelle Graves, her neighbor, on behalf of both property owners of 901 and 907 North Third Avenue, who had been cited for lack of approval for installation of their new windows. She said she has lived at 925 North Third Avenue for over twenty years and loved living in a historic home. Since buying her home, she has had a copy of the design guidelines for the West University Historic District published in 1986. She stated she had inquired many times over the years about updates or revisions to the guidelines, to which there were none to date. She said that a City official told her that a condensation had been done in 1991.

Ms. Thornton said now her neighbors had been cited for the installation of new windows and it seemed very wrong to her. She said that both appellants kept their homes in top-notch condition and added it was so nice when the appellants bought the property at 901 North Third Avenue and rehabilitated their home's exterior, adding landscaping. Very old people had lived there for many years and the house was rapidly deteriorating. She said Roy and June Chamberlain, at 907 North Third Avenue, had always, as long as she could remember, maintained their home in tip-top condition and that was more important than aluminum clad or vinyl clad windows versus wooden windows, which was undetectable to the eyes. She said the appellants' homes were a joy to look at and that at the time the guidelines were written, she doubted that windows made of modern superior materials were available locally. She also doubted that high quality wood, similar to the quality used in the construction of the original windows, would have been available except on special order or at a very high price.

Ms. Thornton said that West University officials had fallen behind the times and were stuck in the past with unenforceable guidelines that were no longer practical. She said she was told that a house on North Sixth Avenue was to be cited because the roof was not in accordance to the guidelines, although a historic photo showed the owner's roof was similar to the original. She said that indicated a non-flexible and zealous approach by the enforcement group. She stated the West University and the City would be wise to alert all homeowners in the West University boundaries and all real estate people who were selling homes in the West University Neighborhood of the stiff penalties for violation of guidelines, which had become outdated. That would lessen the chances of future citations and ensure good future rehabilitation of homes and new construction. She said her neighbors should not have been cited and their citations should be reversed.

Ms Thornton said the appellants were both good keepers of their historic homes and good neighbors. The original reason for the guidelines was to keep landlords from letting properties deteriorate and make repairs in bad taste and not in keeping with the original style. She reiterated “in keeping”, which was what the guidelines stated. She said since the guidelines had not been revised, she requested that the Mayor and Council revoke the citations until such a time, thoughtful and reasonable, revisions to the guidelines were made and approved which was long past due.

Ms. Thornton concluded by stating that since she has lived in that neighborhood it was much better; was not deteriorating and was getting better all the time. She responded to a comment made earlier by Ms. Chadwick that no important people had lived in the neighborhood. She said there were important people who lived in the neighborhood; one was Matthews who was publisher of the newspaper. Another was, many years ago, T. Ed Let, who owned a pharmacy downtown in the 1930’s.

Samuel Ace said he lived at 448 East Second Street and was across the street from the Perreault/Demers home and next to the Chamberlain’s on Third Avenue. He said prior to the Perreault/Demers moving into the residence, the house was deteriorating very badly and the windows were in terrible shape. He said the glass windows in the neighborhood were single-pane and that was general on many of the houses in that historic neighborhood. The wooden windows were in horrific shape and falling apart.

Mr. Ace stated he has lived in historic neighborhoods the entire time he has lived in Tucson. He moved to the West University Neighborhood from the Armory Park Neighborhood, which fell under the same *LUC*. He stated he had been through the experience of living in a historic neighborhood where there was a Historic Zone Advisory Board that was one in keeping with updates to energy efficiency codes. In Armory Park they were able to have a development that met historic guidelines, but also had been able to incorporate energy efficiency. He said after moving to West University, he found a historic board and zoning committee that was so rigid in interpreting the historic board that it had actually, he believed, stifled updates in a historic preservation, but updates to houses.

Mr. Ace said, if you walked through the neighborhood, you would see a varied compilation of houses and could get a sense of the uneven enforcement of the *Code*. He said there were chain linked fences and various buildings that had been put up when the historic board was or was not there. There were properties owned by people currently on the WUHZAB that had violations according to their own interpretations of the *Code*. He said he sent a letter to the Mayor and Council that outlined violations throughout the neighborhood and took pictures of things that had been allowed on properties of some of the same people who were going after the appellants and were not fulfilling their own interpretation of the historic guidelines.

Mr. Ace stated he has never lived in a neighborhood where the historic board was so rigid in their interpretation. He felt it put a damper on what could happen in the neighborhood. He said he was not talking about putting up mini-dorms, as stated by the

gentleman before him, nor was he talking about putting up anything that was not in the historic spirit of the neighborhood. He pointed out pictures of the windows that both neighbors had put up, stating they were beautiful and their properties were extremely well taken care of. The appellants had done probably more than almost anybody in the neighborhood to improve their property. He urged the Mayor and Council to give the appellants permission to keep the windows that they put in because they were only adding to the property.

Barbara Macri stated she has lived in the West University Neighborhood for twenty years. She said she was a former City planner, and after retiring decided to use her skills to give back to her neighborhood and also give back to the City in a volunteer position, as a member of the WUHZAB for the past two years. She said when she and her husband renovated their home ten years ago they went through the entire process that residents currently go through. She stated there were several changes that were required of them including wood windows, which they complied with. She said that the WUHZAB continued to receive and deny requests for aluminum-clad, vinyl or fiberglass windows.

Ms. Marci said the Board was glad when their neighbors wanted to fix up their properties; but it was also hard to be neighbors with someone and have to tell them they could not do what they wanted to do with their property. The Board usually tried to work with the residents so that everyone got some kind of consensus and a good explanation was given. Ms. Macri said if the Mayor and Council were to allow the appellants to keep their windows and thumb their noses at the Board and the design guidelines, in her opinion she would have a hard time, as a volunteer on the WUHZAB, telling the next case that came before them that they could not do something. She said it seemed to her to be selective enforcement to say it worked for one resident but not the other. She urged the Mayor and Council to help the WUHZAB and be consistent by denying the appeal.

Nadine Rund, Amory Park Historic Zone Advisory Board (APHZAB) Chair, said she was present to lend support to the WUHZAB and to strongly encourage the Mayor and Council not to overturn the recommendations of the Planning Commission. She added that both Boards had been through the process, and it was a struggle. She said she appreciated what people had said, and was particularly concerned that this particular household had gone through the process beginning with an informal review. She said that was when they would usually hear “no”, and then they went to another sort of informal review in front of the whole Board. Again they were told “no” and they still went ahead with the changes. She stated the Board fights this in Armory Park. She has restored two houses with wood windows herself. She commented on aluminum-clad and fiberglass windows, stating some were great and some looked awful. Once the Board says that fiberglass, aluminum and vinyl-clad windows were okay then the cheaper windows start coming in.

Ms. Rund stated APHZAB has had people who had to completely redo their windows, and also had beautiful examples of wood windows. She explained there was a new technique using solid wood, with the paint actually baked on. She directed the

Mayor and Council's attention to the northeast corner of Eighteenth Street and Third Avenue, where there was a beautiful new award-winning example of infill. She said it was a process. They had all been through it. It was a struggle and expensive, but many residents had gone through the process. She said the Board felt very strong about the process and encouraged the Mayor and Council to continue to support the guidelines.

Ms. Rund stated that following the guidelines could be done. If this had been a situation where they suddenly did something and then realized they could not use aluminum-clad windows, it would be a different situation. But the Appellants went through the process and were denied several times. Ms. Rund stated that windows, doors, and roofs defined their homes. She urged the Mayor and Council to uphold the DSD's decision. She said she would also speak on the next case coming up.

Gal Witmer, Architect, Tucson-Pima County Historical Commission (T-PCHC) member, and Vice President of West University Neighborhood. She said she had been through the process in the West University, as a homeowner who restored a burnt down house. She felt she represented many sides of this case, and said she would try to talk about some things that the Mayor and Council had not heard about from the previous speakers. She wanted the Mayor and Council to know that, as an architect, the HPZ was the key to why West University stood today and why the City had problems in the Feldmans Neighborhood. She said residents from the Feldmans Neighborhood emailed the West University Neighborhood asking for help, because bungalows were being torn down and the residents could not stop this from happening. She applauded the City and her neighborhood, thirty years ago, because they would not have it without the ordinance which was in the *LUC*.

Ms. Witmer said, as an architect, there had been a lot said that the City was not keeping up with the times by allowing energy efficiency. She said wood windows were fully energy efficient. In fact, when windows were brought from any company, they make wood windows and a wood window with a cladding on it. She said it was basically the same window, and had the exact same energy efficiency U-rating standards. The difference was the cladding and this was so the property owner did not have to paint it as often.

Ms. Witmer commented on the Historic Preservation Zone (HPZ), stating preservation meant they were to preserve character-defining features, which included material as stated in the Secretary of Interior Standards and the City's own Development Standards. She said what was gained from that was fifty percent off their property taxes for thirty years and that money was to be used to do some painting over the years on their wood windows and other character-defining elements. If they allowed vinyl or metal-clad windows, or any other products, what would make them different from people in midtown; and why would they even deserve that kind of tax break if they did not want to maintain the character-defining features.

Ms. Witmer asked what position the Historic Preservation Zone Advisory Boards would be in if they allowed vinyl windows. If vinyl windows were allowed, what would

be said about porch railings and the little Victorian scroll details, which were nonexistent except for in houses such as those in historic districts. She asked what would be done then, and would they have to cut off their rafter tails because property owners did not want to maintain them. She said the problem would just keep going and they would lose preservation, which was the goal of the HPZ.

Ms. Witmer said she thought this was really unfortunate, as the appellants were their neighbors and they knew them. She pointed out that they were really not a Board that was trying to stop things, and they did not want to be in the position they were facing. She said a wood window was not a hard thing to replace. If their windows were deteriorating, they could buy new wood windows. They were not extraordinarily priced. They were somewhat equally priced with clad windows, depending on which company they were purchased from.

Ms. Witmer pointed out that the T-PCHC has been working very closely with the Community Services Department. They had programs available dealing with lead abatement and low-income houses in historic zones. She said the Community Services Department admitted that wood windows were not the problem. They could easily replace a wood window. However, they did have problems with steel casements. This was something they were working on. She said she wanted to point out that they were very much aware of the issues and were trying to work through those issues. She said there was an example of a group of people that had not just gone forward, but sat down, attended multiple meetings, looked at different products, and tried to figure out how to preserve homes and still get people what they need. She urged the Mayor and Council to uphold the denials that had been put forward.

Mayor Walkup asked if there was anyone else wishing to be heard on this item. There was no one.

Mr. Randolph announced the next order for the appeal was for the Mayor and Council to hear any other rebuttals, direct questions to the parties appearing before them for any other information; or close the public hearing and have discussion.

It was moved by Council Member Trasoff, duly seconded, to close the public hearing.

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

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff; Vice Mayor Romero and Mayor Walkup

Nay: None

Motion to close the public hearing was passed by a roll call vote of 7 to 0.

Council Member Trasoff said these issues were very difficult when they came before the Mayor and Council, because of homeowners wanting to do what they believed was right for their own homes; but they also had to combine the impact this would have on the neighborhood, and the fact that this neighborhood managed to keep “mini-dorms” out because of the protections the neighborhood had from the HPZ. She said if the appellant did not know ahead of time, there possibly might have been a different attitude. But the fact that the appellants sought out the preliminary and still went ahead after having been told “no”, prompted her to move that the Mayor and Council affirm the decision of the Development Services Department Director.

It was moved by Council Member Trasoff, duly seconded, to affirm the decision of the Development Services Department Director.

Mayor Walkup asked if there was any discussion.

Vice Mayor Romero asked for clarification from the Mr. Duarte on whether or not the statement was true that the HPZ brought fifty-percent property tax abatement to the participants of the HPZ.

Mr. Duarte said he believed there were some tax benefits enjoyed by properties within a historic district, but the specifics could vary. He asked staff to provide more information on the tax benefits.

Jonathan Mabry, Community Services Department Historic Preservation Officer, said the State Historic Tax Credit Program was a voluntary program that owners of contributing properties in the National Register of Historic Districts could enroll in. It provided a discount on the portion of the homeowners’ property taxes that would go to the State. He said the tax was actually closer to about forty percent off the annual property taxes. One of the conditions of enrolling in the program and receiving the tax credit was to maintain the home according to the National Historic Preservation Standards which included windows, which were character defining-features of contributing properties in National Register Districts.

Vice Mayor Romero asked if individuals that purchased homes in a HPZ were aware, at the time of purchasing the property, that the home was a contributing property.

Mr. Duarte replied that to the extent that the information shows up on the title report as being zoned historic. That information was typically something that showed up in the transfer of the sales contract and in this case, it would be zoned HR-1 (Historic Residential One).

Council Member Scott asked if, by using the alternative materials, the designation of the historic district would be compromised and to what degree,

Mr. Mabry responded affirmatively and that the Secretary of Interior Standards defined windows as character-defining elements of historic properties.

Council Member Scott said then that, if enough changes had been made in an area that had been designated as historic, it would take a certain point at which the district would have to not be designated as historic again.

Mr. Mabry said that was correct and that the discussion was about tipping points both for individual houses and for the district itself. The threshold for the district was when a district dropped below fifty one percent of the properties inside the boundaries meeting those National Standards, and then the entire district would lose its designation. All the property owners that had been enjoying the historic tax credits would lose those tax credits.

Council Member Scott said, in this particular case, there was an embellishment on the window that was of a diamond shape. She asked if a person wanted to replace those windows with like, were those particular features available if one went to buy them or would they have to be replaced and could the homeowner even buy them anymore.

Mr. Mabry said he thought that the HPZ Development Standards and the West University HPZ Design Guidelines were concerned with overall window types, materials and general appearance. If there was a very unique type of feature on a house and it was not possible to repair and restore it, and there were no current available products to replicate it, then different products would be approved that came as close as possible to the original appearance.

Council Member Scott asked if the owners in this case had attempted to buy a like-for-like window with the diamond features in it and were unable to find the exact thing, would they have been able to come before the Boards to see if there was a variation or some sort of allowance that would not compromise the district or the house.

Mr. Mabry agreed with the comment and said that it would not compromise the historic status of the house to replace a very unique wood window with the closest approximation wood window of the same type.

Council Member Scott said, as has been pointed out, when people bought historic homes they were usually apprised of that, and as they moved into the historic home, there would be paperwork that would advise them of that. She asked if that was correct.

Mr. Mabry replied that in addition to the type of zoning shown on the title report, everyone in the neighborhood also received monthly mailings from the Neighborhood Association. He said he knew that West University was very active in making sure that everyone knew that they lived in a HPZ and that there was a review process. He said it would be difficult to buy a house in that neighborhood and not know that it was a historic zone. It would be difficult to live there for any length of time and not know.

Council Member Scott asked if it would be difficult for these owners to have discovered the fact that they should have gone through a different process other than the one they chose, which was to go out replace the windows, have them installed and then go and ask for the permits. She asked if they would have known there was a different process in place, and if it took more than just a visit from a couple of people. She asked for confirmation that a City staff person and Board member that had gone to speak with the appellants.

Mr. Mabry responded that was correct.

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

Mr. Randolph clarified that the roll call would be on the motion made to affirm the DSD Director's decision.

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff; Vice Mayor Romero and Mayor Walkup

Nay: None

Motion to affirm the decision made by the Development Services Department Director was passed by a roll call vote of 7 to 0.

9. PUBLIC HEARING: APPEAL HISTORIC PRESERVATION ZONE CASE HPZ 08-22 CHAMBERLIN, 907 NORTH 3RD AVENUE

Mayor Walkup announced City Manager's communication number 318, dated June 9, 2009, 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 an appeal of the Development Services Department Director's decision on a Historic Preservation Zone Case. The appellants were property owners Roy and June Chamberlin. He asked the City Clerk to read the order of Appeal.

Roger W. Randolph, City Clerk, announced the City Attorney would first summarize the procedural questions presented in this case.

Mike Rankin, City Attorney, announced that procedurally, the Mayor and Council could do one of three things:

- 4) affirm the Development Services Department (DSD) Director's decision; the effect being to deny the appeal and the application,
- 5) reverse the DSD Director's decision, which would have the effect of granting the appeal and application, or
- 6) modify the DSD Director's decision; for example granting the appeal but adding specific conditions upon that

Mr. Rankin stated the Mayor and Council may base their decision upon the application, testimony, evidence, and materials presented both in the prior hearings, as well as, the public hearing that evening.

Mr. Randolph announced the Development Services Department (DSD) Director would present a report and summary of the request that was before the Council.

Ernie Duarte, Development Services Department Director, said that once again, this case was an appeal to the denial of the request to install non-wood frame windows in place of existing historic wood frame windows on a contributing historic structure located in the West University Historic District Overlay Zone. The property owner replaced wood frame windows with non-wood frame windows prior to obtaining historic review and approval in accordance with City of Tucson *Land Use Code (LUC)*, Section 2.88, as required in the local historic overlay zone before exterior improvements were started. Once again a code violation was reported to Community Services Department and a notice of violation was issued to the property owner. As a result, the property owner submitted a formal Historic Preservation Zone (HPZ) review approval application to DSD in order to address the violation. The West University Historic Advisory Board (WUHZAB) reviewed the proposal for the non-wood frame windows and recommended denial, based upon West University guidelines that like-for-like materials be used in structures classified as contributing historic.

Mr. Duarte said the Tucson-Pima County Historical Commission (T-PCHC) agreed with WUHZAB's recommendation and also recommended denial. The Design Review Board (DRB) subsequently reviewed the application and recommended approval for the use of this type of non-wood frame windows. Based on the recommendations received through the review process for the non-wood frame windows, DSD issued a denial letter for the HPZ application on July 29, 2008.

Mr. Duarte said once again, as the City Attorney pointed out, the Council could either affirm the denial decision, reverse the denial decision, or modify the denial decision and establish conditions that were appropriate to implement the *LUC* Regulations.

Mr. Randolph announced the first item on the order of the appeal would be the Appellant presenting their appeal.

Adam Weismann, legal counsel for Roy and June Chamberlin, stated he was endlessly optimistic with respect to the Chamberlin household. He said there was a slight difference in the Chamberlin case; in that there was no design element involved that was changed in the windows. As he pointed to photographs of the window, he said it was simply a replacement of a wooden window with a largely identical fiberglass frame window. He said as the case was presented in front of the DRB, they had a good discussion. All parties involved had a chance to speak and express themselves, and they had a lively debate on the subject. The DRB, which was charged with making decisions about designs, found this was the kind of minor variation with great respect to the appearance of the home and felt their recommendation should be upheld by the Mayor and Council.

Mr. Weismann stated he would not repeat what he said with respect to Demers and Perreault, but he wanted to bring up a few points just to be clear. He said everyone gave their opinion as to whether or not Demers and Perreault could find certain windows, afford certain windows, were they as energy efficient and were they exactly the same. He said he was sure they would have the same things to say about the Chamberlin case, as everyone had expressed their opinion on that. The only people who were really qualified to express themselves the issues were the people who went out to try to do these things with their homes. He assured the Mayor and Council that both Mr. Demers and Ms. Perreault, and the Chamberlins, in this case, made a review of what materials were available, what the costs were and made an educated decision as homeowners about what they thought would be the best investment for their homes.

Mr. Weismann said it was very easy to say that they could have easily done something else, but he did not think that was the question before the Mayor and Council. He agreed with comments made earlier by a member of the WUHZAB that they had to be consistent. He said the Board chose to be consistent, but the Mayor and Council did not have to be consistent. He referred to comments he made earlier that the ordinance at issue did not require the Mayor and Council to be consistent. He said the Mayor and Council had the opportunity to weigh the decisions made by citizens of Tucson who were taxpayers and homeowners, and to weigh decisions against decisions that were made outside of Tucson about the accreditation of historical neighborhoods.

Mr. Weismann said those decisions, as were well explained by the City's representative, about national accreditation of historical neighborhoods were not made in Tucson. They were for the benefit of the individual citizens, homeowners, to receive a state tax break and, in some cases, a federal tax break, if the property was in a national historical zone and they applied for them. Neither of the Appellants, in this case, applied for nor received that benefit. Mr. Weismann said he did not believe it was the job of the Mayor and Council to put that tax break, which was a voluntary application of a homeowner, above the individual rights of homeowners to make decisions about their properties that were made carefully.

Mr. Weismann said that was why, in such a short presentation, he could not convince the Mayor and Council of everything that went into the decisions made by both

his clients. That was why he presented the photographs. He said if the Mayor and Council looked at those photographs, they would see that the windows looked good, were high quality and looked the same. He said his appeal, to the Mayor and Council, was that they make this decision in favor of the individual Tucson homeowner.

Mr. Weismann said if the historical district were to go away for whatever reason, it would just go away. It was not a consideration that should be primary for the Mayor and Council. He said that what should be primary was whether or not individual homeowners, who pay taxes, were generally complying with window location, size, shape, function and materials. He said if the Mayor and Council did not take cognizance of their ability to make decisions on an individual basis to allow individual homeowners to use new materials and make educated decisions about what was most energy efficient, the outcome would be that someone, maybe the Appellants or someone else, could come along at some point, and appeal to the courts. He said when an appeal was made to the courts, they would be asking the courts to look at an ordinance that said “this generally means ... that windows, locations, etc.”

Mr. Weismann concluded his comments by asking the Mayor and Council what “generally” meant, if the speed was “generally 70”, what was the speed limit. He stated the ordinance said “generally” and he felt that empowered the Mayor and Council to make these decisions individually. He said he was suggesting the way to make their decision, as the DRB was suggesting, would be with deference to the individual Tucson taxpayer and homeowner, not to a national body that accredited historic neighborhoods that could take that accreditation away whenever they wanted to. He said that decision was not an appealable decision if they decided there were not enough bungalows that looked a certain way. That was gone, and he said he thought it would be a mistake for the Mayor and Council to make that their primary consideration, rather than the decisions that were being made about private property by Tucsonans.

Jim Bly, West University Historic Zone Advisory Board (WUHZAB) Chair, stated he was not going to repeat everything he said previously in the interests of time. He did want to say that he and his wife went through the historic review process when they bought their home in West University five years ago. They made some changes to the original house, and they were able to find three wooden doors and four wooden windows in their addition without any problem at all. They had since replaced seven wooden windows in the original part of the house, without any problem finding wood windows. He said wood windows were available. Mr. Bly said when the Chamberlins came before the WUHZAB, after they were cited for a zoning violation; they claimed they did not know about the historic zone and the historic preservation review process.

Mr. Bly said they heard a statement earlier from City staff that it was hard to live in a neighborhood for many years without finding they were in a historic zone. He said he was always a little skeptical about the Chamberlins’ not knowing, because they lived right next door to the Perraults, had the same attorney, and did this at the same time. So he was skeptical about any statement on their part that they did not know about the historic review process.

Sharon Chadwick, Tucson-Pima County Historical Commission (T-PCHC) Plans Review Subcommittee member, said she wanted the Mayor and Council to take note that everything she said previously applied to this case as well and did not want to repeat herself, however, she wanted to add a couple of things. She said in her personal experience, real estate agents promoted the fact that this neighborhood was a historic district when trying to sell a home. They promoted it to buyers, as being a historic district that was stable and would not have problems with big changes in development.

Ms. Chadwick also added that the DRB was made up of dedicated individuals just like the T-PCHC and the WUHZAB. However, with all due respect to them, they were not particularly experts in historic preservation. She said to her eye, fiberglass frame windows did not look like or enough like wood frame windows. She said there was also no particular guarantee that these windows would last very long and that the original wood frame windows were there seventy or more years and held up very well. In many cases the wood windows were of such high quality materials that they could be repaired, and be repaired rather easily and less expensive than buying new windows.

Ms. Chadwick stated that homeowners sometimes tell these Boards that they were trying to prevent heat gain, or trying to be energy efficient. She said the greatest loss or gain of heat was through the roof, then the floor, and then the walls. There was relatively little difference between heat gain or loss from the doors and windows and the rest of the wall. If homeowners were simply after replacing something that needed either repair or replacement, she said property owners would be sold a bill of goods by sales people of window companies. Materials that they replaced, historic material roof, were not necessarily what would be considered the best choice. She said she was sure that sales people thought they were doing the right thing, but that did not apply in this case.

Ms. Chadwick said what did apply was that the Chamberlins lived near the owners in the first case, with a home in between both parties. She said the Chamberlin's windows were changed right after the windows were changed on the property of the first case. Ms. Chadwick said she thought it was a case of people just deciding that if "they can do it, so can we." Ms. Chadwick concluded by saying that following the rules should matter to everyone.

Margaret Thorton said she was present again on behalf of the two property owners who had been violated because of their window replacements. She wanted to address those who were not familiar with living in a historic home, stating these homes were called craftsman-style bungalows. She said replacing and replicating the windows would require craftsmen or artisans. She restated that one would be hard pressed to find wood of the quality that was used. She acknowledged that the wood used did last for years, but the wood today would not even come close to the quality of wood used in the original windows. Replacing them would be a huge expense. She said the tax break did not even come close to helping to rehabilitate a house. She said she knew as she did it herself. She stated she spoke to people who were craftsmen and was told about the quality of wood, which was not available.

Barbara Macri commented saying she would not repeat herself either, but did want to clarify that Mr. Bly was correct that the properties were actually side by side and there was not a house in between them. She also commented that, of all the materials that might be considered green or alternative materials, fiberglass was not a material that would be considered green. She stated the production of fiberglass was not green and did not decompose. Her information and experience with fiberglass was that it did not stand up that well and was heat sensitive. She said she hoped the Mayor and Council upheld the DSD Director's decision to deny the appeal.

Nadine Rund, Amory Park Historic Zone Advisory Board (APHZAB) Chair, said she too would not repeat herself, but there were just a few things she did want to mention. On the matter of wood, she said Gal Witmer was the person to talk to. If anyone wanted to know about windows and where to get them, they should speak with her. She said wood windows were available and affordable. She said she would not put fiberglass windows in her house because they had gone through that with all sorts of design groups coming in from Portland. In fact, she said they were always getting design groups from Portland wanting to put in fiberglass. She said her windows were over a hundred years old and has had to patch and fixed them, but they worked.

Ms. Rund also commented on the tax credits. She said it was something that people had to apply for, which they worked with the applicants to get their forms. She said regarding the question about the realtors knowing; the Tucson Board of Realtors had an email newsletter that went out to every realtor in Tucson. About every six months, she personally sent them a statement listing the six or so historic zones, so the realtors knew.

Ms. Rund said she agreed with Ms. Chadwick's comments that the DSD Director's Office was very knowledgeable, knew what they were doing and were much more tuned into historic preservation. She concluded stating that while the DRB was doing their best, historic preservation was not their forte.

Gal Whitmer said she wanted to make a few distinctions, different points. She pointed out that the DRB was a design review board, which was why there was the T-PCHC; as they reviewed different things. She said she was not sure why the DRB was involved in the process, but thought it was probably to add a different point of view. She said, as an architect who has looked at these things and had been before the DRB, the DRB looked at design.

Ms. Witmer said when looking at the issue from a design point of view, all the windows were very beautiful and the houses looked really nice; but they did not meet the Secretary of Interior Standards and the City of Tucson Development Standard's in the way they had been interpreted for thirty years. She also wanted to point out that the meeting with the DRB was very interesting. The Acting Chair on that date did not even want to act on the case, stating he felt very uncomfortable in reviewing something he knew anything about. Ms. Witmer said she felt that the meeting was really about what was appropriate and that the Development Standards really were not looked at. In fact, she said, one member was very tough on the subject and really pointedly thought the

West University Neighborhood Association (WUNA) had been harsh. Ms. Witmer said she knew this particular person in the architectural community, and he was involved in a project years ago where they ended up tearing down a home in a historic district, which the neighborhood fought against. She said there were some issues there for the acting chair about preservation. She said he had some background, and she wondered if he should even be reviewing on the case in that situation.

Ms. Witmer said that she became involved with the WUNA to improve communication. She said WUNA started yahoo forums, sent their newsletter out to every address they had on file, and their president had an email list of all email addresses she could get. Ms. Witmer stated one of WUNA's goals was to keep things like this from happening.

Ms. Witmer said the T-PCHC was very sensitive to historic preservation. They took it upon themselves to create a mailing, which will be sent out to all the HPZs so that the HPZ's could use their one free mailing a month to get the message out to their property owners, that they live in a HPZ and alert them that they cannot make changes without checking.

Ms. Witmer stated these types of cases were going to happen, and unfortunately there would be people who could not be reached. However, she said she did not think the process should be penalized and all the countless people that had been through the process and followed it, then to have a house on the block that did not follow. She stated that technically, if this were to be approved, there would be fiberglass windows that in the development zone, and the Demers and Perreaults could change their windows to fiberglass, technically, because they would be in the development zone. She urged the Mayor and Council to be really careful, and she looked forward to their response.

Mayor Walkup asked if there was anyone else who wished to speak on this subject at this time. There was no one.

Mr. Randolph stated again, that the Mayor and Council, at this point in time, had the option to listen to any other rebuttals they wished, direct questions to any of the parties presenting information; or close the public hearing and make a decision.

It was moved by Council Member Trasoff, duly seconded, to close the public hearing.

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

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff; Vice Mayor Romero and Mayor Walkup

Nay: None

Motion to close the public hearing was passed by a roll call vote of 7 to 0.

Council Member Trasoff stated this case was a little difficult, but thought they had to go back to the same principle; and the preservation of the historic zone was very important. She said there was one thing that needed to be addressed, as Vice Mayor Romero had asked was in terms of the tax credit or the reduction in taxes. She said that even if the houses in question did not participate in the program, their failure to comply would impact all of their neighbors' ability to have that tax break. She stated that Mr. Weismann was quite articulate in talking about that, individual rights, and the external criteria. She said she heard what he had to say about that, but the fact was, if the district went away, that would be the Mayor and Council's concern. It was a balance of looking at the individual homeowner's rights, but also their ability to impact everyone in their neighborhood by their actions. She said she thought the issue of consistency was also very important.

It was moved by Council Member Trasoff, duly seconded, to affirm the Development Services Department Director's decision.

Mayor Walkup asked if there was any further discussion.

Council Member Leal said he agreed with Council Member Trasoff's comments. He said they were not just talking about preserving structures in a neighborhood, but also the preservation of values; social and human values. He said people who moved into this neighborhood were benefiting by the work and effort that everybody else who already lived there had contributed to. So on the one hand, the newcomer wanted everyone who had been there to do what they had done; but somehow the newcomer did not want to reciprocate and work as hard for everybody else as everybody else had done for them. They wanted to engage in situation ethics and opportunism, and he said he thought that would tear apart the fabric of the community. He said he thought staff had done a really good job steering through and understanding the issues and having the integrity to say it all out loud even though it made some people unhappy. He stated there had been discussions about how the tax credit could be lost, but if the district was lost, then the fear that other people had raised about becoming a mini-dorm heaven, or hell, would also happen.

Council Member Leal said he thought the Mayor and Council and staff had all the imbedded important issues out on the table and had seen clearly into this and were going to make the right decision.

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

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff; Vice Mayor Romero and Mayor Walkup

Nay: None

Motion to affirm the decision made by the Development Services Department Director was passed by a roll call vote of 7 to 0.

10. PUBLIC HEARING: TRUTH IN TAXATION HEARING FOR THE PRIMARY PROPERTY TAX; NOTICE OF PRIMARY PROPERTY TAX INCREASE

Mayor Walkup announced City Manager's communication number 324, dated June 9, 2009, was received into and made part of the record. He also announced this was the time and place legally advertised for a Truth in Property Taxation public hearing. He said the public hearing was scheduled to last no more than one hour, and speakers were limited to five-minute presentations.

Cactus Ken said that on Thursday, May 28, 2009, he was stopped on the street outside the Ronstadt Transit Center by KGUN 9 News, and was asked to go on camera about this issue, and also to discuss a few things about the economy. He said all the economic problems dated back to 1945, the end of World War II, when the men came home from the war and took on a spending binge that had not stopped yet. He said people had gotten themselves so deep in debt, that it was inevitable that sooner or later this country would pay the piper. He asked what debt was and to be honest about it. He said debt was "dangerously easy, big trouble."

Mr. Ken stated there were people who had to have everything; live so far beyond their means all these years and now it was catching up to them. He said that it had been said that this was no ordinary recession, to which he agreed. He said the country had really reached the day of reckoning.

Mr. Ken said as far as taxation actions, everything was always a question of money to pay for it, and everyone knew that. He commented how people wanted this and that, but everything cost money; and everyone had to be realistic. People did not get things for nothing. He said if taxes had to be raised; the revenue had to come from someplace for sure if we were going to have the things we needed and if the City was going to function properly. He said if we were going to have police or fire protection and public transport services, we had to be willing to pay for those things.

Mr. Ken said he had his car stolen five years ago, and could not afford to replace it because he was retired and on a fixed income, so he has to take the bus wherever he

goes. Fortunately, he said there were two bus lines that went right past him to the Tucson Mall, routes ten and sixteen and also came downtown, which was okay. He said he could not afford to own a car, and had to depend on public transportation for that reason.

Mr. Ken continued that when he was stopped on the street on May 28, he was on his way to his guitar lesson at the Chicago Store; and was willing to go on camera because he felt it was part of his civic duty to take an interest in these types of issues. He said he felt that it was something everyone would have to face and make adjustments for in their lives whether they wanted to or not. He said people could make do with one car per family instead of two or three and would go a long way to solving economic problems, but one had to live within their means if they wanted to be safe and secure. He said people could not continue living in debt indefinitely, as it would catch up to them and was the reason why everyone was in such trouble today.

Mr. Ken said as far as taxes were concerned, if a tax needed to be raised to raise money, then it has to be done. He said that was the reality everyone had to face, whether they liked it or not. He did not think a lot of people in attendance would agree with him, but said there would be that day of reckoning. He said if the City did not have the money to function, the City would shut down.

Mayor Walkup asked if there was anyone else who wished to speak on the issue. There was no one.

It was moved by Council Member Scott, duly seconded, to close the public hearing.

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

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff; Vice Mayor Romero and Mayor Walkup

Nay: None

Motion to close the public hearing was passed by a roll call vote of 7 to 0.

Council Member Trasoff said she had a few questions to ask staff, before making a formal motion. She said in talking about property taxes and establishing a rate, she thought it was always important to make a point of how much of the property taxes people paid came to the City, what portion of what came to the City was applied to the City's budget, and where the balance went to. She also asked if the State received a portion of the taxes received.

Marie Nemerguth, Budget and Internal Audit Program Director, replied that approximately seven percent of a person's property tax bill collections came to the City. She said approximately thirty-five percent went to Pima County for their activities

including the libraries, and Tucson Unified School District (TUSD) was fifty percent. The State did not receive any portion of the revenue generated by property taxes.

Council Member Trasoff stated she felt it was important to keep in mind, because people worried about property taxes, as everyone did, to know that the portion that the City levied represented only about seven percent of that total.

It was moved by Council Member Trasoff, duly seconded, to direct staff to perform all functions required by law.

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

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff; Vice Mayor Romero and Mayor Walkup

Nay: None

Motion to direct staff to perform all functions required by law was passed by a roll call vote of 7 to 0.

11. PUBLIC HEARING: 2010 BUDGET AS TENTATIVELY ADOPTED ON JUNE 2, 2009

Mayor Walkup announced City Manager's communication number 323, dated June 9, 2009, was received into and made part of the record. He also announced this was the time and place legally advertised for public hearing on the budget as tentatively adopted on June 2. The public hearing was scheduled to last no more than one hour, and speakers were limited to five-minute presentations. Before beginning the public hearing, he said the City Manager would make a presentation.

Mike Letcher, City Manager, stated the 2009/2010 budget had been very difficult for the City Council and very difficult for the community, and staff would be giving a brief presentation to put some things into context. He said it was always hard and very difficult to ask citizens to pay increased taxes. He said where the City was at now, a crossroad, was where a lot of cities were at in this country where core services were being affected by the ability to provide good police and fire protection, the ability to have good parks, the ability to maintain roads, and the ability to address those services critically important to the kind of community that Tucson had and was. He said with the brief presentation, they would be setting the framework for addressing core services.

Mr. Letcher said it did not mean that there would not be disagreement about the approach being taken, but he wanted to be certain and very clear that they were talking about the future sustainability of the community. He said the City was in serious

economic times, more serious than in anything he had seen in the thirty years he had been in city management. He commented he was not going to sit there and say that the City could get through this without having some pretty severe pain. What staff tried to do with the budget, was to present a balanced approach. He said significant cuts had been made, and they were asking the community to raise some money to keep core services from being further cut. He called on staff to make a brief presentation before moving forward with the public hearing.

Marie Nemerguth, Budget and Internal Audit Program Director, gave a power point presentation outlining the 2010 Budget. She said the total budget before the Mayor and Council was 1.3 billion dollars. She said that a little less than one third of the budget was the General Fund which supported all of the core services totaling 420.6 million dollars of expenditures. Enterprise Funds which included Water, Golf, and Environmental Services, were self-sustaining totaling 224.7 million dollars. Restricted Funds were almost half of the budget, and were funds restricted for specific purposes such as grants, economic stimulus funding and the like.

Ms. Nemerguth stated that last week after a public hearing, the Mayor and Council adopted an increase in rates and fees for the Water Department, Mass Transit System, and Environmental Services. She said those were all fair increases that would either improve or maintain the system at status quo, but were highly needed rate increases.

Ms. Nemerguth continued by discussing the General Fund and what balancing measures were taken before they considered raising any taxes or fees. She said that, overall, the City's Budget had been reduced by over four hundred full-time equivalent positions between Fiscal Years 2009 and 2010, of which two hundred ninety were General Funded positions that had been eliminated due to vacancies or retirements, and staff was filling in the gaps. She said there were no funds to support those additional positions, so there were a lot of efficiencies going on to cover those gaps. All City department budgets, including the Mayor and Council's budgets were cut by 7.1 percent, however, public safety budgets, were cut by just 2.5 percent. She stated staff had also put into the budget one-time fixes of twenty nine million dollars that she said she would discuss later. City employees, as referred to by Mr. Letcher, were also taking some pay cuts with their benefits and things like that to the tune of 5.7 million dollars. She said that was what was considered before they went the revenue route.

Ms. Nemerguth presented a slide to show expenditure reductions versus the revenue increases that the City added in the General Fund budget. The cuts of almost fifty million dollars from the adopted General Fund budget of FY 2009 and FY 2010 were fifty million dollars and in comparison to the new revenues that the City included in the budget, there was a three-to-one ratio. In other words, for every three dollars of cuts made, one dollar of revenues was added back in. She said another way of looking at it was that the City had lost sixty-eight million dollars in city sales tax and state shared revenues; sixty-eight million dollars compared to the new revenues of 16.6 million

dollars was a four-to-one ratio. She said for every four dollars the City lost in those types of revenues put one million dollars of new revenues in the budget to cover.

Ms. Nemerguth referred to the next slide which she said was very important and showed new revenues and how they relate to the one-time fixes. The City had 45.7 million dollars in the General Fund budget; 29.1 million dollars of one-time fixes, non-recurring events that the City would not have to help with the budget in FY 2011, and the 16.6 million dollars in new revenues. She said that actually, fifty million dollars of the General Fund Budget, was made up of just these two sources.

Ms. Nemerguth referred to the next slide, referred by Mr. Letcher as the core and support services. She stated that in the City's total General Fund budget of 420.6 million dollars, over three quarters of it supported the Mayor and Council's priorities; Public Safety, Parks and Recreation, Judicial Support to Public Safety, and the City's Streets and Transit System. She said the other quarter of support services was pretty lean and mean which included all the support staff in the Budget, Finance, Human Resources, Information Technology, Procurement, and those types of departments. She said it was also funding for outside agencies. She explained this was just to give the Mayor and Council an idea of how heavily the City's budget was weighted toward the core services, and said some of those Department budgets also had to be reduced over the last two years.

Ms. Nemerguth referred to the next slide which showed the source of revenues and pointed out the volatile revenues, sixty-four percent of the pie, which were the City's sales tax and State shared tax. She said the City only had stable revenues of around thirty percent. So, if you took the volatile of sixty-four percent and the non-recurring of six percent, seventy percent of the City's budget was somewhat unreliable in bad economic times, or not even be there the following year, if one-time fixes were made. She said the stable part of the 128.2 million dollars included the 16.6 million dollars of new revenues.

Ms. Nemerguth stated, if everything went well and talking about the City's rainy day fund, at the end of the current fiscal year, the City would have 14.6 million dollars. In Fiscal Year's 2010 budget, which had been tentatively adopted by the Mayor and Council, there was an additional 3.7 million dollars to contribute to that fund. She said, again, if all things went well, and the City finished out the year as hoped, there would be 18.3 million dollars in the rainy day fund. However, she said, of the 18.3 million dollars 4.3 percent was the City's budgeted expenditures and per the Mayor and Council's adopted policy that level should be at ten percent, which meant the City had to have 42 million dollars put away in Fiscal Year 2010 to stay with the policy. She said, since the City had to dip into that fund this fiscal year that has created a problem, but was the certainly the goal to keep that coming back up because it was very important for the City's financial outlook to the bond rating agencies.

Ms. Nemerguth concluded with another cautionary tale and another bullet that the City might yet have to dodge during the month of June. She said the Arizona State Legislature was still trying to balance the State Budget for Fiscal Year 2010. To date

they indicated there was a potential of cutting 4.6 million dollars of the City's General Fund in the State Shared Auto Lieu Tax area, so the City had to keep an eye on that and probably, more possible, was an eight million dollar cut out of the City's forty-three million dollar budget for in Highway User Revenue Funding (HURF) from the Auto Lou tax. She said it would be a pretty heavy hit to the City that could involve layoffs and other problems. She said the Impact Fee moratorium for three years was also proposed and was a potential loss of five million dollars in revenues that would be used for future capital projects.

Ms. Nemerguth emphasized again, that those three bullet points were in the legislative package, that the State Legislature and the Governor would be talking about. She said there was always the possibility of additional cuts to the State Shared Revenues that loomed over the City's head at any time during the budget year.

Ms. Nemerguth stated the City Manager, at the Mayor and Council meeting on July 7, 2009, would discuss the City's current situation, a financial recovery plan and short and long-term strategies. She said he would also discuss ways to eliminate the non-recurring deficit over potentially three years, and ways to build up the City's fund balance. She said, at that same time, the City Manager would introduce the Community Services Key Dialogue concept in which he wanted to discuss, with the community, their thoughts on what services the City should provide, and ideas on how the community hoped the City could pay for those services.

Mayor Walkup announced the public hearing would last no more than one hour, and speakers were limited to five-minute presentations. He said twenty speaker cards were received, which meant there were more cards than time permitted. He announced the cards would be shuffled and he would read them one at a time and give the second person coming up a chance to move to the podium, to try to get as many people in as possible in the one hour.

Ashton Banker said he would make his comments brief since he had previously been before the Mayor and Council. He said he read over the budget and saw where the City was spending money, and he felt there were many places where cuts could still be made in the budget to cover projected costs. He referred to comments he had heard multiple times in the past few weeks, where the City was reaching out to the community to cover mistakes in the City budget from years past, and he said that was absolutely ridiculous. He said he also thought that it was ridiculous that the City was canceling the Fourth of July Fireworks and yet still keep intact the rest of the City events for the rest of the year.

Mr. Banker said he was present before the Mayor and Council to remind them that this was where they had to draw the line for the budget. He commented if anyone was spending the kind of money the City spent and with this kind of deficit, they would have to stop trying to squeeze blood from the stone and make cutbacks in their own pocketbooks. He said if the City did not have the money available to cover projected

costs for the next year, then the City needed to look at where they could stop spending money and stop looking to the community to cover for them.

Robert Shotts, Tucson Meet Yourself and Cultural Exchange Council (CEC) Treasurer, said he was there on behalf of the Cultural Exchange Council President, Mia Hanson. He announced that Tucson had made the first cut and was a finalist for the National Folk Festival to come to Tucson for three years, and were going to do a site visit within the next couple of months.

Mr. Shotts said in those tough times, Tucson Meet Yourself and CEC had a lot to be grateful for. They were a lean and mean, all volunteer organization. He said that ninety-nine percent of their money, according to the Internal Revenue Service (IRS) and evidenced by their financial statements which he offered to the Mayor and Council and staff, was from public support and one percent interest was obtained from the savings they held in their accounts. He said they supported over one hundred local and ethnic clubs and communities who came together at Presidio Park. This included the Tohono O'odham Circle Dance used to close their festival, to the President of Pascua Yaqui himself in a Waila band that played on Saturday night. He said fifty nine percent of their \$91,191 budget last year went to pay for: stage performers, \$11,150 or twelve percent of their budget; folk artists, \$9,956 or ten percent of their budget; technicians, \$13,824 or fifteen percent of their budget; and equipment from the local community \$20,702 or twenty two percent of their budget.

Mr. Shotts said they calculated that if every person who came to the festival over the three-day weekend brought a twenty-dollar bill with them, they would generate 1.5 million dollars that weekend alone. He said they would continue to grow at a grassroots level, were doing a great job of bringing more and more people into the process transparent and have grown their budget from one thousand dollars to one hundred thousand dollars. Mr. Shotts said he just made a check with the budget office and was surprised to hear that last year they were given \$16,998, the year before \$16,998, the year before \$16,998, the year before \$14,000, the year before \$10,000, the year before \$6,500, and their budget was cut sixty-two percent from \$16,998 to \$6,500.

Mr. Shotts commented they would make it, and it was not the money that they were trying to impress upon the City; as it was a growing festival. He said they were going to open a marketplace for the first time in thirty-six years, and put more money back into the community and open up a giant festival that would include downtown. He stated the *Arizona Daily Star* wrote an article about them the weekend that the financial crash happened. He invited everyone to forget about their woes and attend Tucson Meet Yourself. He said they were thrilled with where they came from, where they were, and where they were going, and they were working together as a team to make Tucson a great place.

John Kromko said he felt a little bad that the City was in this situation, but not too bad. He said he saw everything the City had to do regarding the budget, so he added everything up; the bus fare increases, utility increases, furloughs, and the garbage tax

increases. He stated he then took the entire City payroll, which he said was provided to him, and posted it on his website, kromko.com, and invited those at home to look at it. He said he calculated how much City staff's pay would have to be cut to make up for all the proposed tax increases. He said it would be less than one percent for every ten thousand dollars City staff made, because there was an overabundance of people who were highly paid. He said when he got to one hundred thousand dollars he just cut it off at ten percent, stating nobody had to be cut more than ten percent, even the people who were making more than one hundred thousand dollars. People making forty thousand dollars would take a four percent pay cut. He said that would take care of all the proposed tax increases.

Mr. Kromko said if the City approved his idea, they would take money from people who had jobs; but if the City went the other way, they would affect twenty percent of unemployed people which was what the current unemployment rate was in the country. He said the ten percent unemployment rate was not true; it was really doubled, as many people who were unemployed were not counted. He said that was all the City had to do. He referred to his website again, stating he balanced it all out. He said he calculated how much of a pay cut every employee of the City had to take, to not have to increase anything. He added that in looking at his figures, it looked like it was a million dollars off, but when someone's pay was cut five thousand dollars, there would be a lot of matching payments that went with it, and those payments would not have to be made to them. Mr. Kromko said it was too difficult for him to calculate that.

Mr. Kromko said his suggestion balanced perfectly. He suggested maybe doing .9 or .95 percent for every ten thousand dollars, then the City would not have to impose any of the proposed taxes. He thanked the Mayor and Council and urged them to do what was right.

Anne Levy, Community Outreach Program for the Deaf, stated that she had visited the Mayor and Council, was present at the last meeting and was present again. She said she hoped the Mayor and Council could tell how committed they were to a particular group of people; deaf individuals, individuals who were hard of hearing and deaf and blind individuals, that the City provided services to and how varied the access to information and services had to be for these individuals.

Ms. Levy stated they were in support of the Mayor and Council's decision to bring back all services under Human Services and then cut the fifteen-percent. She said that was her latest understanding of what was happening with the budget. It provided for them the ability to serve that group of people. With City dollars they could use one hundred percent of their dollars for parenting classes, which provides for family stabilization in the family setting, reduction of domestic violence, a reduction of child abuse, and an education on information for parents to understand what was available in the community.

Ms. Levy said City dollars allowed them to use other dollars they received from the County and donated dollars to provide case management and one-to-one services for

that group of people to connect them to the resources, jobs, and to City services other people had the opportunity to receive. She said the other their dollars that were funded through the City were for work programs for their youth and adults whereby it provided soft skills program, and connected them to work experiences and jobs. She stated this was a group of people who were laid off quickly and unable to find jobs, so the importance of funding from the City was essential to their services. She said they combined those dollars with County dollars to provide a unique comprehensive program of information on soft skills, one-to-one training, work experiences, and then finally, jobs. Ms. Levy said they were in support of the budget, and were willing to take the fifteen-percent cut.

Rick Grinnell said he was present representing himself rather than the business community. He said a couple of things came to thought when he first saw the budget. He stated he had spoken with the City Manager about different approaches to doing things, but there was a real philosophical difference of opinions on how to get to where they wanted to be. He said the City could not tax their way out of the financial catastrophe everyone was experiencing. As business owners, the people that had to sign the front of the checks, to have to withdraw from their savings accounts to make sure that people stayed employed, were the ones taking the hits. He said the tax increase, over sixty-five percent of the proposed taxes, would be absorbed by the business community. The amount of revenue that was going to be generated by the bed tax alone would be the shortfall and the 1.8 million dollars would not be realized.

Mr. Grinnell said from a personal perspective, he loved Tucson. Tucson was his home and he had lived here for fifty years. He said he had vested interest in properties in four different Wards of the City, and his biggest concerns with the whole way of doing business, was that the Mayor and Council were saying two things. Number one, they really did not understand the businesses and they really did not want the businesses; they really wanted to push the businesses out and he did not think that was really what they wanted to say.

Mr. Grinnell said the Mayor and Council were basically good people. He thought their process of making business decisions was out of sync with reality. Tucson was his home too, and he said people asked him what they were going to do. He said there were a lot of businesses saying they did not want to be here anymore and that was a real sad state of affairs because Tucson was a great city. He said this was his home, and he was not planning on leaving; but it was really hard to convince people to stay and do business in Southern Arizona, particularly Tucson, when the City kept driving taxes up.

Patti Wheatley stated she was representing her small business, Curves Gym for Women, and also on behalf of all other Curves owners in Tucson who asked her to speak specifically about the health care tax. She said it seemed like a very selective tax and counter-intuitive to what they were trying to work on in the community and public health. These were people that were trying to; work on their health, avoid or maybe cure diabetes, work on problems with heart disease, and women who were recovering from breast cancer. She said she recently spoke with Council Member Uhlich and it was

mentioned that it was sort of a discretionary type of spending for a health club membership. She challenged the Mayor and Council, stating it was not. She said her members were being responsible for their health and were actually reducing the health care costs for the rest of the community.

Ms. Wheatley said it seemed unfair to selectively tax certain service industries while leaving other ones out. She stated she agreed with Council Member Trasoff, who said everyone must work together to solve the problems; but singling out health club memberships and the few other service organizations that had been singled out in the revenue enhancements, hardly seemed like it was working together to solve a problem.

Ms. Wheatley said she listened to Mike Letcher, City Manager on Radio Station KJLL, AM 1330, and he said that the State was struggling. As a small business owner, she said she too had been struggling. She said Mr. Letcher said to imagine taking a salary cut every month. She informed him that was what she was doing as a small business owner. She stated she was responsible for employees paying their mortgages and being able to send their children to private schools and it was frustrating, as a small business owner, to keep trying and trying and then hearing now you are going to pay this, now you are going to pay that.

Ms. Wheatley implored the Mayor and Council to consider each tax individually or to reconsider the tax. She said she agreed with Mr. Kromko's comments. She urged the Mayor and Council to consider his comments, stating a lot of small business owners had already taken pay cuts. These were not discretionary spending choices when they were working out to contribute to good health, and said it was a necessity. She said unfortunately, a lot more people did not take advantage of it, or she would be a lot more successful in her small business as would other Curves. Unfortunately, the Tucson community lost five Curves within the last twelve months and she thought that was awful. There were many members who currently struggled to pay their membership fees. She said last month alone, she lost ten percent of her membership; over thirty members in one month, and she estimated that at least fifteen listed financial reasons as to why they were quitting, and why they were unable to keep their memberships.

Ms. Wheatley said diabetes, heart disease, and breast cancer were all on the rise. She asked the Mayor and Council to reconsider what was discretionary spending. She said one of the speakers mentioned that a balanced approach be presented and talk about the sustainability of the community. Ms. Wheatley said this was the first generation where they actually thought parents would outlive their children because of the obesity epidemic. Again, she urged the Mayor and Council to reconsider the health club tax.

Carol Campbell said she spoke at the meeting held at the Tucson Convention Center, but this time she brought her children with her because she wanted them to see government at work. She said after the last meeting, she was really interested in some of the numbers for the City of Tucson and the people who worked for the City. She was surprised to find out that in 2008, the City Manager made two hundred thirteen thousand dollars; the Assistant City Manager made one hundred eighty thousand dollars; and the

Deputy City Manager made one hundred eighty thousand dollars. They were the top four salaried positions for the City of Tucson. She commented on how the median household income for Tucson was thirty six thousand dollars. Some City employees were making five to seven times more than the average Tucsonan.

Ms. Campbell said her husband lost his in December 2008, and still had not found a new one, because Tucson was not a friend of businesses. There were no jobs coming to Tucson. Of the four hundred some people that worked with her husband, probably half of them still did not have a job. She said they knew a lot of people who had lost their jobs and were unable to find anything, because there was nothing out there. In looking at the job sites, there was nothing there; some of the jobs post the same month after month. She said something had to be done to bringing businesses to Tucson so people could get back to work and the City could get its revenue to run the City.

Ms. Campbell said what was going on right now with the Federal Government, the State, the County, and the City, everyone needed to get down to vital service, not the wants, but the needs, and there were a lot of wants. She said she thought she spoke for most people when watching the news to see that somebody from the Museum of Art took over half a million dollars. Yet, in the proposed budget, the City was giving them more money, and they were not good stewards of the money. She urged the Mayor and Council not to give them anymore. She said the City was operating lights in parks and watering parks, when people did not even use them. She referred to a park off of El Camino del Cerro, stating she had never seen a soul there. The lights were on all night and it was always being watered. She said the park was beautiful, but questioned who was using it. She said that cost money, and she did not feel it made any sense.

Ms. Campbell said when they made over one hundred thousand dollars a year, the tax increases would not have bothered them much. Now that they had been unemployed seven months and were down to zero income, because unemployment had run out, the tax increases meant a whole lot. She said she spoke for those who made thirty-six thousand dollars a year on average, and asked how they were supposed to pay for those things, putting them on credit cards that they could not pay off.

Ms. Campbell said the City was contributing to this horrible downward spin for a lot of people because that was how they were making their ends meet. She asked the Mayor and Council to look at things that were not vital to the City in making it run, and look at the needs, not wants, and not the wants of the non-profits. She said the non-profits needed to do their own fundraising. If they had something near and dear to them, they needed to go to those who were near and dear to those activities; by passing the plate at the symphonies. She said she could not even afford to attend a symphony. She urged the Mayor and Council to look at those things and figure out how to bring jobs to the City, because it was not happening.

David Fossdal, owner of Tan-tastic Tanning, said he had three presentations to choose from; one was pretty angry, one was pretty passive, and the other one was a lot of facts and figures. He said throughout the evening the facts and figures had been thrown

around, and a lot of what he was going to say, people had already said. There was a common thread of what was going on. He said he knew how difficult the budget process had been for the Mayor and Council and staff. He said many social programs, various City projects, and special interest groups' funding had been deeply slashed, and some things eliminated altogether, and had been tough on everyone.

Mr. Fosssdal said it appeared that the tanning salon tax proposal was targeting a small weak group and were being marginalized because they did not have a strong voice to speak out for them. He said they did not have a chamber of commerce, lobbyists, or attorneys to make their case, as there were only a few of them. There had been a misconception that tanning for recreation or health reasons was a luxury and that those individuals had discretionary income, so the City decided to tax them. Mr. Fosssdal said it was kind of like a redistribution of wealth, and nothing was further from the truth. His tanners were not wealthy, and neither was he. He stated he did not make thirty-six thousand dollars a year, and thought the Mayor and Council knew him long enough to know that he worked a lot of hours for what he brought home.

Mr. Fosssdal said he knew the Mayor and Council were wrestling with that portion of the budget. The amount of tax was so small when compared to the whole budget picture. He asked if fifteen thousand dollars or so really made that much of a difference to a City of our size and the budget so large. He said he suggested ways the City could make up that minute amount of money, as many others had, but he did not receive a reaction. He said department bureaucrats followed the Council's instructions in also trimming their budgets, about seven-percent; but he did not think they were going to cut any more than they absolutely had to.

Mr. Fosssdal said even though there was more money that could be cut, departments could be a lot more cost effective and thought the Mayor and Council knew that. He said it went back to the real needs and wants referring to the self-addressed envelopes the City sent out with water bills, sales tax bills, and the Water Connection insert every month. He said when he received his water bill for the month; there was extra material in there that was not needed. This was a budget cutting process and was what he was talking about. It was about the real needs and the real wants.

Mr. Fosssdal said he knew everyone had to share the burden in keeping the City strong, but to single out such a small group made no sense and it was disproportionately unfair. He said he knew there were a few members on the Council that wanted to see the tanning tax issue go away, because they knew, deep down, it was not fair, but did not feel they had the support from the rest of the Council. He said all it took was a motion, a second, and some discussion to vote it away. He appealed to the Mayor and Council to take a stand and use their vote; as a strong loud voice to help them in tough times, and strike down the unfair tax proposal.

Robert Medler, Tucson Metropolitan Chamber of Commerce, said he was present speaking on behalf over two thousand members and over one hundred ten of their employees. He urged the Mayor and Council not to adopt the proposed budget, but

instead send it back to the City Manager and City staff, and ask for no new revenues. He said doubling the utility tax to four percent was extremely unfair. There were numerous retirees who lived on a fixed income and the City was trying to change what they could spend on their utilities. People used electricity for air conditioning in the summer, and asked if the City was going to have senior citizens not use their air conditioning to save their money. He did not want to be responsible for that, and he did not think any member of the Council wanted that either.

Mr. Medler referred to the last two speakers, back to when there was a proposed renter's tax. He said the Mayor and Council decided against that because it was not affecting everyone and deemed as not fair. He said they should all stand together, united and pay for the new revenues. He said the Council did that with the renter's tax but did not on taxes that directly affected businesses, and some small businesses like Curves, who operated on about a five-percent profit margin. He said if the Mayor and Council were going to increase their utilities two percent, and then also tax her clientele two percent, that would not leave her with a very big profit margin to pay herself, her employees and everything else she had spoken about.

Mr. Medler also referred to the tanning salons; fifteen thousand dollars. He said the City was going to have a surplus of 3.7 million dollars at the end of the year, and was selecting specific businesses. He said that was completely contrary to the point made when talking about the rental tax a little over a month ago. He referred back to the proposed utility tax, stating if someone lived on one side of the street, they were in the City of Tucson. Their business was now going to pay two percent more on their utility tax or if they operated across the street they were not going to pay that four percent, they were going to pay the current two percent or whatever it might be. He said it was not fair, and it was wrong. The City should live within the means. He told the Mayor and Council that what they did was important. He knew it was a difficult process and urged the Mayor and Council to reject the budget and stick to what money they had coming in that year.

Carl Willcoxon stated he was a resident of the Ward 6 Council Office, and said he contacted all the different Council Offices and the Mayor's Office regarding his concern about the budget. He said he watched the study session and it looked like they were doing an across the board cut of fifteen percent. The area he was interested in was social services, which some of the speakers commented on. He said he thought that fifteen percent was still a big chunk of money.

Mr. Willcoxon also wanted to talk about neighborhood support. He referred to the budget, where it stated "... the program area provides mailing assistance for neighborhood association newsletters, guidance to neighborhood associations in response to citizens' questions and complaints through the 792-CITY phone number, and the Nova Referral System," which employed 4.5 employees. He said when he contacted all the Council Offices, he was told they had between four and eight paid employees in all the different Council Offices. He commented that a lot of the services provided by Community Services were being duplicated by the Council Offices.

Mr. Willcoxon said he wanted to focus only on the supply portion, which was the mailings, budgeted at two hundred forty-two thousand dollars. He commented there were one hundred forty-seven neighborhood associations, so in a year, that would be about one thousand six hundred fifty dollars per neighborhood association. He said in his neighborhood association newsletter it stated they had two thousand three hundred members. He commented that by dividing one thousand six hundred fifty dollars by two thousand three hundred neighbors, it came out to roughly seventy cents per person to pay their own way to mail their information, if they wanted; but instead, the community was paying for it.

Mr. Willcoxon said his newsletter also indicated they had four thousand five hundred dollars in the bank as of April 1, so they were certainly able to pay for the mailings. He also said that in the newsletter, which was printed on City paper provided by the City and paid for by the citizens of the community, it stated that the Miramonte Neighborhood Association relied entirely on donations to pay for its operating expenses. Mr. Willcoxon said that was a false statement because the City was paying for a big portion of it. He commented he was sure the City was paying more than the neighborhood was, and he said that was wrong. He asked the Mayor and Council to look into that because services to people who really needed it were being cut and obviously the neighborhood associations did not need what the City was providing to them.

Clifford Rowley, assisted by a voice interpreter, said he was there on behalf of the deaf community of Tucson. He was also there on behalf of the Community Outreach Program for the Deaf (COPD). He said he wanted to remind the Mayor and the Council that COPD needed the City's support to be able to keep running. COPD was an establishment that provided services for more than a thousand people; deaf, hard-of-hearing, and deaf-blind, for over thirty six years. He said he knew the City's budget was very important and COPD needed the City's support to keep running. The deaf people in the community, hard-of-hearing people and the deaf-blind community had unique needs. They needed interpreters, just as the Mayor and Council needed an interpreter to understand him, as well as he needed an interpreter to be able to speak out. Mr. Rowley pointed out that without an interpreter the Mayor and Council would not be able to understand him, so the Mayor and Council could see how vital it was for them to have the opportunity to have interpreters. He urged the Mayor and Council to consider that, as they needed this type of service. It was very valuable for them and important for their unity as a deaf community.

Vicki Davis said she was a County resident, but felt strongly that what the Mayor and Council did in the City affected County residents as well. She said she was also at the meeting which was held at the Tucson Convention Center, but did not think the Mayor and Council understood what the community was after. She said she was there to protest any new taxes, and a lot of people were focused on just the renter's tax. She stated she agreed with those who said the City had to live within its budget, and had to figure out how to do that without raising any more fees, any more levies, or taking money from the community to do good works that they should be allowed to decide by themselves. Ms. Davis said there were many good organizations funded by the City,

which were very worthy causes, but the community should be allowed to do decide which ones get the money, which ones do not and how much. Ms. Davis said City government should live within it means, and take the breaks and that the City take the advice of Mr. Wilkins Micawber, in David Copperfield's novel because they knew it was misery to live outside of their budget and it was happiness to live within their budget. She said there was no excuse to keep raising taxes and forcing people in the community to use their money to give to City government, so the City could give to who they thought they should give it to, instead of letting taxpayers make those decisions. She said she hoped the Mayor and Council listened this time, but said it did not sound like the Mayor and Council listened very well. She hoped that maybe that would change.

Nadine Rund said her reason for attending the meeting was for the budget item, but happen to notice the West University's item on the agenda regarding historic preservation and felt the need to lend some support the them as well. She asked the Mayor and Council to reconsider their phraseology or intent under the revenue enhancements of the health spa membership tax. She said she has been in Tucson and has been a member of health programs for over thirty years and currently was a member Curves for Women, which was not a health spa. In her parlance a "health spa" had hot tubs, saunas, facials, massages and a lot of young things in spandex trying to impress muscle bound young men and vice versa. That was not what she belonged to. She said with all due respect to her fellow exercisees, they were a bunch of somewhat frumpy women trying to achieve and maintain good health. She stated in this environment with obesity, diabetes, osteoporosis, artificial hips and artificial knees, just soaring, she thought it sent a terrible message to the Tucson community to put a tax on a program where they were attempting to deal with those very problems.

Ms. Rund said if one were to ask any physician in town what they wanted to get their patients to do, it was to exercise more; it was not discretionary spending. She said there had been a major change. She joked about the young things impressing the young men, but that changed a lot. When she first started out in fitness centers it was for exercise for health issues of her own. But in the past eight years or so, it has been more people like her struggling to keep moving in their 60's, 70's and hopefully their 80's. Ms. Rund stated many insurance programs paid for the type of fitness center that she was a member of, as it was considered "health" and was not considered discretionary spending, lounging in the hot tub, or enjoying the sauna. She said if the Mayor and Council meant "health spas" that was one thing, but if they meant the sort of program she was involved in, she asked that they reconsider and reconsider the message they were sending. She said City government should be encouraging exercise and fitness in Tucson, not discouraging it.

Robert Reus said he was not going to play the fool and pretend that anything he or anyone said was going to affect the Mayor and Council's decision in any way. Instead, he said he would play politics for five minutes. He said the budget was bad by anyone's measure; freezes to the police and fire hiring and pay were compromising the safety of the community. He commented on the cuts to park services, swimming pools, and outside agencies by fifteen percent. He said cuts to Access Tucson were jeopardizing the

whole concept of free speech in the City, which was bad. On the other side, the Mayor and Council were considering raising taxes on his health club membership. He said that was not discretionary; referring to Council Member Uhlich that his health was not discretionary. He also commented on taxes being raised on his heat, electricity, telephone, and water by ten percent at a time, when his income had dropped to nothing.

Mr. Reus said he was going to spend the summer sucking equity out of his business because of the City's bad management. He hoped there would be something left in the fall, and when the long overdue underpass opened maybe things would rebound and he would be back to profitability, if he had any equity left at that point. He commented, in the best City Manager government tradition, they were blaming the economy, and not their own mismanagement of the business climate in the City for the last ten years, or the mismanagement of their own financial situation.

Mr. Reus gave an example where, a couple years ago, Volvo of Tucson decided they wanted to leave the City. As a result, they were not paying any more city sales tax. He said the City was losing millions of dollars in sales tax revenue because Volvo of Tucson decided to move out; and the Mayor and Council decided to help them by buying their property, using the argument that at sometime in the future maybe they would need it. He said the City needed it to give to their political contributors as a payoff for developing their own property. He said the City was losing the sales tax, helped Volvo move out by buying their property at a value higher than what it was right now, and now going to give it to people who were raising money for the City to develop their own property, to entice them to develop their own property and do a few other little things.

Mr. Reus said the Mayor and Council were not doing this for the community. They were not doing anything for him, nor were they doing anything for his fellow Fourth Avenue business owners that were going down the drain. He said that also applied to any of the businesses going down the drain in the City. The City was doing it for a couple of well-connected rich people who were contributing money, raising money for the Mayor and Council. He said that was just wrong, and said they should take a look at all the lawsuits, millions and millions of dollars in unnecessary lawsuits down the drain. He said if the Mayor and Council were to add this all up, had a responsible government over the last ten years working on the economy cutting all the waste out, and the special privileges for the well-connected, they would not have to raise taxes on struggling individuals in the City.

Mr. Reus commented on his political point, stating the State Legislature finally decided to do what was right and do something for the people of the City and end partisan elections which were greasing the politics machine situation that was dragging the City down the drain. He said in the future, anyone was going to be able to put their names on the ballot and did not have to "suck up" to the Democratic machine, get down and beg, and make all kinds of promises like at least four of the Council members did. He said they would be able to put their names on the ballot and run for office. Mr. Reus stated when he asked the voters next year to change to a mayoral system, they were going to be able to have all citizens, any citizens, gather signatures and put their name on the

ballot. He said everyone was going to be on equal footing and the machine was not going to choose the City's new Mayor. That was where the City was headed.

Mr. Reus concluded his comments stating that the Council was giving away the City, and the parks were next. He said the Mayor and Council were determined to destroy everything that was good about the City and the citizens of the City needed to stand up now and take back their city or there was going to be nothing left.

Todd Detry said he had two points to make. He said his father taught him to study history. History has proven that raising taxes did not work; it never did. He gave two recent examples. He stated that in Chicago, the city sales tax was 10.5 percent. He was born in Chicago, his family was from Chicago and his dad was a steelworker in Chicago. Companies were leaving Chicago as were people leaving to go to the suburbs because they did not want to pay ridiculous sales tax prices. He said California was another perfect example of what happens in a tax and spend society. He said John C. Maxwell, the great author and speaker, said "everything rises and falls on leadership." He said the Mayor and Council were looking to the people of the City of Tucson to follow their leadership at this point in time.

Mr. Detry commented that what the people saw was that the top three City administrators made almost a half a million dollars. He stated Mike Hein, who was just kicked to the curb, made the two hundred twelve thousand dollars, and was given a six-month severance package of one hundred thousand dollars. Mr. Detry said he did not begrudge him for getting a six-month severance package, but wanted to know who the "clown" was that wrote it into his contract that if you did a crappy job you would get a six-figure severance package. Mr. Detry said he would sign up for that deal, and asked those in the audience if they would also like to sign up.

Mr. Detry said his wife drives down the streets at night and comments about why all the lights are on. He asked if the City was supposed to be a "green" society and supposed to be cutting back, why was the City not turning off some of the lights to cut back in some budgets. He said all he heard was the same "old dog and pony show" of the City staff scaring senior citizens in Tucson, by threatening to cut fire, police, and education. He said he was fifty-four years old, and had heard that same song since he got involved in politics over thirty years ago. He said it was the same old thing, scaring taxpayers and then raising taxes on everybody. He referred to comments made by one of the speakers, where if City administrators would take pay cuts, half of the problems the City was facing would be solved. He quoted John C. Maxwell again, stating "everything rises and falls on leadership." He asked the Mayor and Council if their leadership was worth following, and he those in the audience if they thought so. He concluded saying the Mayor and Council would get their answer come election time.

Cactus Ken said he was a member of the fitness club called Fit at the River, which was right next to the Tucson Heart Hospital on Stone Avenue and River Road. He also said he was a renter, renting an apartment and any health club tax and renter's tax would hit him directly. He mentioned that everyone had also been victimized by inflation over

the years. Back in the 1940's he was one year and four months right to the day when the Japanese bombed Pearl Harbor. He remembered when his mother could fill up three or four of those big paper bags at the grocery store for three to four dollars and change. He said his father bought a car in 1939, and did not get another car until 1948 because of the war. He said he paid about two thousand four hundred for the car and one could not touch a car for that kind of money now.

Mr. Ken said he agreed with many of the speakers' comments about taxes, prices and businesses. He said the Fourth Avenue underpass seemed to be coming along, but was long overdue and was very anxious to see the underpass completed. He stated the Fourth Avenue businesses really deserved that break to see that underpass completed. Mr. Ken said he had always liked Fourth Avenue, and enjoyed walking and shopping along Fourth Avenue. He said he tried to set an example for the community by patronizing downtown businesses such as the Cup Café, Dizzy G's Restaurant, the Grill, and some of these other nice places downtown. He also visited the library downtown often. He said he hoped people followed his example and came downtown.

Mr. Ken said he would love to see the revitalization of downtown, but better public transportation was needed to bring people there. He said parking downtown was not that plentiful either. He hoped that something would be done soon to revitalize downtown. He said he also hoped something could responsibly be done about the City's budget and that the Mayor and Council had to think these things through. They could not be raising taxes indefinitely and referred to comments made by an earlier speaker, that the sales tax in Chicago was 10.5 percent.

Mr. Ken said he was a cable television subscriber, and watched WGN News at nine from Chicago. There was a lot of dissatisfaction in Chicago because of crime, taxes, government leadership, and other issues. He said he could believe it and did not doubt it when the speaker said people were leaving Chicago and moving to the suburbs so they did not have to pay those high taxes. He stated he had lived in Detroit for forty-two years, but was not native to Detroit. He said he worked for a county government in Michigan, Oakland County, which was the county that Dr. Jack Kevorkian made famous.

Mr. Ken said he was a staff accountant in the central accounting division for twenty-five years before he retired and moved to Tucson. He stated he had seen shortfalls, budget deficits and things like that and also saw what happened to Chrysler and General Motor. He said those companies were disasters waiting to happen for years. It was not surprising those companies were just about to go under. He reiterated that everyone needed to live within their means.

Mayor Walkup announced there was still five minutes left on the public hearing and asked if anyone else wanted to speak on the subject.

Ed Jebersony stated he wanted to speak in support of COPD getting their funding. He said he provided a lot of volunteer services for the deaf-blind community, and difficult it was for those individuals to get outside their door without the services

provided by COPD. He said he had close contact with many of the individuals served by COPD that had told him he could not imagine what it was like to try to get out and within a three hour period of time, do your shopping, do your banking, and do everything you needed to do to survive. He said for this community to take any more of a cut to their services, especially in the area of deaf-blindness, would be detrimental because they could not get volunteers who were uniquely trained and available to provide services to these people who were living on their own, paying taxes, and trying to make it work.

Mr. Jebersony stated these people did great inside their homes, but could not get out their door without the services of someone else. He said Helen Keller only went a long way because she always had somebody at her side and these individuals only had three hours a week. He told the Mayor and Council it was really critical that they not cut funding for COPD, and could not say it enough. He said these individuals were not in a position to be able to advocate for themselves; as for them, even as a group to get together, it would take twenty volunteers for them to talk to each other.

(Note: Council Member Leal departed at 8:09 p.m)

It was moved by Vice Mayor Romero, duly seconded, to close the public hearing.

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

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Trasoff; and
Vice Mayor Romero and Mayor Walkup

Nay: None

Absent/Excused: Council Member Leal

Motion to close the public hearing was passed by a roll call vote of 6 to 0.

Mayor Walkup announced the Council would stand adjourned and convene a special meeting for the adoption of the budget.

RECESS: 8:31 p.m.

RECONVENE: 8:44 p.m.

(Note: See minutes of the Special Mayor and Council Meeting of June 9, 2009 regarding the Final Budget Adoption for Fiscal Year 2010.)

The meeting was called to order by Mayor Walkup at 8:44 p.m., and upon roll call, those present and absent were:

Present:

Regina Romero	Vice Mayor, Council Member Ward 1
Rodney Glassman	Council Member Ward 2 (electronic attendance)
Karin Uhlich	Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Steve Leal	Council Member Ward 5
Nina J. Trasoff	Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused: None

Staff Members Present:

Mike Letcher	City Manager
Michael Rankin	City Attorney
Roger W. Randolph	City Clerk

12. TUCSON CODE: AMENDING (CHAPTER 2) RELATING TO THE WORKER'S COMPENSATION SUPPLEMENT PROGRAM

Mayor Walkup announced City Manager's communication number 321, dated June 9, 2009, was received into and made part of the record. He asked the City Clerk to read Ordinance 10679 by number and title only.

Ordinance No. 10679 relating to salary paid to augment workers compensation benefits for City employees, Tucson Code Chapter 2, Administration, Article 1, In General, amending Section 2-13. salary of employee during injury or sickness; salary paid to augment workers' compensation; lien; setting an effective date and declaring an emergency.

It was moved by Council Member Uhlich, duly seconded, to pass and adopt Ordinance 10679.

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

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff; Vice Mayor Romero and Mayor Walkup

Nay: None

Ordinance 10679 was declared passed and adopted by a roll call vote of 7 to 0.

13. TUCSON CODE: AMENDING (CHAPTER 22) REGARDING THE BENEFITS FOR EMPLOYEES OF THE CITY OF TUCSON

Mayor Walkup announced City Manager's communication number 326, dated June 9, 2009, was received into and made part of the record. He asked the City Clerk to read Ordinance 10678 by number and title only.

Ordinance No. 10678 relating to leave and other benefits: Tucson Code, Chapter 22, Article IV, Group Insurance and Medical Health Plans amending Section 22-84 Duties of the Finance Director; and Section 22-86 Medical Insurance Incentive Allowance; Article V, Leave Benefit Plan, Reenacting Sec. 22-90(5), Supplement to Military Leave; and Amending Section 22-95 Sick Leave Incentive Program providing for incentive payment and personal leave days; setting an effective date and declaring an emergency.

It was moved by Council Member Glassman, duly seconded, to pass and adopt Ordinance 10678.

Mayor Walkup asked if there was any discussion. Hearing none, he asked for a roll call vote:

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff; Vice Mayor Romero and Mayor Walkup

Nay: None

Ordinance 10678 was declared passed and adopted by a roll call vote of 7 to 0.

14. DEVELOPMENT AGREEMENT: WITH OT KINO, LLC FOR THE PLAZA CENTRO PROJECT

Mayor Walkup announced City Manager's communication number 327, dated June 9, 2009, was received into and made part of the record. He asked the City Clerk to read Resolution 21313 by number and title only.

Resolution No. 21313 relating to development; approving and authorizing the execution of a Development Agreement between the City of Tucson and OT Kino, LLC for the Development of the Plaza Centro Project; and declaring an emergency.

It was moved by Council Member Trasoff, duly seconded, to pass and adopt Resolution 21313.

Mayor Walkup asked if there was any discussion.

Council Member Uhlich stated she would be voting against the development agreement. She said she appreciated all the good work and analysis that had been completed by staff and Mr. Jim Campbell, Principal Investor, and she knew their partnership would be critical in bringing to life that particular property on the east end of downtown. However, she said, in her view, she had not reached a comfort level with the wisdom of borrowing funds to construct a new parking structure. She could not see how it would combine with the existing parking structures, including the one that was just completed at Depot Plaza and the Pennington Street Garage. She said that while over time, she suspected there would be a need for more parking, but was concerned about the timing, the sequencing and also taking on further debt at that time.

Vice Mayor Romero said she analyzed and reviewed the development agreement with a fine-toothed comb before it was brought to study session, as Mr. Campbell knew very well. She said she studied, as she did with each and every development agreement, asking herself as a fiduciary representative of not only Ward 1 residents but City residents, how value to value was being compared and how would the development agreement bring value to the residents, as the City entered into this agreement. She said that in looking at the particular situation that the Mayor and Council found themselves in at that point in time; she did not see where the value was, in terms of going into the development agreement with Mr. Campbell.

Vice Mayor Romero said she tried to find because she wanted this agreement and every single part of downtown to be successful, but could not come to the conclusion that this particular development agreement brought value. She said her concern was that Mr. Campbell exercised the first option of purchasing that piece of property, but the City had not seen any development, as of yet, on the property. The Mayor and Council had not seen a financial plan from the developer to be able to build what he was proposing to do on that corner.

Vice Mayor Romero said she did not feel comfortable that the City of Tucson would be on a time schedule to spend money and build a garage that might make perfect sense later on, such as two years from now. She stated the City had invested millions of dollars on the Depot Plaza Garage, which the Mayor and Council had not yet given the opportunity to be open and see how the traffic flow would be in the area. She said she did not feel comfortable, did not see the value for value and did not see why the City had to get into the development agreement, and if there was the option there to purchase, she thought that was what the City should do. She said the developer should purchase the land, make their plans, and do what should be done and if at one point, the City deemed it necessary to build a garage that could sustain itself without the City being in financial risk, especially the General Fund, then the City could do that. She did not see why the City had to give the developer three, four more years to build something on the old Greyhound site. She concluded by stating it worried her, financially, that the City was getting into a situation at a difficult financial time and she just did not see why a development agreement was necessary for this development.

Council Member Leal said that the comments that had been made clearly raised some questions that he thought should be pursued further. One of them was having a number of parking garages in what he felt was a slow economy. He said he felt the traffic flow of the customer rate might not be adequate to do the debt service, because it would be too spread out in terms of choices people could make about what garage they used. He asked if that would leave the City on the hook for any debt service. He said he knew the City talked about that to some extent but the way it was raised again at the evening's meeting, he thought made it worth pursuing more and asked if someone could address that.

Mike Letcher, City Manager, said he would begin, and then have some experts, both in terms of financing the certificates of participation and the garage in its proximity to other garages. He said the one thing that was in the development agreement, was that the City would get a second look at the garage. It was important to realize that the garage would be designed and, at that point, the City would do an operational review. The Mayor and Council would then make a final decision on whether or not the City should build it. He said he looked at the garage totally separate from the development agreement; and the question he asked staff was very basic. He asked if it made sense to build the garage without the development agreement.

Mr. Letcher said the answer was 'yes', and he asked that they show him by the numbers. Once he looked at the numbers, the estimates are very conservative, and at this point in time and based on the plan they had, he said he thought the garage could be built in the current economy. He also reminded the Mayor and Council that they did get a second look at it before they actually proceeded to build it.

Council Member Leal asked if that was kind of an escape clause for the City.

Mr. Letcher answered affirmatively.

Council Member Leal asked if it was necessary to have a development agreement or could it be done by letting the developer purchase the land and build what they wanted. He asked what the development agreement would facilitate, where other typical means would not.

Mr. Letcher stated what the City got with a development agreement was certainty. The development agreement locked the developer or future developers, if the property was transferred, to develop the property in-line with the plans the Mayor and Council saw approximately a week or two ago on that development; a certainty with the development on site in terms of what would be part of that development, in the development, but more importantly not just anything being built within the context of the zone. He said there was some certainty what the City got with the development and in making sure that that development integrated well into the whole concept of an entertainment district on the east end of Congress Street. He referred to Michael Rankin, City Attorney, to add more information to his comments.

Michael Rankin, City Attorney, said if the Mayor and Council did not approve the development agreement; it would mean that Mr. Campbell who held the option rights on the property could exercise that option and acquire the property. From that point forward, there would be no timeline on when, if, or how he developed the property. He would own it and develop it at his own pace. He said the development agreement provides a structure for what happens in the next eighteen months, two years after that and the two years after that. With respect to the garage obligations as the Mayor and Council rightfully asked about, and based on the direction from the study session a few weeks ago, the City revised the language in the agreement to make it clear what the Mayor and Council called the escape clause. The City could get out of the agreement if in eighteen months the Mayor and Council determined the construction of the garage did not make sense, at which time the City would be back to square one.

Mr. Rankin stated if the City chose not to build the garage, then the developer could exercise his option and the City would be in the same position as they currently were. The development agreement, he said, puts a framework, and as the City Manager said, some certainty as to what happens going forward. If the City chose to build the garage on the site, pursuant to the development agreement, then the developer had to be construction ready, at that point, which meant that development was going to occur to support the garage and vice versa. He stated that was basically what the City was getting out of the development agreement.

Council Member Leal asked, if the City received what was referred to as “certainty” from the developer, and then on the City’s side of it what were the things that the developer got as “certainty” from the City, separate from the garage. He stated the developer had an interest in the City building a garage. The Mayor and Council had a clause, in the agreement that would let the City step out of the agreement if the City thought, at some point in time, it was not a good thing to do, which freed the developer from the agreement. Council Member Leal said, beyond the garage, he wanted to know what other things were there that the City was obligated to. He said he did not mean to limit it to resources, because he knew from what had already been discussed, that part of what the City was obligated to was a timetable. He asked Mr. Rankin to lay out the timetable obligation on the City’s part and any other resources beyond the garage that the public was obligated to.

Mr. Rankin said with respect to the timetable, the City had to make the go, no go decision on the construction of the garage in eighteen months, which was the design period for the decision on the garage. If the City chose to proceed with the garage then the City had two years in which to complete construction, during which time the developer had to do his plans and become construction ready to go upon completion of the construction of the garage.

Mr. Rankin said, if at that point the City built the garage and the developer defaults and was not prepared to move forward, the City had the ability to reacquire the property for the price that the developer purchased it, as opposed to the price at that time. He said additional provisions in the agreement were with respect to archaeological

environmental clearances that the City was responsible for, although he thought the City was already through phase one and phase two with respect to those obligations and the remainder was agreements to cooperate and work together on facilitating the development on site.

Council Member Leal asked if the City's follow through on the clean up and archaeological had to happen irrespective of whether Mr. Campbell stayed in the deal or he disappeared because the City chose not to do the garage and would go looking for somebody else to do something on that property. He said that would have to be done in any case, and asked if that was correct.

Mr. Rankin replied that phase one and phase two requirements had to be completed within one hundred eighty days of the effective date, which was within the next six months.

Council Member Leal questioned that even if Mr. Campbell were to go away and the City looked for something else or somebody else to work with, that work would still be there. He said he assumed even if the work was not done now, they would have to do that work later; so by the City fronting that they would not lose that investment by the developer disappearing.

Mr. Rankin affirmatively agreed.

Mayor Walkup said he had a few comments before proceeding and calling on Council Member Glassman. He commented that he felt the developer had masterfully developed the whole corner of the entryway into downtown and said he had following the development for years. He commented on how he felt the developer did an extraordinarily great job on the way the corner lots were used, and how the property on the eastside was transitioned as well. Mayor Walkup said he could see the picture, coming underneath Broadway making that turn and could also see the modern streetcar moving down Congress. He said he was very supportive of the project.

Mayor Walkup said if there was one thing he was led to believe in downtown Tucson was that the City was under-served in parking. He said he always thought that was an issue and if it was a marginal issue, the one thing he saw for the future was that the City was going to be converting all surface parking lots to something else, and asked if that was correct. He said he wanted that to happen and wanted all those horizontal parking lots to disappear and wanted to see businesses, commercial and housing in those areas; and parking was needed. He said in his judgment, when they got to that point, was that the Mayor and Council could easily justify what should be done next, and that parking in that particular location. He told the developer he thought he had done exactly what he should have done with his development, and he thought it was very supportable.

Council Member Glassman said he also was very supportive of the project, and thanked the Mayor for his comments. He said the project and the concept of doing something spectacular in the downtown area, spearheaded by the Mr. Campbell, had been

in the making for quite some time. He said the project actually began to a great extent with his predecessor, Carol West, in Ward 2, at the time the Mayor and Council assisted the City in getting control and ownership of the Fort Lowell officers quarters site, known as the Atkins property at Craycroft and Fort Lowell. The transaction where the City was able to buy this property was a part of that initial agreement that was done well before his election. He said the reason he found the project so appealing, and he looked forward to supporting, was because it came with the recommendation from the City Manager and the City Attorney that it provided protections for the City or Tucson, which was something that was unique in recent times when development agreements were put together. He said he appreciated the fact that there were stop gaps and protections for the City of Tucson.

Council Member Glassman said he also truly appreciated the idea of the certainty in regards to construction, because as Tucsonans they all had been frustrated with false expectations, or slow starts. The idea of putting together a development agreement that truly protects the City and has construction certainty and guarantees was really important. He said the City talked over and over about public-private partnerships and a concept where a developer was going to build and the City was going to help by putting up the garage; that was truly a public-private partnership that the Mayor and Council talk about consistently. He said it was nice seeing those words come to fruition.

Council Member Glassman commented that when he and Vice Mayor Romero campaigned, they spoke about student housing, university housing, and housing downtown. He said the project was more than just a campaign commitment or promise; it was an actual project that was going to bring and build student housing to downtown. He said that was exciting. He commented the City talked about more entertainment venues, and said this project would bring that to fruition.

Council Member Glassman said he wanted to close on the same issue as Mayor Walkup closed on, which was that of parking. He commented that a number of the Mayor and Council started family-friendly weekends, which were the family-friendly events downtown and the website. He said one of the issues that consistently came up was parking, whether it was perception or reality. He said the idea, as the City continued to eliminate surface lots in favor of future development, was that the City was going to have parking structures that were not only convenient, but made financial sense to the City, which was what the agreement provided for. He said those were all great things, and he looked forward to being a part of the Council that moved this project forward. He said the citizens of Tucson had been committed to a successful downtown for far too long, and he thought this project moved the City in the right direction.

Council Member Trasoff stated she had been working with Mr. Campbell pretty much since she came into office; he was one of the first people at her door. She said this had been going on for a very long time and had evolved a great deal. She said she was glad Council Member Glassman mentioned its' genesis, which was the saving of the officers' quarters, something historically important for the community and valuable property.

Council Member Trasoff said she respected the opinions of her colleagues with whom there would be some disagreement, but said she truly believed the garage was needed right now; adding that she thought it was needed yesterday. She said one of the issues was if the developer was to move ahead and develop his land, part of that would be the Greyhound site and the City would be losing roughly one hundred parking spaces on the old Greyhound site; spaces were essential to the Rialto Theatre, Club Congress and the three new bars and restaurants that were opening up in the summer within three blocks of the location. She said they were going to need places to park. She commented on one of her favorite things to do on Monday evenings was, "Meet Me at Maynards", stating there were about one hundred people attending who needed someplace to park.

Council Member Trasoff also commented on Fourth Avenue, stating the parking lot was perfectly poised to help the Fourth Avenue Merchants who were really running into problems, not just during the Street Fair, where there were problems with parking, but all the time because that was such an active place. She also commented that when the underpass opened in August, there was going to be so much connectivity and the parking garage in question was going to be essential.

Council Member Trasoff said she also wanted to briefly touch one other area that had not been talked about. When the project moved forward, the developer will be paying about eight hundred thousand dollars in fees as he develops and designs the building that will go on top of the parking structure. She said that would be eight hundred thousand dollars in fees that would be going to the General Fund. She commented that the land the developer purchases would be paid for at market rate, and that money would be going to the City through the Department of Transportation because they were Highway User Revenue Funds (HURF).

Council Member Trasoff said once the development was up and running, and she believed Silvia Amparano, Finance Department Interim Director, helped him develop the figures, the City would be looking at generating about three hundred, thousand dollars a year in taxes. She said a portion of that would be coming into the Tax Increment Financing (TIF) District, and that money was enough to fund about three million dollars in bonds that the City was able to use in order to do some of the projects that were so important to the heart of the community. She said those were some of the projects on the westside, such as the historic recreations, the celebration of who we were as people. She said she thought this project on the far-east end of downtown would play a role in supporting the projects on the far west side of downtown. For those reasons, she said she could not be more thrilled with this development agreement and was very proud to support it.

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

Upon roll call, the results were:

Aye: Council Members Glassman, Scott, Leal, and Trasoff; and Mayor Walkup

Nay: Uhlich, and Vice Mayor Romero

Resolution 21313 was declared passed and adopted by a roll call vote of 5 to 2.

Roger W. Randolph, City Clerk, announced that a motion and vote were needed for the sole purpose of the emergency clause.

It was moved by Council Member Trasoff, duly seconded, to pass and adopt the emergency clause.

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

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff; Vice Mayor Romero and Mayor Walkup

Nay: None

The motion to pass and adopt the emergency clause was passed by a roll call vote of 7 to 0.

15. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 304, dated June 9, 2009, was received into and made part of the record. He asked if there were any personal appointments.

No appointments were made.

16. ADJOURNMENT: 9:10 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, June 16, 2009, 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 9th day of June 2009, and do hereby certify that it is an accurate transcription.

CITY CLERK

RWR:mz:sac