



---

## Minutes of MAYOR AND COUNCIL Meeting

---

Approved by Mayor and Council  
on March 8, 2005

Date of Meeting: August 2, 2004

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 5:38 p.m. on Monday, August 2, 2004, all members having been notified of the time and place thereof.

### 1. ROLL CALL

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

Present:

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

Absent/Excused:

None

Staff Members Present:

James Keene	City Manager
Michael Rankin	City Attorney
Kathleen S. Detrick	City Clerk
Michael D. Letcher	Deputy City Manager

## **2. INVOCATION AND PLEDGE OF ALLEGIANCE**

The invocation was given by Pastor Ichibei Honda, Japanese Christian Community of Tucson, after which the pledge of allegiance was presented by the entire assembly.

### **Presentations**

- a. Awards from the Arizona Department of Commerce were presented to local businesses for their job training programs. Joe Yuhas, Deputy Director of the Arizona Department of Commerce, handed out the awards.
- b. Mayor Walkup proclaimed Friday, August 20, 2004, as the 229<sup>th</sup> anniversary of the founding of the City of Tucson.
- c. Mayor Walkup announced the State Representative from District 29, Linda Lopez, was in the audience to lend support to her constituents receiving job-training grants.

## **3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS**

Mayor Walkup announced City Manager's communication number 392, dated August 2, 2004, would be received into and made a 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 Dunbar announced the Tropicana Hotel was scheduled to be demolished on Wednesday August 4, 2004.
- b. Council Member Scott announced:
  1. The Fourth Annual Ward 4 Back to School Bash was scheduled for Saturday, August 7, 2004 from 7:00 a.m. to 12:00 p.m.
  2. Due to the Phase II construction, the entire Clements Center Complex, including the Ward 4 Council Office, would be closed Friday, August 13, 2004. The Clements Center and the pool would be closed Saturday, August 14, 2004.
  3. The Miller Golf Links Library would reopen at 9:30 a.m. on Monday, August 30, 2004.

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

Mayor Walkup announced City Manager's communication number 393, dated August 2, 2004, would be received into and made a part of the record. He also announced this was the time for the City Manager to report on current events and asked for the City Manager's report.

James Keene, City Manager, reported.

- a. City of Tucson Transportation staff and contractors were out in force improving streets as part of the Road Recovery 2004 Program. Since July 1, 2004, crews had crack-sealed about seventeen miles of streets, resurfaced nearly six miles of streets, and installed nearly two miles of sidewalks. Two of the larger projects began last week, the resurfacing of First Avenue from River Road to Prince Road, and Grant Road from Country Club to Alvernon Way.
- b. Professional Transit Management (PTM), which manages Sun Tran and members of Teamsters Local 104 were able to come to an agreement and settle on a new contract that would run through July 31, 2007.
- c. Tucson Police were undergoing a reaccreditation assessment process to update the accreditation received from CALEA (Commission on Accreditation for Law Enforcement Agencies) in 2001. Agency employees and members of the community were invited to offer comments on the Tucson Police Department and its operations in a public information session scheduled for Monday, August 16, 2004 at 7:00 p.m. at the Patrick K. Hardesty public meeting room.
- d. Terri Traaen, Human Resources Director, was notified of her induction to the Arizona State University College of Public Programs Hall of Fame.
- e. The Historic Depot was recognized with the Governor's Statewide Heritage Preservation Honors Award, which was one of ten in the State.
- f. Congratulations were given to Emily Nottingham and the Community Services Department. The Department was selected as the Arizona Housing Authority of the Year by the Arizona Housing Directors' Association.

## 5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 391, dated August 2, 2004, would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

Kathleen S. Detrick, City Clerk, announced there were nine applications. Of those applications, 5b1 received protests and would be considered separately. In addition, 5b6 would be considered separately at the request of Council Member Leal.

### b. New Licenses

- |    |   |   |
|----|---|---|
| 1. | R & D Union, Inc.<br>4701 E. Twenty Ninth Street<br>Applicant: Raj Agarwal<br>City 033-04, Ward 5<br>Series 10<br>Action must be taken by: August 6, 2004<br>Considered separately. | Staff Recommendation<br><br>Police: In Compliance<br>DSD: In Compliance<br>Revenue: In Compliance |
| 2. | Colors Food & Spirits<br>5305 E. Speedway Blvd.<br>Applicant: Ricardo Lujan<br>City 036-04, Ward 6<br>Series 12<br>Action must be taken by: August 19, 2004                         | Staff Recommendation<br><br>Police: In Compliance<br>DSD: In Compliance<br>Revenue: In Compliance |
| 3. | Terrazas Restaurant<br>2030 E. Broadway Blvd.<br>Applicant: Yolanda De Terrazas<br>City 037-04, Ward 5<br>Series 12<br>Action must be taken by: August 27, 2004                     | Staff Recommendation<br><br>Police: In Compliance<br>DSD: In Compliance<br>Revenue: In Compliance |
| 4. | The Wing Factory<br>6330 E. Golf Links Rd., Ste 12<br>Applicant: Steven M. Van Voorhis<br>City 039-04, Ward 4<br>Series 12<br>Action must be taken by: September 3, 2004            | Staff Recommendation<br><br>Police: In Compliance<br>DSD: In Compliance<br>Revenue: In Compliance |
| 5. | Smokin' A Barbeque Place<br>4699 E. Speedway Blvd.<br>Applicant: Robert B. McMahon<br>City 041-04, Ward 6<br>Series 12<br>Action must be taken by: September 6, 2004                | Staff Recommendation<br><br>Police: In Compliance<br>DSD: In Compliance<br>Revenue: In Compliance |

#### Person Transfers

- |    |   |   |
|----|---|---|
| 6. | Park Avenue Bar & Grill<br>4525 S. Park Avenue<br>Applicant: Thomas Guadagno<br>City 038-04, Ward 5<br>Series 6<br>Action must be taken by: August 28, 2004 | Staff Recommendation<br><br>Police: In Compliance<br>DSD: In Compliance<br>Revenue: In Compliance |
|----|---|---|
- Considered separately at the request of Council Member Leal.

#### Person/Location Transfers

- |    |  |   |
|----|--|---|
| 7. | Sunflower Market<br>4645 E. Speedway Blvd.<br>Applicant: Robert E. Millsap<br>City 034-04, Ward 6<br>Series 9<br>Action must be taken by: August 6, 2004                 | Staff Recommendation<br><br>Police: In Compliance<br>DSD: In Compliance<br>Revenue: In Compliance |
| 8. | 58 Degrees & Holding Company<br>5460 E. Broadway Blvd., #300<br>Applicant: Ryan M. Schoff<br>City 035-04, Ward 6<br>Series 7<br>Action must be taken by: August 14, 2004 | Staff Recommendation<br><br>Police: In Compliance<br>DSD: In Compliance<br>Revenue: In Compliance |
| 9. | McMahons Steakhouse<br>2959 N. Swan Road<br>Applicant: Robert B. McMahon<br>City 040-04, Ward 2<br>Series 7<br>Action must be taken by: September 4, 2004                | Staff Recommendation<br><br>Police: In Compliance<br>DSD: In Compliance<br>Revenue: In Compliance |

#### c. Special Events

- |    |   |   |
|----|---|---|
| 1. | Arizona Quarter Racing Association<br>4502 N. 1 <sup>st</sup> Avenue<br>Applicant: Quinton J. Reeves<br>City T057-04, Ward 3<br>Date of Event: September 11, 2004 | Staff Recommendation<br><br>Police: In Compliance<br>DSD: In Compliance                         |
| 2. | Tucson Breakfast Lions Club<br>4823 S. Sixth Avenue<br>Applicant: Wayne F. Locke<br>City T058-04, Ward 5<br>Date of Event: September 4, 2004<br>September 5, 2004 | Staff Recommendation<br><br>Police: In Compliance<br>DSD: In Compliance<br>Parks: In Compliance |

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 7 to 0, that liquor licenses 5b2 through 5b5, 5b7 through 5b9, and 5c1 and 5c2, be forwarded to the Arizona State Liquor Board with a recommendation for approval.

## **5. LIQUOR LICENSE APPLICATIONS**

### **b. New Licenses**

- |  |   |
|--|---|
| 1. R & D Union, Inc.<br>4701 E. Twenty Ninth Street<br>Applicant: Raj Agarwal<br>City 033-04, Ward 5<br>Series 10<br>Action must be taken by: August 6, 2004 | Staff Recommendation<br><br>Police: In Compliance<br>DSD: In Compliance<br>Revenue: In Compliance |
|--|---|

Kathleen S. Detrick, City Clerk, announced the first liquor license to be considered separately was 5b1, R & D Union, Inc., 4701 East Twenty Ninth Street. She announced the applicant was present, as were protestors. It is located in Ward 5.

Mayor Walkup recognized Council Member Leal.

Council Member Leal said the applicant was present and asked him to come forward and state his case and to tell the Mayor and Council his intentions.

Raj Agarwal, the owner of R & D Union, Inc., said he wanted to take the opportunity to tell Mayor and Council where he was coming from, what initiated this liquor license application, and about the exact changes to his business that had taken place in the last four or five years.

About four or five years ago Chevron bought Texaco and they sold the (inaudible) as they call them. That was a gas station and a terminal to the Chevron Company. The Chevron Company did not want to stay in Tucson or in all of Arizona, because it was a very low volume state for them. Therefore, the Mayor and Council might have seen this and it was a fact that all Texaco stations in Arizona had to close down. They had to be de-branded, either a Mobile, Union, Independent or whatever, but they could not remain as Texaco.

Mr. Agarwal said when he was forced to change he decided to close down his garage. For those who were familiar with his business there was a small "C" (convenience) store and a garage probably twice the area of the "C" store on the other side. There was a partition wall in between. They decided to get rid of the partition wall and the whole area would now be a big "C" store. He said he would have a lot larger volume of regular household merchandise like dairy products, seafood, fruits, vegetables and so on. It was because of that change he put in an application for a liquor license.

Before the Mayor and Council meeting, Mr. Agarwal said he met with the neighborhood president and members of the city council on July 23. That meeting was an exchange of ideas from both sides. Of course he understood and appreciated the concerns of the neighborhood. Mr. Agarwal and neighborhood residents wanted to keep down crime. There were people who said liquor was definitely a contributing factor throughout crime, with domestic violence and other things.

Mr. Agarwal said he did not drink, so he asked the Mayor and Council to excuse his ignorance. But in talking to his friends and other people, he got the impression it was mostly the single cans and single bottles, which were the big problem and not the six or twelve packs. He thought this was what most people in the neighborhood objected to on July 23. In consideration of the neighborhood concerns, he would not sell any single cans or bottles and he would agree to that in writing if they wanted it. He requested this application be approved with the clear understanding that he would sell only full packs, wine coolers, six packs, twelve packs or eighteen packs. There would be no single cans sold. He requested the exception of wine bottles. Wine bottles were more or less a tradition in this county, especially during Thanksgiving, Christmas, New Year, and other holidays. He asked that single wine bottles be the exception. Otherwise, for the rest of the year, he would not sell any single cans or single bottles. He appreciated the concerns of the neighborhood and felt the neighborhood should appreciate his business interest. He requested that Mayor and Council approve his application.

Council Member Leal thanked Mr. Agarwal and said there were cards from a number of protestors and called on Marissa Saenz.

Marissa Saenz said she worked for Luz South Side Coalition, which was a division of Luz Social Services, Inc. She was a program coordinator and their primary mission was to decrease substance abuse and violence in the south side of Tucson. She faxed and e-mailed the Mayor and Council a data analyses produced on behalf of the Twenty Ninth Street Coalition and this area was over-saturated with liquor licenses. The intention of the social service agency charged with overseeing the health and welfare of the residents they served was to change community norms and promote healthier lifestyles and attitudes on behalf of the people that lived in their community. This intention was shared by the representatives of the Twenty Ninth Street Coalition and they urged Mayor and Council to grant them their support on their efforts to take back the community and make it a place where children and families could live and flourish.

Council Member Leal recognized Pat Martin, who also wished to speak.

Pat Martin said she had lived in the Myers Neighborhood since 1961. For the past two years, she had been the Myers Neighborhood Association member at-large and the liaison to business and government. She was the past President of the Myers Neighborhood Association. As a member of the Twenty Ninth Street Coalition and SNAP, she was opposing the issuance of this license in the Myers Neighborhood, for Myers Neighborhood and for her association.

For two years the five neighborhoods in the Twenty Ninth Street Coalition worked closely with the Tucson Police Department to reduce crime in the Coalition area. Their boundaries were Country Club to Craycroft and Twenty Second Street to Golf Links/Aviation. The Tucson Police Department reported to the Coalition that alcohol, drugs and prostitution crimes were 50 percent higher than they were in the rest of Tucson. In an *Arizona Star* article on July 7, it stated that in Tucson teenagers used alcohol at twice the national average. In the Coalition area, domestic violence was twice as high as it was in the rest of Tucson. The Tucson Police Department was implementing crime free multi-housing programs in the twenty-two apartment complexes. Junk motor vehicles numbering 1,680 had been removed from the Coalition by the Police Department. Neighbors repaired homes and cleaned yards for the elderly and handicapped neighbors, and cleaned school grounds. They made up seventy-five holiday gift bags for elderly shut-ins last December. The five neighborhoods worked together on projects to improve the quality of life.

The Twenty Ninth Street Coalition applied for and received official recognition for their Weed and Seed Program from the Department of Justice. With grants from this program they could provide for more law enforcement coverage and preventive programs. She was surprised at the many errors on the applicant's map. He had been in business in the area for years. There were five liquor outlets within a half-mile, not two. There were eighteen liquor outlets within one mile, and thirty-nine within the Coalition's 2.7 square miles. She called fourteen of the series 6 and series 7 bar licenses because she wanted to see if they sold "to go". Ten of the fourteen selling beer or other liquor "to go" were allowed to do this under a bar license.

Ms. Martin referred to the map, noting there were four schools within a half-mile, not one. Day programs for developmentally disabled Tucsonans who were five years to adults were being held at the Department of Economic Security facility exactly across the street from the Texaco station. There were four churches within one-half mile, not one as shown on the map.

Their new Freedom Center (which they thanked the Mayor and Council for) and Freedom Park with an outdoor basketball court (which would receive a roof in December), was one-half mile from Twenty Ninth Street. Swan Park on Swan was less than two blocks away. She wanted the Mayor and Council to understand that they loved Raj, and they supported him all the years he was in business there. After the tragedy on September 11, he received threats; he received phone calls including threats to shoot his propane tank with a rifle and blow the station up. Letters of support were sent to him from the associations. Then several vehicle windows were smashed by vandals' overnight. They found neighbors who worked odd shifts who drove by the station late at night and very early in the morning to be sure no one was hanging around the lot. More neighbors began trading at Raj's Texaco to show support for him. They supported their neighborhood businesses. When they met earlier, Raj explained why he was changing his plans and suggested the compromise that he would sell beer only in six packs up to suitcase size and wine only at Thanksgiving and Christmas for gifts. Unfortunately, he thought he could make a gentleman's agreement to do this with the Mayor and Council



and the neighborhood. Situations changed, as they did with another license in her neighborhood. Ms. Martin said that Raj might not be able to keep this promise and once he had a series 10 license to sell beer and wine the neighborhood would have no recourse. He could sell any kind of beer and any kind of wine.

Ms. Martin concluded by stating the neighborhood suggested instead that the applicant be creative and make a family friendly convenience store with a big focus on picnic supplies and picnic food because of the two parks nearby. A frozen yogurt machine would bring in customers including Ms. Martin, as would a cappuccino machine and a resident from Alvernon Heights said they would go every day. There were none of those nearby. He could sell cut flowers for gifts. He could offer children supplies for school, summer, parks, sports and swimming. The apartment residents in the area often had cars and would shop at his store. Carrying staple groceries and produce would be important. The neighborhoods would totally support him if he established this type of family friendly store.

Swan and Twenty Ninth Street was the only main intersection on Twenty Ninth Street without prostitutes, drug sales, vagrants and panhandlers. The neighborhood wanted to keep the intersection clean and not have it deteriorate into another bad area. She asked everyone to stand up who was there to oppose this license. She thanked them and said the public interest did not require a new license in this location. The best interest of the community would not be served by issuing one. She asked the Mayor and Council to request that the Arizona State Liquor Board deny this license.

Council Member Leal thanked Ms. Martin, and said that from hearing the first two speakers, together they covered the real breath and scope of the issues at hand. There were protestors from a number of other neighborhoods: Betty Finley from Roberts, Bob Crane from Naylor, Mary Dailey from Corbett, and Yolanda Herrera from Sunnyside and SNAP. He asked their indulgence, given the work the Mayor and Council had before them tonight in particular, coupled with the fact that the two first speakers really covered the ground.

Council Member Leal asked that they allow the Mayor and Council to move forward. For those who had known Mr. Agarwal, and the neighborhoods had known him for a long time, he was considered a good and honorable person. Often when people did not fill out the application right and there were significant errors, they could take that as some indicator about who the person was or was not. But in his case where there were errors in the application, they knew him to be a good and honorable person irrespective of that. The problem for the neighborhoods, as they mentioned, was the long-standing work that all four of these neighborhoods had undertaken in this area with the Police Department. This included work with probably four of the council offices, because it was a borderline of Ward 6, Ward 4, and Ward 5 to try and bring relief and remedy and resolution to the Twenty Ninth Street Corridor. The whole issue of concentration that an additional license would add to was by itself reason to say "no". The Arizona State Liquor Board only asks of the Mayor and Council or the applicant to prove if granting this application would create convenience for the community. Sadly there were already so many licenses, the question of convenience was not germane.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 7 to 0, that liquor licenses 5b1 be forwarded to the Arizona State Liquor Board with a recommendation for denial.

## **5. LIQUOR LICENSE APPLICATIONS**

### **b. Person Transfers**

6.	Park Avenue Bar & Grill 4525 S. Park Avenue Applicant: Thomas Guadagno City 038-04, Ward 5 Series 6 Action must be taken by: August 28, 2004	Staff Recommendation  Police: In Compliance DSD: In Compliance Revenue: In Compliance
----	---	---

Kathleen S. Detrick, City Clerk, announced the final liquor license to be considered separately was 5b6, Park Avenue Bar & Grill, 4525 S. Park Avenue. It is located in Ward 5.

Mayor Walkup recognized Council Member Leal.

Council Member Leal asked if the applicant for the Park Avenue Bar & Grill, Thomas Guadagno, was present.

Thomas Guadagno said he was the new owner of the Park Avenue Bar & Grill located at 4525 S. Park Avenue on the southside of Tucson. The Park Avenue Bar & Grill building and establishment had been there for twenty-seven years. They were greatly respected in the community and had several other businesses in town. They were real-estate investors and supported the local Police Department that was located in the area across the street from them. He said this was a person transfer.

Council Member Leal said that given that this was a person transfer, there were issues that dealt with the capacity of the person to manage and the character of the person. He heard there may be three or four restraining orders against the applicant, going back to 2001 and as recently as a few months ago. He asked the applicant if this was correct and if so, could he address the issue.

Mr. Guadagno said "yes", he did have several problems with local contractors whom he took civil legal action against. There was also one dispute in reference to the closing of a real estate deal in Tucson.

Council Member Leal said that was two and asked how many there were.

Mr. Guadagno said that as far as he knew there were three or four. Also, there was a tenant-landlord dispute.

Council Member Leal asked if there was anyone in the audience who had an interest in protesting this transfer. He recognized one protestor and asked him to come forward. He said he might need to call Mr. Guadagno back after the speaker.

Mark Goodman, was there to speak against this license. He had a business transaction in which Mr. Guadagno got into a conversation with them and made some threats against them. He personally received a phone call from someone who claimed to be his brother that told them he grew up in New York with the Gotti Family and his brother was the boss in Tucson and they did not know who they were messing with. It was really a distressing situation and quite threatening. Those threats were on file with the Tucson Police Department. Also, his employer received a threat at home, which was on file with the Sheriff's Department.

Council Member Leal thanked Mr. Goodman and said that when they thought about a person transfer there was a different criteria than it was with a new location. As they had heard from the citation, a new location was really convenience. Person transfers were different and they had to do with the background of the individual for whom the license would be transferred to. He heard there were three or four restraining orders, actions that warranted restraining orders, and a pattern of response to problems. This showed him what the person's reflex and character were about and whether they had the capacity to manage, whether they could handle the significant responsibility of a liquor license. For this reason, it gave him serious apprehension about whether it was in the community's interest that this person transfer not go through to this applicant.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 7 to 0, that liquor licenses 5b6 be forwarded to the Arizona State Liquor Board with a recommendation for denial.

## **6. CONSENT AGENDA ITEMS A THROUGH QQ**

Mayor Walkup announced the reports and recommendations from the City Manager on the Consent Agenda Items would be received into and made a part of the record. He asked the City Clerk to read the Consent Agenda.

### **A. GRANT AGREEMENT: WITH THE ARIZONA CRIMINAL JUSTICE COMMISSION FOR DRUG CONTROL AND SYSTEM IMPROVEMENT**

1. Report from City Manager AUG2-04-396 CITY-WIDE
2. Resolution No. 19884 relating to grants; approving and authorizing execution of a Drug Enforcement Grant Award with the Arizona Criminal Justice Commission for Drug Control and System Improvement for FY 2005; and declaring an emergency.

- B. AWARD AGREEMENT: WITH THE ARIZONA ATTORNEY GENERAL FOR A VICTIMS' RIGHTS IMPLEMENTATION ASSISTANCE PROGRAM
1. Report from City Manager AUG2-04-395 CITY-WIDE
  2. Resolution No. 19885 relating to victims' rights; approving and authorizing execution of an Award Agreement with the Arizona Attorney General's Office for the FY 2005 Victims' Rights Implementation Assistance Program; and declaring an emergency.
- C. TUCSON CODE: AMENDING (CHAPTER 11) RELATING TO REGULATION OF DRINKING ESTABLISHMENTS TO CONFORM TO CHANGES IN STATE LAW
1. Report from City Manager AUG2-04-394 CITY-WIDE
  2. Ordinance No. 10007 relating to crimes and offenses; amending the regulation of frequenting of drinking establishments during hours closed; and providing for an effective date of August 25, 2004 for all amendments; by amending Section 11-17 of the Tucson Code; and declaring an emergency.
- D. FINANCIAL PARTICIPATION AGREEMENT: WITH TUCSON YOUTH DEVELOPMENT FOR YOUTH EMPLOYMENT SERVICES
1. Report from City Manager AUG2-04-403 CITY-WIDE
  2. Resolution No. 19886 relating to Financial Participation Agreements; authorizing and approving the FY 2005 Financial Participation Agreement with Tucson Youth Development for Youth Employment Services with the City of Tucson; and declaring an emergency.
- E. AGREEMENT: FACILITIES DEVELOPMENT AGREEMENT WITH AMPHI LITTLE LEAGUE FOR A SNACK BAR AT JACOBS DISTRICT PARK
1. Report from City Manager AUG2-04-404 W3
  2. Resolution No. 19887 relating to parks and recreation; approving and authorizing the Facilities Development Agreement between the City of Tucson and Amphi Little League for the construction, maintenance and use of a new snack bar at Jacobs District Park; and declaring an emergency.

F. REAL PROPERTY: SALE OF SURPLUS PROPERTY LOCATED AT 2205 EAST SPEEDWAY BOULEVARD TO ANNE C. GRAHAM-BERGIN

1. Report from City Manager AUG2-04-414 W6
2. Ordinance No. 10012 relating to real property; vacating and declaring real property located at 2205 East Speedway Boulevard to be surplus property, and authorizing the sale thereof to Anne C. Graham-Bergin or assigns; and declaring an emergency.

G. BOARDS, COMMITTEES AND COMMISSIONS: SUNSETTING THE CITIZEN PARTICIPATION ADVISORY COMMITTEE

1. Report from City Manager AUG2-04-397 CITY-WIDE
2. Resolution No. 19889 relating to Boards, Commissions and Committees; abolishing the Citizen Participation Advisory Committee; repealing Resolution No. 16090; and declaring an emergency.

Item G considered separately at the request of Council Member Scott.

H. REAL PROPERTY: CONVEYANCE OF SURPLUS PROPERTY IN THE SOUTH PARK NEIGHBORHOOD TO HABITAT FOR HUMANITY

1. Report from City Manager AUG2-04-398 W5
2. Ordinance No. 10008 relating to real property; vacating and declaring certain City-owned properties in the South Park Neighborhood, Tucson, Arizona, to be surplus, and authorizing the conveyance thereof to Habitat for Humanity Tucson; and declaring an emergency.

The City Clerk announced a clerical correction to the Quitclaim Deed, Exhibit B to Ordinance 10008. The amount shown should be one dollar, not ten dollars.

I. REAL PROPERTY: CONVEYANCE OF ALLEY RIGHT-OF-WAY LOCATED NEAR 22<sup>ND</sup> STREET AND CAMINO SECO TO ROLLING HILLS COUNTRY CLUB VILLAS CORPORATION

1. Report from City Manager AUG2-04-399 W2
3. Ordinance No. 10009 relating to real property; vacating and declaring portions of certain City alley right of way near 22<sup>nd</sup> Street and Camino Seco to be surplus property, and authorizing the no cost conveyance thereof to the Rolling Hills Country Club Villas Corporation; and declaring an emergency.

- J. GRANT APPLICATION AND AGREEMENT: WITH THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS FOR AN ART LIBRARY PARTNERSHIP
1. Report from City Manager AUG2-04-400 CITY-WIDE
  2. Resolution No. 19890 relating to Library; authorizing and ratifying the execution of a grant application with the Arizona State Library, Archives and Public Records for a \$63,574 Library Services and Technology Act Grant: Public and Art Library Partnership; and declaring an emergency.
- K. GRANT APPLICATION AND AGREEMENT: WITH THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS FOR CUSTOMER MANAGED PUBLIC ACCESS COMPUTERS
1. Report from City Manager AUG2-04-401 CITY-WIDE
  2. Resolution No. 19891 relating to Library; authorizing and ratifying the execution of a grant application with the Arizona State Library, Archives and Public Records for a \$32,674 Library Services and Technology Act Grant: Customer Managed Public Access Computers; and declaring an emergency.
- L. LIBRARY: NAMING THE PROPOSED MIDTOWN BRANCH LIBRARY THE MARTHA COOPER BRANCH LIBRARY AND LEARNING CENTER
1. Report from City Manager AUG2-04-402 CITY-WIDE
  2. Resolution No. 19892 relating to the proposed Midtown Branch Library; designating the City of Tucson, Midtown Branch Library as the “Tucson-Pima Public Library, Martha Cooper Branch Library and Learning Center”; and declaring an emergency.
- Item L considered separately at the request of Vice Mayor Ronstadt.
- M. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY FOR A JOINT HOUSING PROGRAM FOR PEOPLE WITH AIDS
1. Report from City Manager AUG2-04-406 CITY-WIDE
  2. Resolution No. 19893 relating to Community Services; authorizing and approving the execution of Intergovernmental Agreement Amendment #2 between the City of Tucson and Pima County to extend the operation of a joint housing program under the FY2002 ‘Housing Opportunities for People with Aids’ (HOPWA) Grant; and declaring an emergency.

- N. GRANT: ACCEPTANCE OF A UNITED STATES LAW ENFORCEMENT TRIBUTE ACT GRANT AWARD FOR COMPLETION OF THE MEMORIAL PLAZA AT THE MAIN POLICE FACILITY
1. Report from City Manager AUG2-04-407 CITY-WIDE
  2. Resolution No. 19894 relating to grants; approving and authorizing execution of a Law Enforcement Tribute Act Grant Award with the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance grant for completion of the Memorial Plaza; and declaring an emergency.
- O. AGREEMENT: WITH PIMA ASSOCIATION OF GOVERNMENTS FOR TRANSPORTATION PLANNING AND PROFESSIONAL SERVICES
1. Report from City Manager AUG2-04-408 CITY-WIDE
  2. Resolution No. 19895 relating to transportation; approving and authorizing the agreement between the City of Tucson Department of Transportation and Pima Association of Governments for Transportation Planning and Professional Services during FY 2005 (City-Wide); and declaring an emergency.
- P. AWARD APPLICATION: FOR THE LEAGUE OF AMERICAN BICYCLISTS – BICYCLE FRIENDLY COMMUNITY PLATINUM AWARD 2006 (CONTINUED FROM MEETING OF JUNE 28, 2004)
1. Report from City Manager AUG2-04-409 CITY-WIDE
- Q. FINANCIAL PARTICIPATION AGREEMENTS: WITH VARIOUS OUTSIDE AGENCIES FOR FISCAL YEAR 2005
1. Report from City Manager AUG2-04-410 CITY-WIDE
  2. Resolution No. 19896 Relating to Outside Agency Activities; authorizing and approving the Financial Participation Agreements between the City of Tucson and various outside organizations for fiscal year 2005 and declaring an emergency.

- R. TUCSON CODE: AMENDING (CHAPTER 22) PROVIDING TUCSON SUPPLEMENTAL RETIREMENT SYSTEM MEMBERS THE ABILITY TO TRANSFER EXISTING PENSION SERVICE CREDITS FROM ANOTHER GOVERNMENTAL RETIREMENT SYSTEM
1. Report from City Manager AUG2-04-412 CITY-WIDE
  2. Ordinance No. 10011 relating to Pensions, Retirement and Group Insurance; amending the Tucson Code, Chapter 22, Pensions, Retirement and Group Insurance, Article III, Tucson Supplemental Retirement System, Section 22-36(b) retirement system transfers for appointed officers, Section 22-36(c) retirement system transfers for public employees; providing for transfer of service and declaring an emergency.
- S. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY FOR IMPROVEMENTS TO UDALL PARK PLAY FIELD (RESOLUTION 19217)
1. Report from City Manager AUG2-04-415 W2
  2. Resolution No. 19897 relating to Intergovernmental Agreements; approving and authorizing an Amendment to the Intergovernmental Agreement between the City of Tucson and Pima County for improvements to Udall Park Play Field; and declaring an emergency.
- T. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY FOR IMPROVEMENTS TO WILLIAM M. CLEMENTS CENTER (RESOLUTION 19217)
1. Report from City Manager AUG2-04-416 W4
  2. Resolution No. 19898 relating to Intergovernmental Agreements; approving and authorizing an Amendment to the Intergovernmental Agreement between the City of Tucson and Pima County for improvements to William M. Clements Center; and declaring an emergency.
- U. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY FOR IMPROVEMENTS TO QUINCIE DOUGLAS POOL (RESOLUTION 19217)
1. Report from City Manager AUG2-04-417 W5
  2. Resolution No. 19899 relating to Intergovernmental Agreements; approving and authorizing an Amendment to the Intergovernmental Agreement between the City of Tucson and Pima County for improvements to Quincie Douglas Pool; and declaring an emergency.



V. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH MARLENE BACHMANN

1. Report from City Manager AUG2-04-419 OUTSIDE CITY
2. Resolution No. 19900 relating to annexations; authorizing and approving the execution of a Pre-Annexation Development Agreement between the City of Tucson and Marlene Bachmann; and declaring an emergency.  
Note: If annexed, area would be in Ward 4

Item V considered separately at the request of Council Member Scott.

W PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH CARMELA CID

1. Report from City Manager AUG2-04-420 OUTSIDE CITY
2. Resolution No. 19901 relating to annexations; authorizing and approving the execution of a Pre-Annexation Development Agreement between the City of Tucson and Carmela Cid; and declaring an emergency.  
Note: If annexed, area would be in Ward 4.

Item W considered separately at the request of Council Member Scott.

X. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH HARVEY MORDKA

1. Report from City Manager AUG2-04-421 OUTSIDE CITY
2. Resolution No. 19902 relating to annexations; authorizing and approving the execution of a Pre-Annexation Development Agreement between the City of Tucson and Harvey Mordka; and declaring an emergency.  
Note: If annexed, area would be in Ward 4.

Item X considered separately at the request of Council Member Scott.

Y. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH LANCE WAYNE DUCEY

1. Report from City Manager AUG2-04-422 OUTSIDE CITY
2. Resolution No. 19903 relating to annexations; authorizing and approving the execution of a Pre-Annexation Development Agreement between the City of Tucson and Lance Wayne Ducey; and declaring an emergency.  
Note: If annexed, area would be in Ward 4.

Item Y considered separately at the request of Council Member Scott.

Z. TRANSPORTATION: AUTHORIZATION FOR THE TRANSPORTATION DEPARTMENT TO SUBMIT FEDERAL TEA-21 TRANSPORTATION ENHANCEMENT PROPOSALS

1. Report from City Manager AUG2-04-426 CITY-WIDE
2. Resolution No. 19905 relating to transportation; authorizing the Director of the City of Tucson Department of Transportation to submit and sponsor fourteen Transportation Enhancement Act-21 (TEA-21) Transportation Enhancement Funding Proposals to the Arizona Department of Transportation and to expend local matching funds in the event of approval; and declaring an emergency.

AA. FINANCE: SALE OF CERTIFICATES OF PARTICIPATION FOR CAPITAL IMPROVEMENTS, SERIES 2004-A

1. Report from City Manager AUG2-04-427 CITY-WIDE
2. Resolution No. 19883 relating to real property; authorizing the execution and delivery of a Ground Lease, a Lease-Purchase Agreement, a Certificate Purchase Agreement and a Continuing Disclosure Undertaking; acknowledging and approving the execution of an Amendment and Supplement to a Declaration of Irrevocable Trust and the sale and delivery of one or more Series of Certificates of Participation in the Lease-Purchase Agreement pursuant thereto; and declaring an emergency.

BB. REAL PROPERTY: SALE OF RIGHTS-OF-WAY AND GRANTING OF A TEMPORARY REVOCABLE EASEMENT ON PORTIONS OF 10<sup>TH</sup> STREET BETWEEN 5<sup>TH</sup> AVENUE AND TOOLE AVENUE TO THE CONGRESS TAP ROOM, INC., FOR THE HOTEL CONGRESS

1. Report from City Manager AUG2-04-418 W6
2. Ordinance No. 10013 relating to real property; vacating and declaring certain city-owned rights-of-way consisting of a portion of 10<sup>th</sup> Street between 5<sup>th</sup> Avenue and Toole Avenue to be surplus, and authorizing the sale thereof to the Congress Tap Room, Inc., an Arizona Corporation; and declaring an emergency.
3. Ordinance No. 10014 relating to real property; authorizing and approving the grant of a Temporary Revocable Easement for a portion of 10<sup>th</sup> Street right-of-way and 5<sup>th</sup> Avenue right-of-way to the Congress Tap Room, Inc., an Arizona Corporation; and declaring an emergency.

Item BB considered separately at the request of Vice Mayor Ronstadt.

CC. REAL PROPERTY: RESCINDING RESOLUTION 19781 AND ACQUISITION OF A LARGER WELL SITE FOR THE SILVERBELL WEST ISOLATED WATER SYSTEM

1. Report from City Manager AUG2-04-428 OUTSIDE CITY
2. Resolution No. 19906 relating to real property; rescinding Resolution No. 19781 of February 23, 2004, and authorizing the City Manager to acquire a well site in the vicinity of Silverbell Road and Lockett Road at a purchase price of thirteen thousand dollars (\$13,000), and declaring an emergency.

DD. REAL PROPERTY: RESCINDING RESOLUTION 19479 AND ACQUISITION OF PROPERTY SOUTHWEST OF THORNYDALE AND MAGEE ROADS FOR A POTABLE WATER SUPPLY WELL

1. Report from City Manager AUG2-04-430 OUTSIDE CITY
2. Resolution No. 19908 relating to real property; Rescinding Resolution No. 19479 of January 13, 2003, and authorizing the City Manager to acquire a well site southwest of Thornydale and Magee Roads for a new potable supply well; and declaring an emergency.

EE. TUCSON CODE: AMENDING (CHAPTER 8) INCREASING THE DEFAULT FEE FOR FAILURE TO APPEAR IN TUCSON CITY COURT FOR CASES INVOLVING A CIVIL TRAFFIC VIOLATION, CIVIL VIOLATION, CIVIL INFRACTION OR CIVIL PARKING INFRACTION

1. Report from City Manager AUG2-04-411 CITY-WIDE
2. Ordinance No. 10010 relating to City Court; amending the Tucson Code, Chapter VIII City Court, Article I In General, Section 8-6.7 Administrative default fee; exemption for indigent persons; fee separate and distinct from any fine or other fee; action for recovery authorized; and declaring an emergency.

Item EE considered separately at the request of Council Member Dunbar.

FF. REAL PROPERTY: LEASE OF SITE FOR A TEMPORARY WATER STORAGE TANK FOR THE DIAMOND BELL ISOLATED SYSTEM

1. Report from City Manager AUG2-04-429 OUTSIDE CITY
2. Resolution No. 19909 relating to the Diamond Bell Ranch Isolated Water System; authorizing and approving the lease of a site for a temporary storage tank for the Diamond Bell Isolated System, and declaring an emergency.

GG. APPROVAL OF MINUTES

1. Report from City Manager AUG2-04-434 CITY-WIDE

HH. MEMORANDUM OF UNDERSTANDING: WITH THE HISPANIC AMERICAN POLICE COMMAND OFFICERS ASSOCIATION FOR THE CLOSING THE GAP PROJECT

1. Report from City Manager AUG2-04-432 CITY-WIDE
2. Resolution No. 19910 relating to Police; approving and authorizing execution of a Memorandum of Understanding between the City of Tucson and the Hispanic American Police Command Officers Association (HAPCOA) for the Closing the Gap Project Grant Award; and declaring an emergency.

II. MEMORANDUM OF UNDERSTANDING: WITH THE HISPANIC AMERICAN POLICE COMMAND OFFICERS ASSOCIATION FOR THE MADRINA-PADRINO PUBLIC SAFETY PROJECT

1. Report from City Manager AUG2-04-433 CITY-WIDE
2. Resolution No. 19911 relating to Police; approving and authorizing execution of a Memorandum of Understanding between the City of Tucson and the Hispanic American Police Command Officers Association (HAPCOA) for the Madrina-Padrino Public Safety Project Grant Award; and declaring an emergency.

JJ. INDUSTRIAL DEVELOPMENT: AUTHORIZATION FOR THE ISSUANCE OF TUCSON INDUSTRIAL DEVELOPMENT AUTHORITY EDUCATION REVENUE BONDS

1. Report from City Manager AUG2-04-424 CITY-WIDE
2. Resolution No. 19904 Relating to Industrial Development; approving and authorizing the issuance by The Industrial Development Authority of the City of Tucson, Arizona of its Education Revenue Bonds (Arizona Agribusiness and Equine Center, Inc. Project), Series 2004, in an aggregate principal amount not to exceed \$15,000,000 relating to the financing or refinancing of the acquisition, construction, rehabilitation, improvement, equipping and operation of an educational institution and the payment of certain costs incidental thereto; and declaring an emergency.

KK. INDUSTRIAL DEVELOPMENT: AUTHORIZATION FOR THE ISSUANCE OF TUCSON INDUSTRIAL DEVELOPMENT AUTHORITY SINGLE FAMILY MORTGAGE REVENUE BONDS

1. Report from City Manager AUG2-04-425 CITY-WIDE
2. Resolution No. 19912 relating to Industrial Development; approving and authorizing the proceedings of The Industrial Development Authority of the City of Tucson, Arizona authorizing the issuance of Single Family Mortgage Revenue Bonds, Series 2004A, in an aggregate principal amount not to exceed \$12,500,000 and Single Family Mortgage Revenue Bonds (GNMA and Fannie Mae Mortgage-Backed Securities Program), Series 2004B, in one or more subseries, in an aggregate principal amount not to exceed \$12,500,000 (collectively, the “Bonds”); approving the standards and requirements and the General Plan adopted by the Authorities for the Program; and declaring an emergency.

LL. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR LOW-INCOME UTILITY BILL ASSISTANCE PROGRAM

1. Report from City Manager AUG2-04-405 CITY-WIDE & OUTSIDE CITY
2. Resolution No. 19913 relating to Intergovernmental Agreements; approving and authorizing execution of an Intergovernmental Agreement with Pima County to administer a Low-Income Utility Bill Assistance Program; including Environmental Services Bill, Tucson Water Bills, and to increase the amount designated for administrative fees to Pima County; and declaring an emergency.

Item LL considered separately at the request of Council Member Dunbar.

MM. REAL PROPERTY: DEDICATION OF CITY PROPERTY AS RIGHT-OF-WAY AND SALE OF SURPLUS PROPERTY TO MIGUEL R. FUENTEVILLA AND SONYA N. SOTINSKY

1. Report from City Manager AUG2-04-413 W6
2. Ordinance No. 10018 relating to real property; dedicating certain city-owned property near Tucson Boulevard and Edison Street as right-of-way, vacating and declaring certain city-owned real property near Tucson Boulevard and Edison Street to be surplus property, and authorizing the sale thereof to Miguel R. Fuentevilla and Sonya N. Sotinsky; and declaring an emergency.

NN. AGREEMENT: WITH THE PIMA COUNTY FLOOD CONTROL DISTRICT AND THE US ARMY CORPS OF ENGINEERS FOR THE EL RIO MEDIO FEASIBILITY STUDY OF THE SANTA CRUZ RIVER

1. Report from City Manager AUG2-04-441(2) W1 & W3
2. Resolution No. 19916 relating to water; approving and authorizing execution of The El Rio Medio “Feasibility Study of the Santa Cruz River and Feasibility Cost Sharing Agreement” between the City of Tucson, Pima County Flood Control District, and the United States Army Corps of Engineers and an Intergovernmental Agreement between the City of Tucson and the Pima County Flood Control District for reimbursement of local match costs arising from the El Rio Medio Feasibility Study; and declaring an emergency.

Item NN continued at the request of staff.

OO. REAL PROPERTY: CONVEYANCE OF PORTIONS OF BRITANNIA DRIVE RIGHT-OF-WAY, BETWEEN VALENCIA ROAD AND ALVERNON WAY TO AMERICAN TITLE INSURANCE COMPANY AS TRUSTEE UNDER TRUST NUMBER 4941

1. Report from City Manager AUG2-04-442 W5
2. Ordinance No. 10022 relating to real property; vacating and declaring certain portions of Britannia Drive right-of-way between Alvernon Way and Hemisphere Loop to be surplus, and authorizing the no cost conveyance thereof to First American Title Insurance Company as trustee under Trust No. 4941, Pursuant to the City’s paper plat policy, and declaring an emergency.

PP. ASSURANCE AGREEMENT: (S02-017A) TIERRA VISTA II SUBDIVISION, LOTS 14 TO 19, 54 TO 98, 286 TO 298, 310 TO 338, 345 TO 371 AND COMMON AREAS “A”, “B” AND “C”

1. Report from City Manager AUG2-04-443 W5
2. Resolution No. 19917 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S02-017A of a final plat for the Tierra Vista II Subdivision, Lots 14-19, 54-98, 286-298, 310-338, 345-371 and Common Areas “A” – “C”; and declaring an emergency.

QQ. FINAL PLAT: (S02-017A) TIERRA VISTA II SUBDIVISION, LOTS 14 TO 19, 54 TO 98, 286 TO 298, 310 TO 338, 345 TO 371 AND COMMON AREAS "A", "B" AND "C"

1. Report from City Manager AUG2-04-444 W5
2. The City Manager recommends that, after the approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

It was moved by Council Member West, duly seconded, that Consent Agenda Items A through QQ, with the exception of Items G, L, V, W, X, Y, BB, EE and LL, which would be considered separately, and Item NN which would be continued, be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Consent Agenda Items A through QQ, with the exception of Items G, L, V, W, X, Y, BB, EE, LL, and NN, were declared passed and adopted by a roll call vote of 7 to 0.

G. BOARDS, COMMITTEES AND COMMISSIONS: SUNSETTING THE CITIZEN PARTICIPATION ADVISORY COMMITTEE

Kathleen S. Detrick, City Clerk, announced the first item to be considered separately would be Item G and the request was made by Council Member Scott.

Council Member Scott believed it was inadvisable for a government to keep shutting down citizens' committees. She honored the work of her colleagues on the Good Government Subcommittee who recommended this and they had very good reasons as the people had trouble with quorums and having meetings. However, she believed government should take a look at those things and revitalize them and make as many possibilities as it could think of to allow citizens access to all these kinds of things. She could not support dissolving yet another citizen's committee.

Mayor Walkup recognized Council Member Dunbar.

Council Member Dunbar said as a member of the Good Government Subcommittee, she wanted to make some clarifications. This committee was formed before Tucson supported neighborhood associations and their overall objective was to make sure they had neighborhood representation in the community. In order to make sure they were comfortable with sunseting this committee, every member had been

contacted including the chairman, which Council Member Dunbar personally contacted. She was told at the meeting that the members felt now that since most of Tucson had neighborhood associations, they were pleased they had done their job and done it so well.

It was moved by Council Member Dunbar, duly seconded, that Consent Agenda Item G, be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any further discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, and Dunbar;  
Vice Mayor Ronstadt and Mayor Walkup

Nay: Council Members Scott and Leal

Consent Agenda Item G was declared passed and adopted by a roll call vote of 5 to 2.

Council Member Scott said this particular role, which had been done by citizens, would now being taken over by a City department.

For the purpose of the emergency clause, and that purpose only, Mayor Walkup called for the roll call vote:

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar; Scott, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Consent Agenda Item G was declared passed and adopted by a roll call vote of 7 to 0, with the emergency clause.

**L. LIBRARY: NAMING THE PROPOSED MIDTOWN BRANCH LIBRARY  
THE MARTHA COOPER BRANCH LIBRARY AND LEARNING CENTER**

Kathleen S. Detrick, City Clerk, announced the second item to be considered separately would be Item L and the request was made by Vice Mayor Ronstadt.

Vice Mayor Ronstadt said there were several members of the midtown community in attendance and asked if any of them wanted to speak on this item.

A gentleman who identified himself only as a member of the midtown community said it was very gratifying that they could all come together and do the right thing for the right reasons. Naming the midtown library after Martha Cooper was the right thing and



the right reason was that it was a desperately needed facility and it would be cherished. His area was called the Midtown Garden District. There was a saying that the most beautiful and durable flower in the garden was always the volunteer. Martha Cooper had been a volunteer without peers. He thanked the Mayor and Council.

Vice Mayor Ronstadt said there were many times when they named things for people who were long gone and a few people remember what they did with their legacy. He was honored to have known Martha during his early time on the Council. She was an ally on some issues. Sometimes they butted heads, but she was always the type of person who did what she felt was the best thing to do for her neighborhood and ultimately for the City of Tucson. This was probably the most direct and best way they could honor her memory and her legacy. This was something that was very important to her; she was at every single meeting, pounding to get this for the kids. It was very appropriate to name the new midtown area library the Martha Cooper Branch Library and Learning Center.

It was moved by Vice Mayor Ronstadt, duly seconded, that Consent Agenda Item L, be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any discussion.

Council Member West added this was awesome and she agreed with Vice Mayor Ronstadt. She remembered seeing a picture in the *Arizona Daily Star* of Martha, very impatiently waiting for that library and she thought Martha would be looking down from heaven right now and she was smiling.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Consent Agenda Item L was declared passed and adopted by a roll call vote of 7 to 0.

- V. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH MARLENE BACHMANN
- W PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH CARMELA CID
- X. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH HARVEY MORDKA
- Y. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH LANCE WAYNE DUCEY

Kathleen S. Detrick, City Clerk, announced the next items to be considered separately would be items V, W, X and Y and the request to consider them separately was made by Council Member Scott.

Council Member Scott found it very difficult to support this kind of annexation. There were many people in the audience who brought their friends and neighbors to oppose this particular issue. There were people who lived outside the City limits who felt very strongly about this kind of maneuver by the City and did not see it as a friendly open gesture. She wanted to bring that to the Council's attention. She disagreed with the annexation piece, which stated if you wanted water you must be agreeable to coming into the City of Tucson and signing a preannexation agreement. Apparently several years ago the Federal Government and the City of Tucson entered into a Central Arizona Project (CAP) agreement contract. It had been her understanding that the Central Arizona Project Water District extended beyond the City limits of Tucson. If that was correct, then she wondered if it was alright legally for the City of Tucson to have an agreement with the Federal Government about dispersing water that goes outside the City limits of Tucson. The City said originally they would be the purveyors of this water and she questioned why they were now putting conditions on that. She thought there would be an issue with that and it would have repercussions larger than the entire legal staff could deal with. Based on the notion that water coming through a contract should be distributed to people without this kind of condition on it was one of the reasons why she would not want to support this or any of these annexations. Her heart was with the people.

Mayor Walkup asked the City Manager to respond.

James Keene, City Manager, called on Mr. Modeer who would answer the question on the Central Arizona Project water.

David Modeer, Tucson Water Director, said the contract with the Central Arizona Project or the Central Arizona Water Conservation District (CAWCD) was between the City of Tucson and the Central Arizona Water Conservation District. There was no such restriction on how the City of Tucson used its water as long as it paid the applicable fees both for the capital and the operations and maintenance portion, which is paid when the water is utilized by the City of Tucson. There were no restrictions whatsoever. In fact, every city in Arizona within the Central Arizona Water Conservation District service area, which included Maricopa, Pinal, and Pima County, all had such contracts and every City in Maricopa required annexation for water service.

Mayor Walkup noted there were several people who wanted to speak and he recognized Council Member West

Council Member West said they had already set a precedent as there were other groups back in 2000 who came to the City and asked for water service, and because they were outside our service area they were declined service. These agreements today were like any other preannexation agreement. These people voluntarily signed these agreements. The people who were in attendance would never be annexed if they did not

give their permission to be annexed. Furthermore, some of the people at the meeting were not even contiguous to the City limits so they would probably not be annexed anytime soon because it was against the law. Unless they signed an annexation agreement, the City was probably not going to annex them. She did not want to start any fears in their minds that it would be the case. However, at the same time if someone signed an agreement, as these people voluntarily had, then she thought those agreements needed to be honored. Then someday when other small water companies would be running out of water and these people were being served by Tucson Water, which had done its planning over a long period of time and continued to plan for the future, they would benefit from these preannexation agreements. She planned on supporting this because she believed it was being done in the interest of planning for the future. These people would have the right to vote for the people who set their water rates and that was something they had heard all the time as a complaint.

Council Member Leal said it was clear from the response that Mr. Modeer gave to Council Member Scott regarding the legality of the issue, that there were no legal constraints upon the City, so that would leave by default only their ethical sensibilities to limit them. He thought government should represent the best of what people were capable of, not the worst of what people were capable of. He thought that as a community, the City should be evenhanded and caring and not use the greater good arguments to justify punitive and repressive acts on the few. It might be the case that a few individuals may have, out of their own financial self interest, signed agreements; but those agreements should not be used to trivialize and gut the civil rights of people who buy homes in those developments.

Council Member Leal said this was just simply not the kind of government they should have and not the kind of community members they should be treated like. He was sorry to see this happen this way. He wished it were different; it did not have to be this way. He thought the City would be fouling its own nest and creating a climate where people would be afraid to come into the City. This would inspire a City to become clever about creating manipulative mechanisms, because that would be the only way the City could get people in because the City could not get them to agree in an evenhanded way. It was an indictment about the City and he was sorry for that.

Mayor Walkup recognized Council Member Ibarra.

Council Member Ibarra asked if this was the Santa Rita Bel Air Estates area and if there were three different owners that would be putting in two thousand, seven hundred new homes.

Albert Elias, Director of Urban Planning and Design, replied there were a number of large property owners, as well as small property owners. He said Tucson Water had discussions with them regarding the desire to have preannexation agreements last fall, so these property owners were advised of that desire. When they got a water availability letter, they would be asked to sign a preannexation agreement. These people had been aware of it for several months.

Council Member Ibarra said he was going to vote against this. He thought the Mayor and Council would be causing neighbors to fight against neighbors. He thought if you signed and did not want to sign, it would turn into a conflict and that was not the road the City should be going on. The Council should look at a whole list of an area and see if the whole area wanted to come in, if the majority wanted to. If they did not, then the Council should leave it alone and say they would take up business somewhere else and look at other aspects of it. What the Council would be doing would be causing the neighbors to fight amongst each other and it would cause much more negative ramifications in the future, especially when the Council wanted people to annex into the City of Tucson. This might not be the mentality to go about it. He understood what the City would be doing; he understood the position; but if the Council wanted to have a win-win situation with annexation, they would have to listen more rather than just plowing over people and he thought this would just be plowing over people.

Mayor Walkup recognized Council Member Dunbar.

Council Member Dunbar inquired as to whether or not any of the developers were present. She said if they were so against being annexed, she would really like to hear from them.

Council Member Ibarra asked if they were developers or individuals.

Mr. Elias responded they were developers.

Council Member Dunbar again asked if any of the developers who signed the agreements were present and if they felt they were strong-armed into the City.

No one spoke.

Vice Mayor Ronstadt said the reality was Tucson Water system was not free. For years they had debates on impact fees and the reality was that development occurs outside the City and the City of Tucson taxpayers end up paying for it in infrastructure. Tucson Water was no different than building a road or a sewer line, or putting in any type of infrastructure. The citizens in this community were tired of paying for development in unincorporated areas of Pima County and not deriving any benefits from it. This was really beyond the issue of financial equity for the existing taxpayers on the City of Tucson. He said they heard time and time again about people living outside the City, who were Tucson Water customers, who absolutely had no voice when it came to Tucson Water policy, because they are not within the corporate boundaries of the City of Tucson. This would resolve both issues. So just saying there was an equity or civil rights issue did not make it so. This was a fair and equitable position that allowed people to pay for infrastructure, join the City, and have a voice in the water utility.

It was moved by Vice Mayor Ronstadt, duly seconded, that Consent Agenda Items V, W, X, and Y, be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members West, and Dunbar; Vice Mayor Ronstadt and Mayor Walkup

Nay: Council Members Ibarra, Scott, and Leal

Consent Agenda Items V, W, X, and Y were declared passed and adopted by a roll call vote of 4 to 3 without the emergency clause.

**BB. REAL PROPERTY: SALE OF RIGHTS-OF-WAY AND GRANTING OF A TEMPORARY REVOCABLE EASEMENT ON PORTIONS OF 10<sup>TH</sup> STREET BETWEEN 5<sup>TH</sup> AVENUE AND TOOLE AVENUE TO THE CONGRESS TAP ROOM, INC., FOR THE HOTEL CONGRESS**

Kathleen S. Detrick, City Clerk, announced the next item to be considered separately would be item BB and the request was by Vice Mayor Ronstadt.

Vice Mayor Ronstadt said this sale would generate \$116,235 and it would be a one-time revenue stream. During the Downtown and Rio Nuevo Subcommittee meetings they discussed using this resource to pay for some mitigation activities in the area around Hotel Congress derived from the anticipated construction of the Fourth Avenue underpass.

It was moved by Vice Mayor Ronstadt, duly seconded, that Consent Agenda Item BB, with the addition that the \$116,235 generated be used for construction mitigation from the Fourth Avenue Construction Project, be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal; Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Consent Agenda Item BB, as amended, was declared passed and adopted by a roll call vote of 7 to 0.

EE. TUCSON CODE: AMENDING (CHAPTER 8) INCREASING THE DEFAULT FEE FOR FAILURE TO APPEAR IN TUCSON CITY COURT FOR CASES INVOLVING A CIVIL TRAFFIC VIOLATION, CIVIL VIOLATION, CIVIL INFRACTION OR CIVIL PARKING INFRACTION

Kathleen S. Detrick, City Clerk, announced the next item to be considered separately would be Item EE and the request was made by Council Member Dunbar.

Council Member Dunbar thought, since they were talking about an increase in a fee, they should be open with the public and let them know what was being done. She asked for a report from staff.

James Keene, City Manager, stated Antonio J. Riojas, Associate Presiding Magistrate, was prepared to speak on this item.

Judge Riojas said this item was a default fee they were imposing over the default fee that already existed. This fee only happens, if someone does not appear for tickets they get. Whether it is a civil traffic citation, a speeding ticket, or running a red light, this fee would apply only if they did not appear. It would not apply if someone came in to pay or contest it. It would only apply when someone does not appear. It was basically a cost recovery type of fee.

It was moved by Council Member Dunbar, duly seconded, that Consent Agenda Item EE be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Consent Agenda Item EE was declared passed and adopted by a roll call vote of 7 to 0.

LL. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR LOW-INCOME UTILITY BILL ASSISTANCE PROGRAM

Kathleen S. Detrick, City Clerk, announced the final item to be considered separately would be item LL and the request was made by Council Member Dunbar.

Council Member Dunbar asked the audience to quiet down because it was getting difficult to hear and this was an important issue. This item was removed from the Consent Agenda because it dealt with those who needed assistance in paying the trash bill that would be coming forward in August. She wanted to make sure everybody

understood what was in place, what they were working on and the steps taken to help those who could not afford it.

David Modeer, Tucson Water Director, said in preparation for the low-income assistance program, they increased the funding that would be available in that program, which was previously limited to Tucson Water customers. They added additional money to bring it up to about two hundred thirty thousand dollars for this fiscal year out of the two budgets of Environmental Services and Tucson Water. Both would be combined in this because the entire utility service bill would be paid if an individual qualified for that assistance. They also included funding for the addition of clerical staff at Pima County Community Action Agency (PCCAA), so they would have the capacity to handle an increase in applicants for the low-income assistance program. At this time, it required that individuals come in on a month-to-month basis. However, they had some preliminary discussions with the Pima County Community Action Agency staff and the County Manager and they would be working over the next several weeks to revise that system so it would allow people to come in and apply for multiple months of assistance. They thought they would be able to get that worked out. The County seemed to be favorable to undertaking such a process.

What they would be doing after that would be getting the program fully in place. They have already started doing some analysis and would be getting that information to the Mayor and Council around the first of next year. A low income lifeline rate or low income assistance program that would be much more expanded than this. The funding for that has been provided in the City's budget at a level of six hundred thousand dollars in the general fund. It would be required to reimburse the utility services group of Environmental Services or the Tucson Water fund for this type of fee, which would apply only to the Environmental Services fee.

Council Member Dunbar asked what a person who needs assistance should do.

Mr. Modeer responded they should call the Pima County Community Action Agency (PCCAA), or Environmental Services, or Tucson Water's number and give them all the specifics. They also developed a flyer for information both in English and Spanish that would be made available at all City sites and libraries. They also had it available at the open houses that have been held in each Ward so individuals could understand what the criteria would be for applying for this and how it would be dispersed.

Mayor Walkup recognized Council Member Leal.

Council Member Leal asked if the six hundred thousand dollars available included the money for the staff positions.

Mr. Modeer replied no, the money for the additional staff person was included in the money they budgeted in the funds for Environmental Services and Tucson Water for this year.

Council Member Leal thanked him and said the six hundred thousand dollars, by his calculations, only provided a lifeline for about four thousand seven hundred families. There were about thirty two thousand families living below the poverty level in Tucson and that would take more like five million dollars, not six hundred thousand dollars. He asked what plans if any the City had should a few months go by and they discover the money was running out for the lifeline.

Mr. Modeer replied the criteria for the lifeline rate had not been developed at this time. Once that criteria was developed, it would be up to the Mayor and Council to decide what parameters they wanted to set for that lifeline rate and what qualifications they want to see developed in order for an individual to qualify for that lifeline rate. The criteria had not been developed at this stage and would certainly have to be brought back to Mayor and Council for their consideration and also for the level of funding that would be required necessarily to set that program in place. It could possibly take more or less. The Tucson Water Assistance Program was funded to date at two hundred thousand dollars or so and that had been much more than needed in the last two years to administer that program. He did not know what the level of application for a lifeline rate would be and said it would depend on the criteria set by the Mayor and Council.

Council Member Leal said the public was under the impression that people who are at 150 percent of the poverty level would qualify.

Mr. Modeer responded that under the current program that would be correct.

Council Member Leal said that he could see this as having different criteria than that.

Mayor Walkup recognized Council Member West.

Council Member West reported one of the things pointed out at her open house was people may get a bill that is exorbitantly high, that they have a special services or whatever, and the software has not picked up that there should be a special consideration. She asked who the water customer should call to get some assistance.

Mr. Modeer responded they should call the Environmental Services customer service number, which is 791-3171 and that would be handled through them. If necessary, it would flow over into the Tucson Water customer service staff. Tucson Water staff would make sure that a customer got their question answered at the time of calling.

Council Member West repeated the number for the benefit of the public. She stated people who have a concern about their bill should call that number to get things taken care of. She said the City tried hard to think of everything but there might be some discrepancies and if that happened, they should call and ask their question.

Mayor Walkup recognized Council Member Ibarra.



Council Member Ibarra said, if he understood correctly, the Council did not know who would fall under the threshold, or how many times a year they could ask for assistance and all those other details.

Mr. Modeer explained that was a reference to the long-term lifeline rate customer assistance program. The current customer assistance program had criteria in place. It was developed and set with the Pima County Community Action Agency. The criteria was the same used for any assistance program they administered.

Council Member Ibarra verified that the criteria had already been set for the assistance for the fourteen-dollar garbage fee. He asked how many times per year a person could apply for that lifeline assistance.

Mr. Keene responded, through the current process the Pima County Community Action Agency used, somebody applies on a monthly basis; so technically they could apply up to twelve times. What they were working on and responding to was a way not to have somebody apply on a monthly basis, but instead come in once or twice a year and be covered for the whole year.

Council Member West asked if they were providing transportation if they need it to get to someplace. It was her understanding that TICET or something would pick people up and take them.

Mr. Keene replied they were looking at that now. It was important to remember this was all in the context of the program offered for all utility payments somebody made. They needed to remember that people were paying utility bills much higher than this, their electric bill.

Council Member Ibarra asked when the bills for the new garbage fee would go out.

Mr. Keene responded the first set of bills were mailed out that morning and would be staggered as they go out all month. Mr. Keene said he would be getting his in the first batch.

It was moved by Council Member Dunbar, duly seconded, that Consent Agenda Item LL be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any further discussion.

Council Member Leal asked when the lifeline program would be available.

Mr. Modeer replied the lifeline rate would come back to Mayor and Council by January 1, 2005, and the low-income assistance program was currently in place and operating.

Mr. Keene said they would be giving the Council an interim report on how things were progressing.

Mr. Modeer went on to say there were two different ways of providing financial assistance. One went to the entire utility service bill, and the lifeline rate once it was developed would be applied only to the environmental service portion of the bill.

Mayor Walkup asked if there were any other discussions. There were none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Consent Agenda Item LL was declared passed and adopted by a roll call vote of 7 to 0.

**17. URBAN PLANNING AND DESIGN: CIENEGA ROAD UPDATE AND PROPOSED COST SHARING ARRANGEMENT**

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

Mayor Walkup announced City Manager's communication number 387, dated August 2, 2004, would be received into and made a part of the record. He said staff had a brief presentation and he called on Mr. Keene

James Keene, City Manager, said earlier in study session the Council signaled their intent to take a direction that included working with the Vail School District and accepting their offer to fund the right-of-way acquisition for the road, which was approximately 1.4 million dollars. He believed they identified 1.33 million dollars; but whatever the cost of the right-of-way, the City would fund the 3.5 million dollars estimated cost or the cost for construction of the road. Construction on the road would begin as quickly as possible with the goal of having the road complete in time for the opening of the new school site, which was targeted for next July. Also, the City would craft an intergovernmental agreement with the Vail School District. It was necessary to do that quickly because the Vail School District had other actions it wanted to take with the State Land Department. If all this were held up, the City should have a new road out there next year.

Mayor Walkup recognized Council Member Scott.

Council Member Scott thanked the folks for coming down and putting in their hard work on this particular road for the last several years.

It was moved by Council Member Scott, duly seconded, to accept the offer from the Vail School District to provide 1.33 million dollars to jointly fund the construction of Cienega Road and the City of Tucson agrees to fund and build Cienega Road. Further, staff was directed to develop an intergovernmental agreement with the Vail School District Governing Board to carry out this agreement and to proceed without delay to fund and accomplish acquisition of the right-of-way and that construction of the road be scheduled for completion by no later than July 1, 2005.

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

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Mayor Walkup thanked the Council for their diligence on this important issue. He also thanked everybody in the audience and said this had been a long, tough issue for them. They always understood the importance of the road. The issue was how could they be sure they were fair and just for all of the taxpayers within the City. How could they manage the process and address the principle issue, the children. This was about children and frankly, in the closing moments it became clear that it was a citywide issue, not just an issue in Vail or for the purpose of the Cienega Road. It was what made Tucson a great city, trying to balance all of the community's judgements throughout. It became very clear in the cooperation with Calvin Baker, Vail School District Superintendent, that it was also not an easy thing for the school district. Mayor Walkup thanked Mr. Baker again for his diligence on this issue and said they were going to get a road that was going to serve not only the children going to the high school and the new school, but it was really serving an emerging part of the City. He thanked everyone for their patience because this project was not for the faint at heart.

The motion to jointly fund construction of Cienega Road and that the City of Tucson agree to fund and build Cienega Road carried by a roll call vote of 7 to 0.

Mayor Walkup announced the Council would stand in recess for five minutes.

Recess: 7:05 p.m.

Reconvene: 7:16 p.m.

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

Present:

José J. Ibarra  
Carol W. West  
Kathleen Dunbar  
Shirley C. Scott  
Steve Leal  
Fred Ronstadt

Council Member Ward 1  
Council Member Ward 2  
Council Member Ward 3  
Council Member Ward 4  
Council Member Ward 5  
Vice Mayor, Council Member Ward 6  
(arrived at 7:20 p.m.)

Robert E. Walkup

Mayor

## **7. CALL TO THE AUDIENCE**

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

- a. Ray Davies presented the Annual Report from the Human Relations Commission to the Mayor and Council.
- b. Michael Toney made comments regarding forecasts associated with the proposed Science Center and warned that the project was not feasible and would end up two hundred million dollars in debt.
- c. Dan Harrigan noted concerns with the programming cuts imposed by Access Tucson management.
- d. Bill Katzel presented the "Platinum Challenge Update III."
- e. Deborah Rollinson noted concerns with the programming cuts imposed by Access Tucson management
- f. Ray Figueroa urged the Mayor and Council to approve the American Federation of State, County and Municipal Employees contracts on the agenda and thanked City of Tucson staff for the professional negotiations.
- g. Curtis Marshall made comments regarding the relocation of the Greyhound Bus Terminal.
- h. Dan Harrick spoke regarding his opposition to the programming cuts at Access Tucson.

**8. PUBLIC HEARING: TUCSON CODE – AMENDING (CHAPTER 23), THE LAND USE CODE (LUC); REGARDING LANDSCAPING PROVISIONS**

Mayor Walkup announced City Manager's communication number 436, dated August 2, 2004, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on a request by the proposed amendments to the Tucson *Land Use Code*. The public hearing was scheduled to last for no more than one hour. He said speakers would be limited to five-minute presentations. He asked speakers to state their name, address, whether or not they live in the city, whom they would be representing and whether or not they would be a paid speaker. He said he received only one card.

George Richard, representing the Landscape Advisory Committee, said the committee was alive and well, although they only had ten members and they would be looking forward to eleven. They appreciated all that had been done to keep the committee alive. They especially appreciated the recent vote to incorporate a landscape manager in the Planning Department. He believed there would be a big difference when the position was filled. The Landscape Advisory Committee believed the Planning Department staff was excellent. The changes to the Code, as presented in item 8, would make for a better landscaped Tucson and new subdivisions would have landscaping on all major streets and routes. It had been a long time coming and it would bring the City up to par with all that had been happening in the County. Every time he travels to Phoenix and goes through Chandler or Mesa and other small communities and sees what was happening with landscaping there, he has to grit his teeth because of the subdivisions. Up until now, there was not a proposition before the Mayor and Council to accomplish what they were doing.

The change in the parking lot requirements of trees within forty feet of a parking space would do a lot to enhance the parking areas within Tucson and alleviate the heat sinks. There was one item he wanted the Mayor and Council to look at. It was in Attachment B on the second page, Item 3.7.2.3A4, where it exempts all development from the requirement to have the trees within the parking lots. He thought Item 3 took care of that, for small developments of ten thousand square feet or less that had non-conforming parking lots. In other words, they did not have the trees. When they expand twenty-five percent or more, the current rule was they had to bring the parking lot up to speed with the current landscape code. What Item 4 on page 2 of 4 does is exempt all development, including something the size of Park Place Mall. Mr. Richard told the Council to imagine as they drive down Broadway, what that would look like without trees in the parking lots. There was a loophole in the Code. He recommended that Item 4 be struck.

Mayor Walkup asked if anyone else in the audience wished to speak on this item.

Robert Reus stated more trees were needed in the parking areas and everybody's cars were frying and it was a long neglected issue. In addition, he complained that the

microphone for the public was bad and needed to be replaced. He offered to pay for it himself if the City could not afford it.

Mayor Walkup asked if there was any further discussion. Hearing none he asked for a motion to close the public hearing.

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

Mayor Walkup recognized Council Member Dunbar.

Council Member Dunbar asked that staff respond to the question on Item 4 in Attachment B.

Albert Elias, Director of Urban Planning and Design, stated Mr. Richard was correct in that it was not originally in the recommendations made to the Planning Commission, but the revision was added at their recommendation. They felt that requiring existing parking lots to be retrofitted would be onerous and unreasonable given there were so many existing small parking lots that would be frequently affected by the twenty-five percent expansion rule.

James Keene, City Manager, added it required an expansion of twenty-five percent or more for that condition to be triggered into effect, so it would be a significant expansion before that would be required. Nonetheless, the Planning Commission still thought that was too much.

Council Member Dunbar asked if he remembered what the Planning Commission's vote was on that item.

Mr. Elias said the Planning Commission recommended the landscape ordinance with this provision by a unanimous vote.

It was moved by Council Member Dunbar, duly seconded, to pass and adopt Ordinance 10016.

Mayor Walkup asked if there was any further discussion

Council Member West thanked George Richard for calling this to her attention quite some time ago. She was glad they were finally doing something about it. She was as troubled as he was and highlighted that particular exemption. She thought Park Place bunched all of the trees instead of spreading them out. It seemed to her that would be fixed by this ordinance.

Mr. Elias replied that was correct. This provision included some objective criteria that could be used to ensure even distribution of the canopy trees.

Council Member West said she had not seen the native plant and tree list. She wanted to know if she could assume that it would be required.

Mr. Elias replied she was correct.

Council Member West said she remembered that at the Target located at Tanque Verde and Kolb, the trees put in there were removed because they were not on the plant list. There was also a problem with ease of maintenance and the fact that they were not low-water usage. Those were things she thought staff really had to watch.

Council Member West had a question about plant protection. She believed that the bollards were very ugly. She said that nice plants or trees are put in, and then they put in those ugly bollards around it. She asked if there was a way those could be painted a different color. She understood they had to be there because of concerns about people hitting the tree, but they were ugly and she received a lot of complaints from neighborhoods about them.

Mr. Elias responded the bollards were an option to protect the planting area. Typically, it was done with an extruded curb or some other kind of physical barrier, which he agreed was more attractive than bollards. It would be an issue they could look at because as part of the discussion with the Commission they agreed to continue to work on the issues of landscaping requirements and other kinds of design details associated with them, like the bollards as part of their review of design standards and guidelines for the City.

Council Member West said she would support this but wanted to hear whether the issue with Attachment B, Item 4, becomes a problem. She agreed with Mr. Richard and was sad they added that in there. She was not willing to take it out that evening, but she wanted some monitoring of it. If it becomes an issue, she wanted it brought back.

Mr. Elias replied staff could certainly return at an appropriate interval time, say six or nine months or a year from now, with some information to give a better idea of the scope of how that provision was being used once the ordinance was implemented.

Council Member West reiterated that if people were taking advantage of it she wanted to know. She had an idea that the Committee would bring it back to the Council if it were needed.

Mayor Walkup asked if there was any further discussion. Hearing none, he asked the City Clerk to read Ordinance 10016 by number and title only.

Ordinance 10016 relating to planning and zoning; amending the Tucson Code, Chapter 23, Land Use Code, Article III, Development Regulations, Division 7, Landscaping and Screening Regulations, Sections 3.7.2.3 and 3.7.2.4; Article VI, Definitions, Division 2, Listing of Words and Terms, Section 6.2.22; and declaring an emergency.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Ordinance 10016 was declared passed and adopted by a roll call vote of 7 to 0.

**9. ZONING: (C9-02-12) OCHOA – ST. MARY’S ROAD, R-2 TO O-2, REACTIVATION AND TIME EXTENSION (CONTINUED FROM MEETING OF JUNE 14, 2004)**

Mayor Walkup announced City Manager’s communication number 389, dated August 2, 2004, would be received into and made a part of the record. He also announced this was a request to reactivate a case and grant a time extension for property located at the northeast corner of St. Mary’s Road and Westmoreland Avenue.

He asked if the applicant or a representative was present and if they were aware of and agreeable to the proposed conditions.

Mark Ochoa, the applicant, said he agreed to the proposed conditions.

Mayor Walkup asked if there was any further discussion. There was none.

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 7 to 0, to reactivate rezoning case C9-02-12 and approve the request as recommended by the City Manager.

**10. ZONING: (C9-03-24) ABRAMS/ACEDO – FOURTH STREET, R-1/R-2 TO R-2, CITY MANAGER’S REPORT (CONTINUED FROM MEETING OF JUNE 7, 2004)**

Kathleen S. Detrick, City Clerk, announced that a written request to continue this item for sixty days had been received from the applicant.

Mayor Walkup recognized Vice Mayor Ronstadt.

Vice Mayor Ronstadt said he would make a motion to continue this item, however the President of the Miramonte Neighborhood wanted to make a few comments first.

Ruth Eager, representing the Miramonte Neighborhood Association, said she first heard of the Stanley Group on Thursday, November 20, 2003, when she received in the mail an announcement of a neighborhood meeting the following Tuesday for a new



development plan. It gave no address. When she called to R.S.V.P. she asked where it was to be built and was told at Richey and Fourth. It had been downhill from that moment on. She found it ironic that the Stanley Group had now asked for a third extension of its rezoning case. When she asked Eric Abrams in a phone call on April 21, 2004, if they both could ask Peter Gavin, Zoning Examiner, for a zoning extension at the following day's hearing to work out final details on access to Fifth Street, he told her there was no time for that. Mr. Abrams told her the Stanley Group already lost too much time with this rezoning process as it was.

Ms. Eager said she could now only assume the repeated requested extensions indicated the Stanley Group was exploring options within the City *Land Use Code* to see if it could find something more satisfactory than Peter Gavin's conditions. She realized that was perfectly legal, but it was not reassuring. The issues that Peter Gavin addressed would still remain for her neighborhood. The last time she spoke to Mayor and Council, she asked that the whole concept of infill and Residential Cluster Projects (RCPs) specifically be evaluated. As she read the code for Residential Cluster Projects, she found there was criteria for architectural compatibility and required mitigation of potentially adverse impacts on the neighborhood. However, she also knew the neighborhood had not had the opportunity for input on RCPs. She could only hope City staff would look critically at any proposal for this site. One hundred and nineteen pages documented this case. It should not all have been done in vain.

Vice Mayor Ronstadt thanked Ms. Eager for speaking and said for the record he sent a memorandum to Development Services supporting all of the negotiations that occurred between the developer and Miramonte and asking staff to be very cognoscente of those negotiations and the principles that they were built upon. He knew this had been very difficult for Ms. Eager and the neighborhood. They put a lot of time and effort into this and thought she regretted the fact that she stepped up in some regards because the process had been onerous for the neighborhood residents. He went on record as supporting the principles that been negotiated out between the developer and the neighborhood and hoped staff recognized that as this project moved forward. He made a suggestion to continue this item for sixty days.

Mayor Walkup asked if there was any further discussion.

Ms. Eager thanked Vice Mayor Ronstadt for being extremely supportive on this and she also wanted to thank Mr. Gavin. She said Mr. Gavin was the fairest person you could ever meet.

It was moved by Vice Mayor Ronstadt, duly seconded, and carried by a voice vote of 7 to 0, that this item be continued for sixty days as requested by the applicant.

**11. ZONING: (C9-03-23) LOWE'S – KOLB ROAD, C-1 TO C-2, ORDINANCE ADOPTION**

Mayor Walkup announced City Manager's communication number 435, dated August 2, 2004, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10017 by number and title only.

Ordinance 10017 relating to zoning: amending the zoning district boundaries in the area located at the northeast corner of Speedway Boulevard and Kolb Road in Case C9-03-23, Lowe's – Kolb Road, C-1 to C-2; and setting an effective date.

Mayor Walkup recognized Council Member West.

Council Member West noticed in the protests that somebody asked about removing asbestos from the existing building. She asked if that was going to be a problem.

Jesse Sanders, Assistant Director of Development Services, replied they would not know the answer to that question, until someone got into the building.

Council Member West understood and said they would need to take precautions since that was known to be a concern. She thought that was an excellent use of an existing site. She said they had done a good job of designing. The only other concern expressed by many people in the area was the impact of traffic. She noticed that a traffic impact analysis had been required. She thought there would have to be some close and careful work with traffic engineering at this intersection because it was one of the most dangerous and did not need to make that worse.

It was moved by Council Member West, duly seconded, that Ordinance 10017 be passed and adopted.

Mayor Walkup asked if there was any further discussion. He recognized Vice Mayor Ronstadt.

Vice Mayor Ronstadt said there was an opportunity here with regard to impact fees and commercial impact fees. One of the principles discussed during policy discussion was the fact that a commercial impact fee might be used as an incentive to promote redevelopment of these types of properties in the core of the City. In using this as a model or an example, he asked if they could have an analysis of new development versus redevelopment using an impact fee or a commercial impact fee as an incentive to promote redevelopment in the core of the City.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Ordinance 10017 was declared passed and adopted by a roll call vote of 7 to 0.

**12. ZONING: (C9-03-04) CUMMINGS – MARTIN AVENUE, R-2 TO P, ORDINANCE ADOPTION**

Mayor Walkup announced City Manager's communication number 437, dated August 2, 2004, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10023 by number and title only.

Ordinance No. 10023 relating to zoning: amending the zoning district boundaries in the area located on the east side of Martin Avenue, approximately 150 feet south of Sixth Street and approximately 150 feet west of Campbell Avenue in Case C9-03-04, Cummings – Martin Avenue, R-2 to P; and setting an effective date.

Mayor Walkup asked the Council's pleasure.

It was moved by Vice Mayor Ronstadt, duly seconded, that Ordinance 10023 be passed and adopted.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Ordinance 10023 was declared passed and adopted by a roll call vote of 7 to 0.

**13A. CITY EMPLOYEES: APPROVING A LABOR AGREEMENT WITH THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES COUNCIL 97, AFL/CIO (AFSCME); AND AMENDING CHAPTER 22 OF THE TUCSON CODE RELATING TO EMPLOYEE BENEFITS**

Mayor Walkup announced City Manager's communication number 440, dated August 2, 2004, would be received into and made a part of the record. He asked the City Clerk to read Resolution 19915 and Ordinances 10019 and 10020 by number and title only.

Resolution No. 19915 relating to employee relations; authorizing the City Manager to execute an agreement between the City of Tucson and the American Federation of State, County and Municipal Employees and declaring an emergency.

Ordinance No. 10019 relating to leave benefit plan; amending the Tucson Code Chapter 22, Article V. Leave Benefits Plan, amending Section 22-95, by adding Subsection (b) Sick Leave Incentive Program and alphabetizing subsections; and declaring an emergency.

Ordinance No. 10020 relating to insurance benefits; Tucson Code Chapter 22, Article VI, Other Insurance Benefits, adding Section 22-103, providing for a death benefit payment to the employee group eligible for representation by the American Federation of State County and Municipal Employees (AFSCME), and declaring an emergency.

Mayor Walkup recognized Council Member Scott.

It was moved by Council Member Scott, duly seconded, that Resolution 19915 be passed and adopted.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Resolution 19915 was declared passed and adopted by a roll call vote of 7 to 0.

It was moved by Council Member Scott, duly seconded, that Ordinance 10019 be passed and adopted.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal,  
Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Ordinance 10019 was declared passed and adopted by a roll call vote of 7 to 0.

It was moved by Council Member Scott, duly seconded, that Ordinance 10020 be passed and adopted.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal,  
Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Ordinance 10020 was declared passed and adopted by a roll call vote of 7 to 0.

**13B. TUCSON CODE: (CHAPTER 10) AMENDING THE SPECIAL RATE SCHEDULE OF THE COMPENSATION PLAN FOR THE CITY EMPLOYEE GROUP ELIGIBLE FOR REPRESENTATION BY AFSCME**

Mayor Walkup announced City Manager's communication number 439, dated August 2, 2004, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10021 by number and title only.

Ordinance 10021 relating to compensation plan; Tucson Code Chapter 10 Article II, Section 10-31(6), amending Section 10-31(6) providing new rates to special rate schedule for weekend premium pay and shift differential pay; and declaring an emergency.

Mayor Walkup asked the Council's pleasure.

It was moved by Council Member Scott, duly seconded, that Ordinance 10021 be passed and adopted.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Ordinance 10021 was declared passed and adopted by a roll call vote of 7 to 0.

**14. FINANCE: FIXING AND LEVYING THE 2005 PRIMARY AND SECONDARY PROPERTY TAXES**

Mayor Walkup announced City Manager's communication number 423, dated August 2, 2004, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10015 by number and title only.

Ordinance 10015 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, 2005; and declaring an emergency.

James Keene, City Manager, announced he had the information to fill in the blanks in the ordinance. He said the primary property tax rate would be \$0.3531, which was thirty-five cents that would go in the blank on page two. He also said the blank on page three should be \$0.8316, the secondary property tax rate.

Vice Mayor Ronstadt took this opportunity to publicly thank Ned Zolman for his service to the citizens of the City of Tucson. He said Mr. Zolman had been a great asset to the City and it would be hard to fill his shoes.

It was moved by Vice Mayor Ronstadt, duly seconded, that Ordinance 10015 be passed and adopted with the following changes: Section 1, the Primary Property Tax Rate of \$0.3531; and to Section 2 of the Ordinance, the Secondary Property Tax Rate of \$0.8316.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members West and Dunbar; Vice Mayor Ronstadt and Mayor Walkup

Nay: Council Members Ibarra, Scott, and Leal

Ordinance 10015, as amended, was declared passed and adopted by a roll call vote of 4 to 3.

**15. RIO NUEVO: INTERGOVERNMENTAL AGREEMENT WITH THE RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT AND THE UNIVERSITY OF ARIZONA FOR FUNDING AND DEVELOPMENT OF THE UNIVERSITY OF ARIZONA SCIENCE CENTER**

Mayor Walkup announced City Manager's communication number 438, dated August 2, 2004, would be received into and made a part of the record. He asked the City Clerk to read Resolution 19914 by number and title only.

Resolution 19914 relating to Intergovernmental Agreements; approving and authorizing an intergovernmental agreement between the City of Tucson, Rio Nuevo Multipurpose Facilities District and the University of Arizona for funding and development of the University of Arizona Science Center; and declaring an emergency.

Mayor Walkup asked the Council's pleasure.

It was moved by Council Member Ibarra, duly seconded, that Resolution 19914 be passed and adopted.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Resolution 19914 was declared passed and adopted by a roll call vote of 7 to 0.

**16. WATER: NOTICE OF INTENTION TO ESTABLISH THE DIAMOND BELL ISOLATED WATER SYSTEM FEE, AND SCHEDULING A PUBLIC HEARING FOR OCTOBER 4, 2004**

Mayor Walkup announced City Manager's communication number 431, dated August 2, 2004, would be received into and made a part of the record. He asked the City Clerk to read Resolution 19907 by number and title only.

Resolution 19907 relating to water; authorizing the adoption of a notice of intention to establish the Diamond Bell Isolated Water System Fee; and declaring an emergency.

Mayor Walkup announced staff would give a brief presentation.

David Modeer, Tucson Water Director, said what they had before them was the first fee to be adopted for the expansion of the Diamond Bell System, which was purchased by the City in 1973. It would allow them to recover costs required to provide water facilities to allow future development of this area.

It was moved by Vice Mayor Ronstadt, duly seconded, that Resolution 19907 be passed and adopted and to direct staff to file the report with the proposed fee schedule in the City Clerk's Office, and set October 4, 2004, for the public hearing regarding the proposed fee.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Resolution 19907 was declared passed and adopted by a roll call vote of 7 to 0.

**17. URBAN PLANNING AND DESIGN: CIENEGA ROAD UPDATE AND PROPOSED COST SHARING ARRANGEMENT**

(Note: This Item taken out of order after Item 6.)

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

Mayor Walkup announced City Manager's communication number 388, dated August 2, 2004, would be received into and made a part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member Scott, duly seconded, and carried by a voice vote of 7 to 0, to reappoint Larry Young, Thomas Addison, Ray Mason, Jerry Duffy, and Robert Brown, to the Electrical Code Committee; to reappoint Jo McClure and Minette Burges to the Fort Lowell Historic Zone Advisory Board; to appoint W. Mark Clark, Melody Flores, Ricardo Jasso, Don Jorgensen, and Raj Kohli to the Pima County/City of Tucson Commission on Addiction, Prevention and Treatment; and to ratify the appointment of Megan Bullock to the Pima County/Tucson Women's Commission

Mayor Walkup asked if there were any personal appointments.

Council Member Dunbar announced her personal appointment of Bill Holmes to the Tucson Human Relations Commission.



**19. ADJOURNMENT 8:20 p.m.**

Mayor Walkup announced the Council would stand adjourned until its next regularly scheduled meeting to be held Tuesday, September 7, 2004 at 5:30 p.m., in the Mayor and Council Chambers in City Hall, 255 W. 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 2<sup>nd</sup> day of August, 2004, and do hereby certify that it is an accurate transcription.

---

DEPUTY CITY CLERK

KSD:cf\lp