



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on December 2, 2013.

Date of Meeting: June 11, 2013

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 5:32 p.m., on Tuesday, June 11, 2013, all members having been notified of the time and place thereof.

1. ROLL CALL

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

Present:

Paul Cunningham
Karin Uhlich
Shirley C. Scott
Richard G. Fimbres
Steve Kozachik
Jonathan Rothschild

Council Member Ward 2
Council Member Ward 3
Council Member Ward 4
Council Member Ward 5
Council Member Ward 6
Mayor

Absent/Excused:

Regina Romero

Vice Mayor, Council Member Ward 1

Staff Members Present:

Richard Miranda
Michael Rankin
Roger W. Randolph

City Manager
City Attorney
City Clerk

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Monsignor Thomas Cahalane, Our Mother of Sorrows Parish, after which the Pledge of Allegiance was presented by the entire assembly.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Rothschild announced City Manager's communication number 229, dated June 11, 2013, 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.

Current event reports were provided by Council Members Cunningham, Uhlich, Fimbres, and Kozachik. A recording of this item is available from the City Clerk's Office for ten years from the date of this meeting.

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

Mayor Rothschild announced City Manager's communication number 230, dated June 11, 2013, 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 Rothschild announced City Manager's communication number 231, dated June 11, 2013, 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. Circle K Store #3386, Ward 1
530 E. Valencia Rd.
Applicant: Kim Kenneth Kwiatkowski
Series 10, City 117-12
Action must be taken by: February 10, 2013

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

Public Opinion: Written Arguments Opposed/Favor Filed

This item was considered separately

2. Aussie Cantina, Ward 6
1118-20 E. 6th St.
Applicant: Thomas Robert Aguilera
Series 12, City 28-13
Action must be taken by: June 21, 2013

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)

NOTE: There are no application(s) for person transfers scheduled for this meeting.

- c. Special Event(s)

NOTE: There are no application(s) for special events scheduled for this meeting.

- d. Agent Change/Acquisition of Control

1. Pasco Kitchen & Lounge, Ward 6
820 E. University Blvd.
Applicant: Ramiro James Scavo
Series 12, City AC4-13
Action must be taken by: June 21, 2013

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

NOTE: The local governing body of the city, town or county may protest the acquisition of control within sixty days based on the capability, reliability and qualification of the person acquiring control. (A.R.S. Section 4-203.F)

It was moved by Council Member Kozachik, duly seconded, and carried by a voice vote of 6 to 0 (Vice Mayor Romero absent/excused), to forward liquor license applications 5b2 and 5d1 to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

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Roger W. Randolph, City Clerk, announced the item to be considered separately was Item 5b1, Circle K #3386 located in Ward 1.

Council Member Fimbres presided for Vice Mayor Romero. He asked the speakers to come forward.

Margie Mortimer, President Barrio Nopal Neighborhood Association, asked Council to deny the application because they feared Circle K would ask for a Series 9 liquor license in the future. She stated a denial would help save lives as the intersection at Valencia Road and Nogales Highway was dangerous; it was the first intersection chosen for a red light camera installation. She said the Tucson Police Department (TPD) Crime Stat Report showed an average of fifty accidents a year over the last five years and a Sunnyside School District report showed an average of one accident a month at the railroad crossing that ran along Nogales Highway at Valencia Road. She added while the Circle K at Teton Avenue and Nogales Highway would close, the new store would inherit their problems. She explained the pages and pages of crime would just have a new address and TPD already had the number one call generator for Operations South. She added that a Circle K would still stand at the opposite end of the block, at Sixth Avenue and Valencia Road.

Ms. Mortimer stated the Neighborhood Association felt Circle K would not be a good neighbor, because since they formed the new association they had not been contacted once by Circle K to meet with the new group or its officers. She said she thought that was something new businesses were encouraged to do. She added the neighborhood was stunned by the lack of representation for them. She said eight hundred fifty signatures later, requesting a denial to rezone, pitting neighbor against neighbor and forming a new association, still no one was listening to them. She asked what it would take to be recognized. She stated the association was not anti-business, but they would appreciate it if their representatives would listen when they ask for businesses that would fit the needs of the neighborhood. She explained they were a low income neighborhood and asked how a convenience store with high priced gas and liquor sales was going to benefit the community. She again asked Council to deny the application.

Yolanda Herrera, President Southside Neighborhood Association's Presidential Partnership, listed some areas she was involved with, such as the Task Force to Reduce Underage Drinking. She said she knew many of the coalition groups in the Tucson area

had come before Mayor and Council to request they reduce the number of liquor establishments in the community. She explained they knew those establishments added to crime and increased usage among youth. She said when it came to advertising with banners and billboards, that intersection was visible to many school buses in the Sunnyside School District. It was also a corridor to Tucson for those coming in from Nogales and they would like to enhance the community not add things that might negatively impact their image. She reminded Council members that they were voted into elections by Ward, but voted into Office City wide, and when crime was added to the cost of service, it impacted the budget City wide. She stated the Association was before Mayor and Council to request the Series 10 application be denied.

Council Member Fimbres asked if the applicant was present and wished to speak.

David Cisiewski, on behalf of Circle K Stores, explained that the zoning process for the redevelopment of the property, including the liquor license, was a process of about three years with forty odd zoning stipulations, but was ultimately approved. He noted that because of this project, the agreement, and zoning stipulations, they would not only close the old Circle K at Teton Avenue, a few blocks to the south of the new store, but also demolish the building. He said there were concerns from the neighborhood and from Council Offices over what might happen with that old property. He stated the old store would be closed concurrently with the opening of the new store. He also added the old store had a Series 10 license for beer and wine only, which was all Circle K was asking for at the new location; it was not a hard liquor license. He said they were not looking at an increase in the number of liquor licenses, but moving the license to a more commercial intersection a bit further from the neighborhood. He said they had worked with staff and had the plan approved, including addressing the traffic issues, turning issues and various other concerns in terms of the thoughts the neighbors had with traffic at the intersection and the development. He reminded Council that Circle K, operating over ninety stores in Tucson, had an impeccable track record for liquor license compliance. He added with the new store improvements, including a higher level of security, better quality, and the relocation to a commercial intersection, they were bringing it forward in the interest of the community and the convenience of the community.

Council Member Uhlich asked what plans Circle K had for the old location if the license was not approved for the new location.

Mr. Cisiewski said the old store would continue to operate.

Council Member Fimbres read a memo sent from Vice Mayor Romero. She stated she would be out of town for the meeting, but wanted to say that she supported the liquor license application. She felt that Circle K had worked very hard with the neighbors to mitigate concerns during the rezoning. She said she would appreciate support from the rest of Council in approving the application. She stated some of the mitigations efforts included closing and demolishing an existing store, expanding the lot size and reorienting the store allowing for better traffic flow, erecting neighborhood

signage, and agreeing to sell beer and wine only. She said because they were closing a prior store the license would essentially replace the existing one within the neighborhood.

Council Member Uhlich said sometimes an ideal was held, which in this case would be fewer licenses in the neighborhood. She stated the real choice was an existing very substandard location or a retirement of that location and the redevelopment of a site that was much better lit and a plan in keeping with the newer models of those operations. She said in terms of net effect she thought the status quo was a challenge, and what she understood from Vice Mayor Romero's comments was that of the choices they had it was an improvement over what currently existed. She said she was inclined to support the Council Office.

Council Member Cunningham urged Mr. Cisiewski, on behalf of Circle K Stores, to resolve the communication discrepancy with both neighborhood association representatives.

Based on Vice Mayor Romero's recommendation, it was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 6 to 0 (Vice Mayor Romero absent/excused), to forward liquor license application 5b1 to the Arizona State Liquor Board with a recommendation for approval.

6. CALL TO THE AUDIENCE

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

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

Comments were made by:

Robert Reus
Susan Caldwell
Robert Clark

Ken Johnson
Mark Spear
Shawn Earl

Mary DeCamp
Ruth Becker

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

7. CONSENT AGENDA – ITEMS A THROUGH E

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

a. APPROVAL OF MINUTES

1. Report from City Manager JUN11-13-238 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of November 14, 2012
3. Mayor and Council Study Session Legal Action Report and Summary Minutes of November 14, 2012
4. Mayor and Council Regular Meeting Minutes of November 20, 2012
5. Mayor and Council Study Session Legal Action Report and Summary Minutes of November 20, 2012

b. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE BROADWAY UNDERPASS AT THE PANTANO RIVERPATH EAST BANK SHARED USE PARKWAY PROJECT

1. Report from City Manager JUN11-13-236 WARD 2
2. Resolution No. 22065 relating to Intergovernmental Agreements; approving the Intergovernmental Agreement between Pima County and the City of Tucson for the Broadway Underpass at the Pantano Riverpath East Bank Shared Use Parkway Project; and declaring an emergency.

c. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE FURNISHING OF TALL POTTED REPLACEMENT TREES

1. Report from City Manager JUN11-13-237 CITY WIDE
2. Resolution No. 22066 relating to Intergovernmental Agreements; approving the Intergovernmental Agreement between Pima County and the City of Tucson for furnishing of tall pots; and declaring an emergency.

d. REAL PROPERTY: CONVEYANCE OF RIGHT OF WAY VIA THE PAPER PLAT PROCESS FOR PROPERTY LOCATED WITHIN THE BLUE SKY SUBDIVISION (CONTINUED FROM THE MEETING OF APRIL 23, 2013)

1. Report from City Manager JUN11-13-234 WARD 5

2. Ordinance No. 11064 relating to Real Property; vacating and declaring right of way within Blue Sky Subdivision to be surplus; authorizing the conveyance thereof at no cost to Metro Title Agency of Arizona, as Trustee under Trust No. T09-0608, in accordance with the City of Tucson's Paper Plat Policy; and declaring an emergency.
- e. FINAL PLAT: (S13-001) RIO VIEJO APARTMENTS, BLOCK 1, A SION OF BLUE SKY SUBDIVISION, LOTS 1 TO 42, AND COMMON AREAS "A" AND "B" (CONTINUED FROM THE MEETING OF APRIL 23, 2013)
 1. Report from City Manager JUN11-13-235 WARD 5
 2. Staff recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 6 to 0 (Vice Mayor Romero absent/excused), that Consent Agenda Items a – e be passed and adopted and the proper action taken.

8. PUBLIC HEARING: ZONING (C9-08-01) FORT LOWELL PARK, LLC – FORT LOWELL ROAD, R-3 AND MH-1 TO O-3, REACTIVATION, FIVE-YEAR TIME EXTENSION, CHANGE OF CONDITION

Mayor Rothschild announced City Manager's communication number 233, dated June 11, 2013, was received into and made part of the record. He also announced it was the time and place legally advertised for a public hearing on a request for a reactivation, time extension, and a change of conditions for the property located on the south side of Fort Lowell Road. He said the Zoning Examiner and staff recommend approval subject to certain conditions.

Michael Grassinger, The Planning Center, stated the property owner was agreeable to the conditions.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 6 to 0 (Vice Mayor Romero absent/excused), to close the public hearing.

Council Member Uhlich said she thought it was very reasonable to extend the time period for the rezoning. She asked the City Attorney if it was appropriate to include the twenty foot strips on the east side so the rezoning was fully covering the parcels in question.

Michael Rankin, City Attorney, answered affirmatively. He said they could incorporate that into the direction and authorization.

Council Member Uhlich asked if it was included in the staff recommendation.

Mr. Rankin confirmed it was in the recommendation.

It was moved by Council Member Uhlich, duly seconded, and carried by a voice vote of 6 to 0 (Vice Mayor Romero absent/excused), to authorize the requested rezoning, and approve the requested reactivation five-year time extension and change of conditions as recommended by staff.

9. PUBLIC HEARING: DISCUSSION OF PLAN TUCSON – THE NEW CITY OF TUCSON GENERAL PLAN

(Note: This item was taken out of order and discussed after Item 10.)

10. FINANCE: FIXING AND LEVYING THE PRIMARY AND SECONDARY PROPERTY TAXES FOR FISCAL YEAR 2014

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

Mayor Rothschild announced City Manager's communication number 232, dated June 11, 2013, was received into and made part of the record. He asked the City Clerk to read Ordinance 11067 by number and title only.

Ordinance No. 11067 relating to Taxation; fixing, levying, and assessing primary and secondary property taxes for the City of Tucson upon the assessed valuation of the property within the City of Tucson subject to taxation, each in a certain sum upon each one hundred dollars of valuation, sufficient to raise the amount estimated to be required in the annual budget, less the amounts estimated to be received from other sources of revenue and unencumbered balances from the previous fiscal year; providing funds for various purposes, all for the fiscal year ending June 30, 2014; and declaring an emergency.

It was moved by Council Member Scott, duly seconded, and passed by a roll call vote of 6 to 0 (Vice Mayor Romero absent/excused), to pass and adopt Ordinance 11067.

9. PUBLIC HEARING: DISCUSSION OF PLAN TUCSON – THE NEW CITY OF TUCSON GENERAL PLAN

Mayor Rothschild announced City Manager's communication number 240, dated June 11, 2013, was received into and made part of the record. He also announced it was the time and place legally advertised for a public hearing on the proposed Plan Tucson – the New City of Tucson General Plan.

Michael Rankin, City Attorney, explained the requirements of a general plan including the mandated public hearings and how long a general plan could remain in effect.

Albert Elias, Assistant City Manager, commented on the general plan and the public outreach process over the past two years. He also commented on the integration of sustainability across all elements of the plan, the use of a scenario planning model approach for future growth and the implementation strategy to make the plan an integral part of the Mayor and Council decision making processing.

Nicole Ewing-Gavin, City Manager's Office Planning and Policy Program Director, clarified the staff's recommendation including an additional three week process for staff to work with stakeholders to resolve outstanding issues in the plan and staff returning to Mayor and Council on July 9, 2013, with a revised document for consideration of approval and referral to the voters at the November General Election.

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

The following people spoke in support of the Plan: Roberto Bedoya, Tucson Pima Arts Council, Mike Grassinger, DM 50, Jaime M. de Zubeldia, Pima County Food Alliance, Jan Cervelli, University of Arizona Special Assistant to the President, Ron Proctor, Marilyn Robinson, Drachman Institute, Donald Ijams, Neighborhood Support Network,

The following people spoke in opposition to the Plan: Mike Varney, President Metro Chamber

The following people expressed their concerns regarding the Plan: Kenneth Miller, Dave Devine, Shawn Cote, Southern Arizona Home Builders Association, Joanie Sawyer, Anne Gomez, Thomas Bever, Steven Eddy, Lee Stanfield, Amber Smith, Metropolitan Pima Alliance, Robin Gomez, Tucson Forward Board Member,

Council Member Uhlich asked if the public hearing should be closed or held open until July 9, 2013, for a revised draft and further comment.

Mayor Rothschild asked Mr. Rankin, if the public hearing was closed, could it be reopened at a later date, or did it make more sense to keep it open.

Mr. Rankin said if there was desire to continue public comment until July 9, 2013, they could leave the public hearing open.

It was moved by Council Member Uhlich, duly seconded, to keep the public hearing open.

Council Member Scott asked if the public hearing was kept open and comments were made, would there be time to include those suggestions in the plan.

Mr. Rankin confirmed that the language would need to be finalized on July 9. He said additions could be read into the record during the meeting, but it would limit the scope of the changes they would be able to make.

Council Member Scott stated if they left the public hearing open, comments would need to be submitted quickly and not left until the last minute because as of July 9, the target date, it would be preciously difficult to get any further significant changes into the document.

Mr. Rankin said that was a fair characterization. He said if they did decide to keep the public hearing open they would need to move to continue it until July 9, 2013, so the City Clerk could inform the public of the time and date so the hearing would not have to be re-noticed.

Mayor Rothschild said what he thought Council Member Uhlich meant was for Council to continue the process outlined by Ms. Ewing-Gavin for the additional three weeks, have the document in front of them, and the public comment at that time would be for consideration of Council's decision and not for changing the document.

Council Member Kozachik said he was concerned about leaving the hearing open until the eleventh hour. He asked that the document be sent to Council on the Thursday before the meeting so they could review it prior to voting.

Ms. Ewing-Gavin said they planned to have the document ready by July 2 or 3, 2013. She said as they revised the draft, they would post it on-line so people could comment before the final document was produced.

Council Member Uhlich asked if they continued the public hearing, could the notice state the purpose of the hearing was to act on the final draft prepared by staff.

Mr. Rankin said they could certainly state that was their intent, but to keep expectations reasonable, and advise the public that the Mayor and Council would focus, at that time, on whether or not the issue would be sent to the voters. He said they would not be making any substantial changes to the language on July 9.

Council Member Uhlich commented that staff would be getting back to Mayor and Council with their best effort document and wordsmithing at the table on July 9 was not a good idea.

Council Member Cunningham questioned the strategy. He said he thought they were overlooking the mechanisms they had at their disposal. He suggested having a study or special session on July 2, 2013, hearing additional comments, and go to vote on July 9, 2013.

Council Member Kozachik suggested they close the public hearing, direct staff to continue dialog with stakeholders and give Council the draft a week prior to the meeting.

Richard Miranda, City Manager, said their plan would be to have community meetings between the meeting and when the document was sent to Council, so there would be further community input and dialog.

Council Member Uhlich withdrew her motion to keep the public hearing open.

It was moved by Council Member Uhlich, duly seconded, and carried by a voice vote of 6 to 0 (Vice Mayor Romero absent/excused), to close the public hearing.

It was moved by Council Member Uhlich, duly seconded, to allow staff to have three additional weeks to work with community members to further refine the plan, focusing on four key outstanding issues identified by staff: economic development and opportunities, Davis-Monthan Air Force Base, neighborhood protection/neighborhood plans, and the growth area map.

Council Member Kozachik said he supported the motion and referred to several speakers' comments. He stated it was a general plan and they never referred to the plan for the purposes of regulation or policy making, they had documents in place for those purposes. He asked what the State Legislature did with the plan once the Mayor and Council had fulfilled their unfunded mandated producing of it. He said he suspected the answer was nothing.

Mr. Rankin said the plan would be sent to the Attorney General after Mayor and Council approval. The Attorney General would review the plan for statutory compliance with respect to compliance with the military facility and military airport language. He said there was a twenty five or thirty day period they could expect comments from the Attorney General or silence, in which case it was deemed to be statutorily compliant and could go to the voters.

Council Member Scott said she thought it was interesting that cities and towns had to have a vote on the general plan, but counties did not.

Council Member Fimbres commented the former plan had flexibility and he thought that was still a good tool to use. He said a poverty and urban stress report had just been done and he wanted to make sure that incorporated in the plan.

Council Member Cunningham said he agreed it was too late for sweeping changes and the plan needed some language improvements. He said they wanted to get the plan right as it was used as a template for other area and work plans.

The motion was carried by a voice vote of 6 to 0 (Vice Mayor Romero absent/excused).

10. FINANCE: FIXING AND LEVYING THE PRIMARY AND SECONDARY PROPERTY TAXES FOR FISCAL YEAR 2014

(Note: This item was taken out of order and considered after Item 8.)

11. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Rothschild announced City Manager's communication number 239, dated June 11, 2013, was received into and made part of the record

Mayor Rothschild asked if there were any personal appointments to be made.

There were none.

12. ADJOURNMENT: 7:45 p.m.

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, June 18, 2013 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 11th day of June 2013, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:jr:lo