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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on September 6, 2006

Date of Meeting: August 8, 2006

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:37 p.m. on Tuesday, August 8, 2006, all members having been notified of the time and place thereof.

### 1. ROLL CALL

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

Present:

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

Absent/Excused:

Shirley C. Scott	Council Member Ward 4
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Staff Members Present:

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

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

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

The invocation was given by Chaplain, Captain Gary Coburn from Davis-Monthan Air Force Base.

Mayor Walkup announced along with the Chaplain, two other Chaplains that were present, Captain Randy Croft, and Staff Sergeant Jennifer Coburn, would be leaving for Iraq in September with seven hundred of their fellow soldiers from Davis-Monthan Air Force Base.

The Pledge of Allegiance was led by the Arizona Chapter Order of DeMolay.

Presentations:

- a. Mayor Walkup proclaimed the month of August to be "Drowning Impact Awareness Month." Chief Pat Quinn and Captain Paul McDonough from the Tucson Fire Department were present to accept the proclamation.
- b. Mayor Walkup proclaimed the month of September to be "National Alcohol and Drug Addiction Recovery Month." Pete Moore, Executive Director of H.O.P.E. was present to accept the proclamation.
- c. Mayor Walkup proclaimed August 20, 2006 to be the 231<sup>st</sup> Anniversary of the founding of the City of Tucson. Sharon Chadwick and Kathleen Nabours of the Tucson-Pima County Historical Commission accepted the proclamation and invited everyone to the Flag Raising Ceremony on August 18, 2006.

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

Mayor Walkup announced City Manager's communication number 396, dated August 8, 2006, would be received into and made a part of the record. He also announced this was the time scheduled to allow members of the Council to report on current events and asked if there were any reports.

- a. Council Member West clarified that the recent trip she took to Kenya was financed by a grant from the League of Women Voters and she did not receive any funding from the City of Tucson.
- b. Council Member Trasoff announced the Ward 6 Youth Employment and Enrichment Awards to date and some of the Back to Basics Awards. She said the first of the Youth Employment and Enrichment Awards was for the support of the Southern Arizona Network for Down Syndrome's Buddy Walk in October. Ward

6 would be contributing five hundred dollars in support of the Buddy Walk and she hoped others would join in supporting this event.

Vice Mayor Leal said Ward 5 would also contribute five hundred dollars to the Southern Arizona Network for Down Syndrome in support of the Buddy Walk.

Council Member Uhlich said Ward 3 would also contribute to the Southern Arizona Network for Down Syndrome in support of the Buddy Walk.

Council Member Trasoff thanked the Council Members for their support. She also stated the Youth Employment and Enrichment Awards were funding the New Parents Network additional Spanish parenting information on their web site. Youth Employment and Enrichment Awards were sponsoring the Southern Arizona Education of the Young, Children's Learning Conference. It was of national significance and it was fortunate to have that resource in Tucson.

Council Member Trasoff announced the Back to Basics Awards were awarded to the Palo Verde Neighborhood for traffic mitigation; Feldman Neighborhood for extension of their Historic Street Lights Program; Volunteer Center of Tucson for a new roof; Thunderbird Heights Neighborhood for traffic mitigation; Miramonte Neighborhood for Phase 2 of their traffic mitigation; Toumey Park for playground equipment; Rincon Heights for continuing Phase 2 of a landscaping project; Barrio Viejo at 18<sup>th</sup> Street and Convent for a park; Colonia Solana for the Randolph statue at the entrance of Randolph Park; Mitman Neighborhood for a traffic circle; San Clemete for two speed humps; Catalina Vista for a traffic circle; and ArtFair, for a sprinkler connection.

Mayor Walkup asked the Council if they had individually gone over the Back to Basics line items in recent history. He requested the Council at a future meeting to list Back to Basics items in their wards during future meetings.

- c. Kathleen S. Detrick, City Clerk, said Council Member Scott wanted to remind the public that the Ward 4 Back to School Bash would be on August 12 at the Clements Recreation Center.

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

Mayor Walkup announced City Manager's communication number 397, dated August 8, 2006, would be received into and made a part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

No report was given.

## 5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 404, dated August 8, 2006, would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

### b. New License

1. Barrio Brewing Company, Ward 5  
800 E. 16th St.  
Applicant: Tauna Renea Arnold  
Series 03, City 71-06  
Action must be taken by: August 13, 2006  
Staff has indicated the applicant is in compliance with city requirements.
2. Barrio Brewing Company, Ward 5  
800 E. 16th St.  
Applicant: Tauna Renea Arnold  
Series 12, City 72-06  
Action must be taken by: August 14, 2006  
Staff has indicated the applicant is in compliance with city requirements.
3. M & K Market, Ward 3  
4810 N. First Ave.  
Applicant: Maqsood Ahmad  
Series 10, City 75-06  
Action must be taken by: August 21, 2006  
Staff has indicated the applicant is in compliance with city requirements.

### Person Transfer

4. Albertson's #972, Ward 1  
1350 N. Silverbell Rd.  
Applicant: Glenn Allen Edmondson  
Series 09, City 66-06  
Action must be taken by: July 31, 2006  
Staff has indicated the applicant is in compliance with city requirements.
5. CVS/pharmacy #9272, Ward 2  
7499 E. Broadway  
Applicant: Jason Barclay Morris  
Series 09, City 67-06  
Action must be taken by: August 3, 2006  
Staff has indicated the applicant is in compliance with city requirements.

6. CVS/pharmacy #9302, Ward 2  
8920 E. Tanque Verde  
Applicant: Jason Barclay Morris  
Series 09, City 68-06  
Action must be taken by: August 3, 2006  
Staff has indicated the applicant is in compliance with city requirements.
7. CVS/pharmacy #9274, Ward 6  
615 N. Alvernon Way  
Applicant: Jason Barclay Morris  
Series 09, City 69-06  
Action must be taken by: August 3, 2006  
Staff has indicated the applicant is in compliance with city requirements.
8. CVS/pharmacy #9374, Ward 1  
1900 W. Valencia Rd.  
Applicant: Jason Barclay Morris  
Series 09, City 70-06  
Action must be taken by: August 3, 2006  
Staff has indicated the applicant is in compliance with city requirements.
9. CVS/pharmacy #9207, Ward 3  
865 E. Grant Rd.  
Applicant: Jason Barclay Morris  
Series 09, City 73-06  
Action must be taken by: July 31, 2006  
Public Opinion: Protest Filed  
Staff has indicated the applicant is in compliance with city requirements.  
Considered separately
10. CVS/pharmacy #9336, Ward 4  
7901 E. Golf Links Rd.  
Applicant: Jason Barclay Morris  
Series 09, City 74-06  
Action must be taken by: August 11, 2006  
Staff has indicated the applicant is in compliance with city requirements.
11. CVS/pharmacy #9215, Ward 1  
3754 S. 16th  
Applicant: Jason Barclay Morris  
Series 09, City 76-06  
Action must be taken by: August 19, 2006  
Staff has indicated the applicant is in compliance with city requirements.

12. Speedway Liquor & Food Mart, Ward 1  
1310 W. Speedway Blvd.  
Applicant: Laila Innabi  
Series 09, City 77-06  
Action must be taken by: August 28, 2006  
Staff has indicated the applicant is in compliance with city requirements.
13. Diamond R Food Mart, Ward 3  
402 E. Prince Rd.  
Applicant: Youssef Antoine Bitar  
Series 09, City 78-06  
Action must be taken by: August 28, 2006  
Staff has indicated the applicant is in compliance with city requirements.

Person/Location Transfer

14. Chopped, Ward 3  
4205 N. Campbell Ave. Suite 135  
Applicant: Paolo Robert DeFilippis  
Series 07, City 79-06  
Action must be taken by: August 31, 2006  
Staff has indicated the applicant is in compliance with city requirements.

c. Special Event

1. Tucson Breakfast Lions Club, Ward 5  
4823 S. 6th Ave.  
Applicant: Wayne Francis Locke  
City T33-06  
Date of Event: September 2 & 3, 2006  
Fundraiser  
Public Opinion: Support Filed  
Staff has indicated the applicant is in compliance with city requirements.
2. Comité de Festividades Mexicanas, Ward 1  
3700 S. La Cholla Blvd.  
Applicant: Mercedes M. Guerrero  
City T34-06  
Date of Event: September 16 & 17, 2006  
Civic Event  
Staff has indicated the applicant is in compliance with city requirements.  
Considered separately

3. Kingdom Investment Foundation of Tucson, Ward 6  
446 N. Campbell  
Applicant: Steven James Nissen  
City T38-06  
U of A Home Football Game Tailgate Party  
Staff has indicated the applicant is in compliance with city requirements.

d. Agent Change

1. Wildcat Market & Liquor, Ward 3  
3996 N. 1st Ave.  
Applicant: Maria Eleonor Tadios Gupta  
Series 09, City AC17-06  
Action must be taken by: August 17, 2006  
Staff has indicated the applicant is in compliance with city requirements.

Agent Change/Acquisition of Control

2. Beverage Store, Ward 5  
1866 S. Country Club Rd.  
Applicant: Khaled Muhammad Duqmaq  
Series 09, City AC18-06  
Action must be taken by: August 21, 2006  
Staff has indicated the applicant is in compliance with city requirements.

It was moved by Vice Mayor Leal, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Scott absent/excused), to forward liquor license applications 5b1 through 5b8, 5b10 through 5b14, 5c1 and 5c3, and 5d1 and 5d2 to the Arizona State Liquor Board with a recommendation for approval.

## 5. LIQUOR LICENSE APPLICATIONS

b. New License

9. CVS/pharmacy #9207, Ward 3  
865 E. Grant Rd.  
Applicant: Jason Barclay Morris  
Series 09, City 73-06  
Action must be taken by: July 31, 2006  
Public Opinion: Protest Filed  
Staff has indicated the applicant is in compliance with city requirements.

Kathleen S. Detrick, City Clerk, announced Item 5b9, a request for a new license, would be considered separately. She said staff indicated the applicant was in compliance, however, there was a protest filed. The license was located in Ward 3.

Council Member Uhlich said she had read the protest letter and understood staff had a conversation with the representative regarding the category of license. She asked Mr. Morris to explain the category of license CVS Pharmacy would be assuming the authority for and the plans that were made.

Jason Morris of Anderson Morris said he had conversations twice with staff. It had come out of CVS purchasing the freestanding OSCO locations valley wide, within the City of Tucson and statewide. As a result of that change, the transfer of ownership was taking place on the applications and staff had the opportunity to look at the applications and talk about the type of applications. CVS was a relative newcomer to the State of Arizona and his firm has worked with CVS since they came to the state. He has been the agent for each of the liquor license applications they held, in excess of fifty applications or existing licenses.

Mr. Morris stated the important thing for the City of Tucson and other municipalities was that CVS had not been cited, they have had a spotless record so far and hoped to keep that record through training, through the technology in each of the stores and through the oversight of CVS nationally.

Council Member Uhlich said she no longer saw Linda Drew, who had been in the chambers earlier, and had filed a written protest. Council Member Uhlich said she appreciated Mr. Morris' presence at the meeting offering reassurance of the track record of CVS. She knew CVS in other areas of the country typically had wine and beer licenses versus full licenses and asked if that was consistent with the company.

Mr. Morris said it was consistent. CVS had over four thousand locations and with their initial forays into the State of Arizona, because of the lottery system and their inability to apply for new off sale licenses, had settled for just beer and wine licenses. Those licenses were more consistent with the midwestern and eastern locations where those licenses were considered new licenses.

Council Member Uhlich said it was her understanding the purview of the Council was to support or oppose an application and requesting a lower license of beer and wine would not be an appropriate recommendation. Given the fact that it was an existing license, Council would entrust to CVS and the appropriate management of the site because of the CVS track record elsewhere.

It was moved by Council Member Uhlich, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Scott absent/excused), to forward liquor license application 5b9 to the Arizona State Liquor Board with a recommendation for approval.



## 5. LIQUOR LICENSE APPLICATIONS

### c. Special Event

2. Comité de Festividades Mexicanas, Ward 1  
3700 S. La Cholla Blvd.  
Applicant: Mercedes M. Guerrero  
City T34-06  
Date of Event: September 16 & 17, 2006  
Civic Event  
Staff has indicated the applicant is in compliance with city requirements.

Kathleen S. Detrick, City Clerk, announced Item 5c2, a request for a special event license, would be considered separately. She said staff indicated the applicant was in compliance, however, an individual appeared that evening requesting an opportunity to speak in opposition of the event. Ms. Detrick stated the person had left the meeting. The license was located in Ward 1.

Council Member Ibarra asked if Thelma Gasper was still in the chambers.

Connie Harris, Enchanted Hills Neighborhood Association, read a statement from Thelma Gasper: "Mayor Robert Walkup and Tucson Council Members: Regarding Kennedy Park fiesta area liquor license for September 16<sup>th</sup> celebrations and others. We have lived on 44<sup>th</sup> Street for thirty-four years and can tell you first hand what a bunch of irresponsible, inconsiderate individuals and groups attend Cinco de Mayo and September 16<sup>th</sup>. The noise levels alone are disrespectful, unnecessary and damaging to the quality of life in several adjoining neighborhoods. The trash, litter, traffic, and property both public and private misuse have never been addressed, especially for the consideration for the residents in the area.

Many number of times in the past complete rows of mailboxes have been wiped out by drunks or other individuals. The trash they create in the park looks like the aftermath of hurricane Katrina. No lie. The waste they leave on the adjoining streets and yards have often been so bad that the Health Department should monitor those events. Plus they also start up the lousy music two or three hours before they should be starting, plus many times past their allotted time. The participants have parked in our neighborhood streets leaving their litter of bottles, cans, food waste, and diapers along the road. We have had these partyers leave as late as 4:00 a.m. creating noise and disruption along with their drunkenness and litter. The beer guzzling is bad enough, hard liquor is totally unnecessary.

The police just seem to disappear before the end of these events instead of monitoring the neighborhood afterwards. Please be informed that my tirade is not racial but is specific. A drunk is a drunk no matter what he drinks, drives, or ethnic origin. If

you have to get drunk to have a good time, why bother. Why do you want to drink in front of your own children, or your relatives, or your friend's children. What a message. We think the close time should be 10:00 p.m. on Sunday night because of work and school schedules. The noise levels of these events are another matter. They have no respect for their own hearing or their children's. They don't even consider the wildlife or the pets that live in our homes. Parks were designed for people to enjoy nature, not to compete with it or overpower it. Many of us bought our homes so we could enjoy the park frequently. Not anymore. Just about any day of the week your prospective can be lost because of boom boxes, overly loud children's parties, street racers, and drunks running around. The civil disobedience in the park have killed many realtor transactions because of the thoughtlessness of the people and groups misusing public property. And by the way I am fifty percent deaf in one ear and twenty five percent in the other. If it is loud for me then it is devastating for the lucky ones with good hearing. Can one of you please explain why we have in place the Chapter 16 Neighborhood Preservation Code and they are not acting on, enforced, or complied with? Respectfully submitted by Thelma S. Gasper and Johnny A. Gasper."

Council Member Ibarra said they had worked with the Tucson Police Department in the past and would work again in terms of neighborhood mitigation program in terms of parking and also working with the Health Department. This year they would see more enforcement. He assured Thelma Gasper that she would see progress this year.

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Scott absent/excused), to forward liquor license application 5c2 to the Arizona State Liquor Board with a recommendation for approval.

## **6. CONSENT AGENDA – ITEMS A THROUGH MM**

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

### **A. INTERGOVERNMENTAL AGREEMENT: WITH THE PIMA COUNTY FLOOD CONTROL DISTRICT FOR THE COLUMBUS WASH PHASE II DRAINAGE IMPROVEMENTS**

1. Report from City Manager AUG8-06-393 WARD 6
2. Resolution No. 20403 relating to Intergovernmental Agreements: approving and authorizing execution of an Intergovernmental Agreement between the City of Tucson and Pima County Flood Control District for the design, construction, and maintenance of Columbus Wash Phase II Drainage Improvements; and declaring an emergency.

- B. GRANT AGREEMENT: WITH THE TOWN OF ORO VALLEY FOR A FEDERAL TRANSIT ADMINISTRATION GRANT
1. Report from City Manager AUG8-06-394 OUTSIDE CITY
  2. Resolution No. 20402 relating to Transportation; authorizing and approving the Grant Agreement between the City of Tucson and the Town of Oro Valley for a Federal Transit Administration (FTA) grant AZ-90-X073 allowing the Town of Oro Valley to purchase a replacement transit van for their mass transit system, Coyote Run; and declaring an emergency.
- C. INTERGOVERNMENTAL AGREEMENT: WITH THE STATE OF ARIZONA FOR IMPROVEMENTS TO THE 36<sup>TH</sup> STREET RAILROAD CROSSING
1. Report from City Manager AUG8-06-395 WARD 5
  2. Resolution No. 20401 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and the State of Arizona for construction of improvements to the existing 36<sup>th</sup> Street railroad crossing; and declaring an emergency.
- D. TUCSON CODE: AMENDING (CHAPTER 10) DEFINING AND RESTRICTING THE USE OF NON-PERMANENT POSITIONS, AND ELIMINATION OF PROVISIONAL EMPLOYMENT (CONTINUED FROM THE MEETING OF JULY 6, 2006)
1. Report from City Manager AUG8-06-405 CITY-WIDE
  2. Ordinance No. 10302 relating to Civil Service – Human Resources: Tucson Code Chapter 10, Article I, Section 10-3 (Definitions), amending Subsection 10-3(18) to define non-permanent position and restrict its use; deleting Section 10-3(29); adding Subsection 10-3(35) to define just cause; amending Section 10-12 (Commissioned rules authorized), Subsection 10-12(4), (Making appointments), providing for non-permanent appointments, deleting reference to provisional appointments; amending Section 10-12(7) (Lay-off of employees), deleting reference to provisional employees; amending Section 10-12(8) (Procedure for disciplinary suspensions exceeding ten days, etc.), removing provision for just cause from section; and declaring an emergency.

- E. ASSURANCE AGREEMENT: (S05-182) INDIGOMODERN (THIRD STREET LOFTS), AN RCP SUBDIVISION, LOTS 1 TO 22 AND COMMON AREAS “A” AND “B”
1. Report from City Manager AUG8-06-400 WARD 6
  2. Resolution No. 20404 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. S05-182 of a final plat for the indigoMODERN (Third Street Lofts), an RCP Subdivision, Lots 1 to 22 and common Areas “A” and “B”; and declaring an emergency.
- F. FINAL PLAT: (S05-182) INDIGOMODERN (THIRD STREET LOFTS), AN RCP SUBDIVISION, LOTS 1 TO 22 AND COMMON AREAS “A” AND “B”
1. Report from City Manager AUG8-06-401 WARD 6
  2. City Manager recommends that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- G. TRANSPORTATION: AUTHORIZATION FOR THE TRANSPORTATION DEPARTMENT TO SUBMIT FEDERAL TRANSPORTATION ENHANCEMENT PROPOSALS
1. Report from City Manager AUG8-06-402 CITY-WIDE
  2. Resolution No. 20405 relating to transportation; authorizing the Director of the City of Tucson Department of Transportation to submit and sponsor six (6) Federal SAFETEA-LU Transportation Enhancement Project Proposals to the Arizona Department of Transportation Review Committee and to expend local matching funds in the event of approval; and declaring an emergency.
- H. REVISED INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR A BICYCLE AND PEDESTRIAN SAFETY AND EDUCATION PROGRAM
1. Report from City Manager AUG8-06-403 CITY-WIDE

2. Resolution No. 20406 relating to Intergovernmental Agreements; authorizing and approving the revised Intergovernmental Agreement between the City of Tucson and Pima County for the implementation of a joint Federal Transportation Enhancement Grant for a Bicycle and Pedestrian Safety and Education Program and repealing Resolution 20304; and declaring an emergency.
- I. REAL PROPERTY: APPROVING A LEASE AGREEMENT WITH T-MOBILE WEST CORPORATION FOR PROPERTY AT 7496 EAST SPEEDWAY
    1. Report from City Manager AUG8-06-406 WARD 2
    2. Ordinance No. 10306 relating to real property; authorizing and approving the Lease Agreement between the City of Tucson and T-Mobile West Corporation for a certain portion of real property located at 7496 East Speedway Boulevard; and declaring an emergency.
  - J. AWARD AGREEMENT: WITH THE ARIZONA ATTORNEY GENERAL FOR A VICTIMS' RIGHTS IMPLEMENTATION ASSISTANCE PROGRAM
    1. Report from City Manager AUG8-06-407 CITY-WIDE
    2. Resolution No. 20408 relating to victims' rights; approving and authorizing execution of an Award Agreement with the Arizona Attorney General's Office for the FY 2007 Victims' Rights Implementation Assistance Program; and declaring an emergency.
  - K. GRANT AGREEMENT: WITH THE ARIZONA CRIMINAL JUSTICE COMMISSION FOR DRUG CONTROL AND SYSTEM IMPROVEMENT
    1. Report from City Manager AUG8-06-408 CITY-WIDE
    2. Resolution No. 20409 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 FY06; and declaring an emergency.
  - L. LICENSE AGREEMENT AMENDMENT: WITH PIMA COUNTY FOR ACCESS TO THE GIS INTERNET PORTAL
    1. Report from City Manager AUG8-06-411 CITY-WIDE
    2. Resolution No. 20412 relating to Information Technology; amending the License Agreement between the City of Tucson and Pima County for access to the GIS Internet Portal; and declaring an emergency.

M. FINANCE: COMMUNITY SUPPORT FUND TRANSFER TO THE TUCSON GOLDEN ACES FOR THE MEN'S SENIOR BASEBALL LEAGUE WORLD SERIES

1. Report from City Manager AUG8-06-412 WARD 2
2. Resolution No. 20413 relating to Finance; approving and authorizing the allocation of five hundred dollars (\$500) from the Community Support Fund, Account No. 001-183-1898-268, to the Tucson Golden Aces Men's Senior Baseball Team to participate in the Men's Senior Baseball League (MSBL) World Series; and declaring an emergency.

This is a request by Council Member West. Allocation of funds is as follows:  
Council Member West - \$500.00

N. FINANCE: COMMUNITY SUPPORT FUND TRANSFER TO THE TUCSON SENIOR SOFTBALL LEAGUE

1. Report from City Manager AUG8-06-413 WARD 5
2. Resolution No. 20414 relating to Finance; approving and authorizing the allocation of five hundred twelve dollars (\$512) from the Community Support Fund, Account No. 001-183-1898-268, to the Department of Parks and Recreation in support of the Tucson Senior Softball League; and declaring an emergency.

This is a request by Vice Mayor Leal. Allocation of funds is as follows  
Vice Mayor Leal - \$512.00

O. FINANCE: COMMUNITY SUPPORT FUND TRANSFER TO THE VIETNAM VETERANS OF AMERICA, TUCSON CHAPTER 106 FOR THE ANNUAL NAM JAM

1. Report from City Manager AUG8-06-414 WARD 5
2. Resolution No. 20415 relating to Finance; approving and authorizing the allocation of three thousand four hundred eighty-eight dollars (\$3,488) from the Community Support Fund, Account No. 001-183-1898-268, to the Vietnam Veterans of America, Inc., Tucson Chapter 106 to help defray costs for Nam Jam; and declaring an emergency.

This is a request by Vice Mayor Leal. Allocation of funds is as follows:  
Vice Mayor Leal - \$3,488.00

P. PUBLIC IMPROVEMENT: PIMA STREET, SWAN ROAD TO CRAYCROFT ROAD DISTRICT PAVING IMPROVEMENT

1. Report from City Manager AUG8-06-415 WARD 6

2. Resolution No. 20407 Resolution providing for the issuance of City of Tucson Improvement Bond, Series No. 818, for the “Pima Street, Swan Road to Craycroft Road District Paving Improvement.”
- Q. FINAL PLAT: (S05-179) DRABS PUEBLO COMPLEX, LOTS 1 TO 3 AND COMMON AREAS “A” AND “B”
1. Report from City Manager AUG8-06-416 WARD 1
  2. City Manager recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- R. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY FOR FIXED-ROUTE SERVICE AND ADA PARATRANSIT CERTIFICATIONS
1. Report from City Manager AUG8-06-417 CITY-WIDE
  2. Resolution No. 20416 relating to Intergovernmental Agreements; authorizing and approving the amendment to the Intergovernmental Agreement between the City of Tucson and Pima County for the provision of Fixed-Route Service (Sun Tran), ADA Paratransit service (Van Tran), ADA Paratransit Certification, low fare certification and voucher sales; and declaring an emergency.
- S. REAL PROPERTY: ACQUISITION OF PROPERTY FOR A WATER RESERVOIR AND BOOSTER STATION LOCATED AT TANGERINE AND THORNYDALE ROADS
1. Report from City Manager AUG8-06-425 OUTSIDE CITY
  2. Resolution No. 20423 relating to real property; authorizing and approving the execution of an agreement to acquire certain real property located near Thornydale Road and Tangerine Road for the construction of the Tangerine/Thornydale (T2) reservoir and booster station, and declaring an emergency.
- T. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY TO ESTABLISH THE STARR PASS TRAILHEAD
1. Report from City Manager AUG8-06-428 WARD 1

2. Resolution No. 20422 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and Pima County to establish the Starr Pass Trailhead on Tucson Water property in the Tucson Mountains; and declaring an emergency.

U. AGREEMENT: WITH THE ARIZONA DEPARTMENT OF CORRECTIONS FOR AN INMATE WORKER PROGRAM

1. Report from City Manager AUG8-06-424 CITY-WIDE
2. Resolution No. 20421 relating to Transportation; authorizing and approving the execution of an agreement between the Arizona Department of Corrections and the City of Tucson for an inmate worker program; and declaring an emergency.

Item U was considered separately at the request of Vice Mayor Leal.

V. RIO NUEVO: APPROVING AN EXPENDITURE OF FUNDS BY THE RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT FOR IMPROVEMENTS TO THE CLARK STREET UNDERPASS

1. Report from City Manager AUG8-06-426 WARD 1
2. Resolution No. 20420 relating to the Rio Nuevo; approving an expenditure of funds by the Rio Nuevo District for the widening and improvement of the Clark Street underpass; and declaring an emergency.

Kathleen S. Detrick, City Clerk, announced Item V had a correction in the caption of the resolution. It indicated it was an expenditure of funds by the Rio Nuevo District. It should say the Rio Nuevo Multipurpose Facilities District.

W. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE OAK FLOWER NEIGHBORHOOD REINVESTMENT PROJECT

1. Report from City Manager AUG8-06-427 WARD 3
2. Resolution No. 20419 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and Pima County for the Oakflower Neighborhood Reinvestment Project; and declaring an emergency.



- X. GRANT APPLICATION: TO THE U.S. BUREAU OF RECLAMATION FOR A WATER CONSERVATION GRANT
1. Report from City Manager AUG8-06-420 CITY-WIDE
  2. Resolution No. 20418 relating to stormwater; authorizing and approving the execution of the grant application between the City of Tucson and the U.S. Bureau of Reclamation for a water conservation grant in the amount of forty thousand eight hundred fifty dollars and no cents (\$40,850.00); and declaring an emergency.
- Y. REAL PROPERTY: AUTHORIZATION TO ACQUIRE REAL PROPERTY ON NORTH HOFF AVENUE TO FACILITATE THE OPERATION AND MAINTENANCE OF THE HIGH SCHOOL WASH
1. Report from City Manager AUG8-06-391 WARD 6
  2. Resolution No. 20417 relating to real estate; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary certain real property located at 330-334 North Hoff Avenue to facilitate the operation and maintenance of the High School Wash; and declaring an emergency.
- Z. BOARDS, COMMITTEES, AND COMMISSIONS: CREATION OF THE RESOURCES PLANNING ADVISORY COMMITTEE
1. Report from City Manager AUG8-06-423 CITY-WIDE
  2. Ordinance No. 10310 relating to Boards and Commissions; amending the Tucson Code Chapter 10(A), Community Affairs, by adding a new Article XIX, Resource Planning Advisory Committee (RPAC); and declaring an emergency.
- AA. FINANCE: TRANSFER OF FUNDS FROM THE WARD 5 OFFICE BUDGET TO THE PARKS AND RECREATION DEPARTMENT TO HELP DEFRAY COSTS FOR NAM JAM
1. Report from City Manager AUG8-06-438 WARD 5
  2. Resolution No. 20424 relating to Finance; authorizing and approving the reallocation of one thousand twelve dollars (\$1012) from the Ward Five Council Office budget to the Parks and Recreation Department to assist the Vietnam Veterans of America, Chapter 106 to help defray costs for Nam Jam; and declaring an emergency.

BB. FINAL PLAT: (S06-086) COPPER STAR CONDOMINIUM, A CONDOMINIUM CONVERSION PROJECT, UNITS 101 TO 143 AND 201 TO 243, LIMITED COMMON ELEMENTS AND COMMON ELEMENTS “A”, “B”, AND “C”

1. Report from City Manager AUG8-06-435 WARD 3
2. City Manager recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

CC. FINAL PLAT: (S06-025) RANCHO DEL SOL CONDOMINIUMS, UNITS 1 TO 88 AND COMMON ELEMENT “A”

1. Report from City Manager AUG8-06-433 WARD 3
2. City Manager recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

DD. FINAL PLAT: (S06-008) BEAR CANYON CONDOMINIUM

1. Report from City Manager AUG8-06-434 WARD 2
2. City Manager recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

EE. FINANCIAL PARTICIPATION AGREEMENTS: WITH VARIOUS OUTSIDE AGENCIES FOR FISCAL YEAR 2007

1. Report from City Manager AUG8-06-436 CITY-WIDE
2. Resolution No. 20425 relating to outside agency activities; authorizing and approving the Financial Participation Agreements between the City of Tucson and various outside organizations for Fiscal Year 2007; and declaring an emergency.

Item EE was considered separately at the request of Council Member Uhlich.

FF. INTERGOVERNMENTAL AGREEMENT: WITH THE PIMA COUNTY FREE LIBRARY DISTRICT FOR INFORMATION TECHNOLOGY SERVICES

1. Report from City Manager AUG8-06-390 CITY-WIDE
2. Resolution No. 20426 relating to library services: approving and authorizing execution of an Intergovernmental Agreement between the City of Tucson and Pima County Free Library District (“District”) to provide transitional information technology service to the Pima Library District; and declaring an emergency.

GG. RIO NUEVO: APPROVING AN EXPENDITURE OF FUNDS BY THE RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT FOR THE SERVICES OF LLOYD CONSTRUCTION FOR THE MISSION SAN AGUSTIN PROJECT

1. Report from City Manager AUG8-06-430 WARD 1
2. Resolution No. 20428 relating to the Rio Nuevo; approving an expenditure of funds by the Rio Nuevo Multipurpose Facilities District for the services of Lloyd Construction for pre-construction services during the conceptual design phase of the Mission San Agustin Project; and declaring an emergency.

HH. RIO NUEVO: APPROVING AN EXPENDITURE OF FUNDS BY THE RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT FOR THE AVENIDA DEL CONVENTO/CLEARWATER DRIVE PROJECT

1. Report from City Manager AUG8-06-431 WARD 1
2. Resolution No. 20429 relating to the Rio Nuevo; approving an expenditure of funds by the Rio Nuevo Multipurpose Facilities District for construction of a Roundabout at the intersection of Grande Avenue and Clearwater Drive as part of the Avenida del Convento/Clearwater Drive Project; and declaring an emergency.

II. APPROVAL OF MINUTES

1. Report from City Manager AUG8-06-389 CITY-WIDE
2. Approval of minutes for the regular meetings of the Mayor and Council held on June 13, 2006, June 20, 2006, June 27, 2006, and July 6, 2006 and the Special Meeting held June 13, 2006.

Kathleen S. Detrick, City Clerk, announced Item II had a correction. On the minutes for June 13, 2006, page 19, fourth paragraph from the bottom, the final sentence previously said, "Their goal was to increase the recycling by four percent and they would be working with the City Manager's office and the Council Offices to improve that diversion rate." That had been revised because the four percent referred to the diversion rate not to overall recycling. It should now read, "Their goal was to increase the diversion rate by four percent and they would be working with the City Manager's Office and the Council Offices to improve that rate."

JJ. REAL PROPERTY: AGREEMENT FOR WATER MAIN EASEMENT FOR THE SANTA RITA BEL AIR FACILITIES

1. Report from City Manager AUG8-06-440 WARD 4 AND OUTSIDE CITY
2. Resolution No. 20433 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and the Arizona State Land Department for Water Main Easements for the City of Tucson's Santa Rita Bel Air Facilities; and declaring an emergency.

KK. FINANCE: COMMUNITY SUPPORT FUND TRANSFER TO THE COALITION FOR AFRICAN AMERICAN HEALTH & WELLNESS FOR THE PEOPLE OF COLOR FESTIVAL

1. Report from City Manager AUG8-06-441 WARD 6
2. Resolution No. 20432 relating to Finance; approving and authorizing the allocation of two hundred and fifty dollars (\$250) from the Community Support Fund, Account No.001-183-1898-268, to the People of Color Festival, sponsored by the Coalition for African American Health & Wellness; and declaring an emergency.

Item KK was considered separately at the request of Council Member Trasoff.

LL. INDUSTRIAL DEVELOPMENT: AUTHORIZATION FOR THE ISSUANCE OF TUCSON INDUSTRIAL DEVELOPMENT AUTHORITY HEALTHCARE REVENUE AND REFUNDING BONDS

1. Report from City Manager AUG8-06-409 CITY-WIDE

2. Resolution No. 20411 relating to industrial development; approving and authorizing the issuance by the Industrial Development Authority of the City of Tucson, Arizona, Healthcare Revenue and Refunding Bonds (COPE Behavioral Services, Inc., Project), Series 2006-A and Taxable Series 2006-B, in a principal amount not to exceed \$11,500,000 (The “Bonds”); and declaring an emergency.

MM. INDUSTRIAL DEVELOPMENT AUTHORITY: TECHNICAL  
AMENDMENTS TO RESOLUTION 20381 ADOPTED JUNE 27, 2006

1. Report from City Manager AUG8-06-442 CITY-WIDE
2. Resolution No. 20431 relating to industrial development; technical amendments to Resolution No. 20381 approving and authorizing the issuance by the Industrial Development Authority of the City of Tucson, Arizona, of Joint Single-Family Mortgage Revenue Bonds in one or more subseries, in an aggregate principal amount not to exceed \$40,000,000 in furtherance of the Joint Single-Family Mortgage Revenue Bond Program of 2006 of the Industrial Development Authority of the City of Tucson, Arizona, and the Industrial Development Authority of the County of Pima; and declaring an emergency.

It was moved by Council Member Trasoff, duly seconded, that Consent Agenda Items A through MM, with the clerical corrections to Items V and II and with the exception of Items U, EE and KK, which would be considered separately, be passed and adopted and the proper action taken.

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

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Scott

Consent Agenda Items A through MM, with the clerical corrections to Items V and II and with the exception of Items U, EE, and KK were declared passed and adopted by a roll call vote of 6 to 0.

**6. CONSENT AGENDA – ITEMS A THROUGH MM**

**U. AGREEMENT: WITH THE ARIZONA DEPARTMENT OF CORRECTIONS FOR AN INMATE WORKER PROGRAM**

1. Report from City Manager AUG8-06-424 CITY-WIDE
2. Resolution No. 20421 relating to Transportation; authorizing and approving the execution of an agreement between the Arizona Department of Corrections and the City of Tucson for an inmate worker program; and declaring an emergency.

Kathleen S. Detrick, City Clerk, announced that Consent Agenda Item U would be considered separately at the request of Vice Mayor Leal.

Vice Mayor Leal said he understood Item U was a contract between the State Department of Corrections and the City of Tucson to hire eighty two prisoners at fifty cents per hour to work on city streets, etc. He said he knew the federal minimum wage law would allow it but asked if it was in violation of the City's living wage ordinance.

Mike Rankin, City Attorney, said it was not a violation of the City's living wage ordinance, which expressly exempted from the provisions of the ordinance contracts under which state regulations preclude the applicability of a living wage and contracts impacted by governmental regulations. In the context of wages or payments to inmates through the contracts with the Arizona Department of Corrections, there were state statutory provisions that govern and therefore, triggering the exemption under the living wage ordinance.

Vice Mayor Leal said he would not be asking or thinking that the State would pay the living wage to those individuals. If that were the case then what Mr. Rankin was saying would be correct. He asked instead of the City paying fifty cents an hour to those people, was the City obliged to pay the living wage, and if the city did that, would it be in violation of the state law.

Mr. Rankin said the living wage ordinance simply would not apply. The exemption would be triggered and the obligations under the living wage ordinance would not apply.

Vice Mayor Leal said maybe it would be something Mayor and Council would need to reconsider in terms of amending the living wage. The other issues for Mayor and Council to consider had to do with the City creating a financial benefit in a relationship like that. Council discussed earlier that about twenty percent of people, some in parts of Ward 5, lived in stressed areas so if the City needed to hire people to do work, he would prefer it were Tucsonans living in those areas. The economy in stressed areas increased the likelihood of people going to prison. He would rather try to keep people from going

to prison than try to reduce the likelihood that someone getting out of prison does not go back. He realized it was a painful choice and the choice was a statement of how strange our reality was today. He believed the Department of Corrections had training programs to become a barber, but the state licensing criteria did not allow anyone who had been to prison to get a license.

Vice Mayor Leal wondered if any of the eighty-two people thought they would get a job with the City once they were trained, especially if the City was going to go back and hire eighty-two others like them in prison to do the work next year. He said it seemed self-defeating and poorly thought out. He thought it was a bad direction for the City to go. A few months ago the City was looking at taking away medical benefits from people working less than thirty hours per week and now the City was hiring prisoners. He thought Council should hold off on the item and the City needed to think through what kind of ethical posture Council would have to the community.

It was moved by Vice Mayor Leal, duly seconded, to continue Item U.

Council Member Uhlich thought the topic went to the Mayor and Council Subcommittee on Neighborhoods, Public Safety and Emergency Preparedness and wondered if it should be referred back to the Committee because there was no resolution or recommendation. She did notice in the support materials that it was silent on the Committee's recommendation. She thought that was an outgrowth of the fact that the committee did not recommend and forward it.

Council Member West said the Mayor and Council Subcommittee on Transportation also heard that item and could not recall if they did or did not take a position. She thought they were told the Mayor and Council Subcommittee on Neighborhoods, Public Safety and Emergency Preparedness would also look into it. She heard what Vice Mayor Leal was saying, but she said it gave some people an opportunity to learn some job skills. She said she was willing to move with it as it was, but there was another motion on the table.

Council Member Ibarra thought one of the things that happened was two subcommittees addressed the same issue and both thought the other committee would take a position on it, but both commissions did not take a position on the issue. He was surprised the item was on the agenda, and felt what had to be cleared up was to find out if anyone would be taking a position. Council Member Ibarra thought it would be appropriate to continue the item to the next Mayor and Council meeting, put it back on at least one subcommittee agenda, and ask for a recommendation.

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

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Scott

The motion to continue Consent Agenda Item U was passed by a roll call vote of 6 to 0.

**6. CONSENT AGENDA – ITEMS A THROUGH MM**

**EE. FINANCIAL PARTICIPATION AGREEMENTS: WITH VARIOUS OUTSIDE AGENCIES FOR FISCAL YEAR 2007**

1. Report from City Manager AUG8-06-436 CITY-WIDE
2. Resolution No. 20425 relating to outside agency activities; authorizing and approving the Financial Participation Agreements between the City of Tucson and various outside organizations for Fiscal Year 2007; and declaring an emergency.

Kathleen S. Detrick, City Clerk, announced the next item to be considered separately was Item EE as requested by Council Member Uhlich.

Council Member Uhlich said she would recuse herself from the item. She applauded the good work of all the organizations listed and supported their efforts. In discussions with the City Attorney she found technically she did not have a conflict of interest, but because her partner did have grant transactions from time to time with Tucson/Pima Arts Council, she felt comfortable in disclosing that information and recusing herself from votes relating to the Tucson/Pima Arts Council.

Mike Rankin, City Attorney, said that was well said. The conflict law required the Council Member whose relative may have an interest in a contract or a decision in front of the body, to refrain from participating in the vote. In that particular instance, as Council Member Uhlich explained, her partner may have an interest in the Tucson/Pima Arts Council agreement, which was Exhibit A as part of the resolution. He stated while not strictly in the definition of relative within the conflict of interest statute, through an abundance of integrity, Council Member Uhlich's decision to refrain from voting on the matter was well thought out. It did raise an issue in terms of the ability to adopt the resolution as an emergency measure because a Council Member would not be voting and Mayor and Council would not have sufficient votes to adopt an emergency measure.



Mr. Rankin suggested removing Section One of the resolution, which referenced the particular agreement on which the conflict was attached, voting as a Council on the remaining contracts so they would not be delayed, and bring back the separate contract to the September meeting for adoption by resolution.

Council Member Uhlich felt badly that it could delay the Tucson/Pima Arts Council contract. She asked if it was adopted that evening would it be possible for the contract to be prepared.

Mr. Rankin said no, the net result would be the same because of the thirty day time delay when it would go into effect. The cleaner way would be to bring it back separately for adoption with an emergency clause.

Ms. Detrick announced Item EE had a correction. Section fourteen, reference to El Tour de Tucson, was incorrectly stated. It said it was the Perimeter Bicycling Association El Tour de Tucson. It should read the Perimeter Bicycling Association of America El Tour de Tucson.

It was moved by Council Member Trasoff, duly seconded, to pass and adopt Item EE, deleting Section One, which would be brought back on the meeting of September 6, 2006 and including the clerical correction as stated.

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

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Scott

Consent Agenda Item EE, as corrected and amended, was declared passed and adopted by a roll call vote of 6 to 0.

## **6. CONSENT AGENDA – ITEMS A THROUGH MM**

KK. FINANCE: COMMUNITY SUPPORT FUND TRANSFER TO THE COALITION FOR AFRICAN AMERICAN HEALTH & WELLNESS FOR THE PEOPLE OF COLOR FESTIVAL

1. Report from City Manager AUG8-06-441 WARD 6

2. Resolution No. 20432 relating to Finance; approving and authorizing the allocation of two hundred and fifty dollars (\$250) from the Community Support Fund, Account No.001-183-1898-268, to the People of Color Festival, sponsored by the Coalition for African American Health & Wellness; and declaring an emergency.

Kathleen S. Detrick, City Clerk, announced the next item to be considered separately was Item KK as requested by Council Member Trasoff.

Council Member Trasoff asked for the item to be pulled because the event she was helping to sponsor, at the rate of two hundred and fifty dollars, was of importance to the community. It was the People of Color Festival presented by the Coalition for African American Health & Wellness. It would take place on September 16, 2006 from 10:00 a.m. to 2:00 p.m. at the Dunbar Center. The goal of the event was to promote healthy living and improve the overall quality of life for African Americans and medically under served people in the Tucson community. The festival would provide life saving education and medical personnel, including doctors and nurses to answer health questions and share information about “take a loved one for a checkup day.” The People of Color Festival’s Health Screening Fair was offering an opportunity for people to get basic checkups at the Dunbar Center on Main Street. She encouraged Council to participate and wanted to make the community aware the event was taking place.

Vice Mayor Leal stated Ward 5 would donate two hundred and fifty dollars.

Council Member Uhlich said Ward 3 would donate two hundred and fifty dollars.

Council Member Ibarra said Ward 1 would donate two hundred and fifty dollars.

Ms. Detrick confirmed the donated amounts and said that the total was now one thousand dollars.

It was moved by Council Member Trasoff, duly seconded, to pass and adopt Item KK, with the amended amount totaling one thousand dollars.

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

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Scott

Consent Agenda Item KK, as amended, was passed by a roll call vote of 6 to 0.

**15. CITY MAGISTRATES: APPOINTMENT OF MICHAEL LEX AS A CITY MAGISTRATE**

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

Mayor Walkup announced City Manager's communication number 392, dated August 8, 2006, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10309 by number and title only.

It was moved by Council Member Trasoff, duly seconded, to pass and adopt Ordinance 10309 appointing Michael Lex as City Magistrate.

Kathleen S. Detrick, City Clerk, read Ordinance No. 10309 relating to City Magistrates; appointing Michael Lex as City Magistrate of the City of Tucson; fixing compensation; and declaring an emergency.

Council Member Ibarra asked if the issue of compensation had been addressed.

Mike Hein, City Manager, stated the issue of compensation was addressed in the ordinance and the motion that was passed as well as in the compensation salary schedule that was approved by Mayor and Council previously.

Council Member Ibarra asked Judge Antonio Riojas if that issue had been addressed.

Judge Antonio Riojas, Presiding Magistrate, said in the compensation package passed by Mayor and Council this past summer, the City Magistrates were specifically excluded because compensation could only be fixed by Mayor and Council at the time of appointments. What had been proposed and discussed with Mayor and Council was back in December when they reappointed Judges Bernal and Klotz. At that time there was a motion made by Vice Mayor Leal to adopt a proposal made by the City Manager and his office, which would allow the City Magistrates to get a cost of living wage increase at the same rate as regular city employees. What he had proposed was to get a three percent increase that all city employees got pursuant to the plan by the City Manager at that time and adopted by Mayor and Council. However, that language was not incorporated in the ordinance at that time. He stated they were asking that the Magistrates get a three percent increase pursuant to the compensation plan approved by Mayor and Council last December.

Mr. Hein said he recalled the Magistrates and Presiding Magistrate were specifically indicated as highly compensated in the ordinance that the Mayor and Council provided. In the ordinance packet that evening, the salary was set at about ninety eight thousand dollars.

Council Member Ibarra said he made a commitment to Judge Riojas and to some of the Magistrates that he would make a motion they be included in the cost of living increase the Mayor and Council passed recently. His understanding was Judge Riojas could incorporate the increase into his budget.

Judge Riojas stated there would be no General Fund impact.

Council Member Ibarra said there would be no General Fund impact and he thought as they approved that particular appointment that the Mayor and Council approve it with that amendment. He asked Council Member Trasoff if it could be an amendment to the motion.

Mayor Walkup stated he wanted to be sure the Council understood the Cost of Living Allowance (COLA). He asked the City Manager to comment.

Mr. Hein said he was not familiar with the request by the Presiding Magistrate and that he saw the motion minutes before the meeting started, and could not comment as to whether or not there would be a General Fund affect.

Council Member Uhlich expressed respect for the work done by the courts and the magistrates, but Mayor and Council were quite deliberate in their consideration during the budget process. She said she felt, in fairness, when Council was asking highly compensated folks to not receive that increase, it was a part of the overall deliberation she personally felt she needed to uphold, in fairness to the other employees affected by that measure. If not, it would begin to erode at that action, so she would not be supporting any amendment to the motion.

Mr. Hein said he thought the City Attorney would advise Mayor and Council that they could only change the compensation at the time of reappointment but they had contemplated that at the time when the Council adjusted the salary schedule for the next appointment. He thought that last year the Magistrate's salaries were adjusted.

Judge Riojas said the salaries were adjusted with seven percent with the compensation package they were discussing, which amounted to all the cost of living increases the City Magistrates had not gotten in several years and it caught them up with the cost of living adjustment made to all City employees, including highly compensated employees, at that time. They caught up with the cost of living through December, however, they were not getting any merits at the time other employees were getting them.

Mr. Hein said staff worked with the Magistrates office to catch them up and had they not included the class of highly compensated in the current year's compensation ordinance, they would have received a COLA along with all the other employees unlike in previous times when it would have had to be set separately.

Council Member Trasoff said she believed it was a part of a carefully considered plan and had the Magistrates not been brought up to par last year, then the Mayor and

Council's decision may have been quite different. The fact that the Magistrates had been brought up to par, she believed it would have been an insult to the other highly compensated employees, many of whom include attorneys and highly skilled department heads, who were denied this year. She respectfully declined Council Member Ibarra's amendment to the motion.

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

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Scott

Ordinance 10309 was declared passed and adopted by a roll call vote of 6 to 0.

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

Mayor Walkup announced this was the time any member of the public was allowed to address the Mayor and Council on any issue, except for items scheduled for a public hearing. Speakers would be limited to three-minute presentations and the Call to the Audience was scheduled to last for fifteen minutes.

- a. Michael Toney spoke about laser computer technology and also the need for transparency and accountability on the Rio Nuevo bond funded projects.
- b. Abreeza Zegeer spoke about development being planned on sixty acres at La Cholla and Thirty Six Street, one mile from Tumamoc Hill, and requested that the project be a low-density residential development that be water/energy efficient, use environmentally friendly materials and blend with the surrounding community.
- c. Patricia Allen also spoke about the development on La Cholla and stated that any development needed to be single story low-density, but ideally it should be put aside and used as a wildlife corridor linking the Tucson Mountain Range and the Santa Cruz River basin.
- d. Roy Warden spoke about his case and charges stemming from events at Armory Park.
- e. Russ Dove spoke about racism and said his viewpoints were not racist.

**8. PUBLIC HEARING: CHANGE OF PROJECT SCOPE – ARROYO CHICO WASH IMPROVEMENTS**

Kathleen S. Detrick, City Clerk, announced that this item was scheduled for a public hearing and the Council should hold the public hearing. However, staff had requested that after they hear any testimony, that they continue the public hearing until the meeting of September 6, 2006 to allow more time for discussion on this project.

Mayor Walkup announced that City Manager's communication number 410, dated August 8, 2006, would be received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing to modify the Arroyo Chico Wash Improvements Project. The public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations. He asked if anyone wished to speak at that time. No one came forward.

It was moved by Council Member Trasoff, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Scott absent/excused) to continue the public hearing until September 6, 2006.

Kathleen S. Detrick, City Clerk, announced the public hearing would be continued to September 6, 2006 at 5:30 p.m. and would be held in the Mayor and Council Chambers at City Hall, 255 West Alameda Street.

**9. PUBLIC HEARING: ZONING (C9-01-14) KOLT – FIRST AVENUE, R-2 TO O-2 AND C-1, REQUEST FOR TIME EXTENSION**

Mayor Walkup announced that City Manager's communication number 418, dated August 8, 2006, would be received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on a request for a five-year time extension for the completion of the rezoning conditions. Mayor Walkup asked if the applicant was present and to state their name and address for the record.

Kathleen S. Detrick, City Clerk, stated that staff had added condition 24 that would read, "Access to the site should be limited to one point from First Avenue."

Raul Reyes, representing the owner, stated they had met with the Limberlost Homeowner's Association. He had reviewed the new additional stipulations and the covenants and was in agreement with all of them including the added condition 24. They had previously discussed those and in a private side agreement with the homeowners association, agreed they would not lease to a paycheck cashing financial institution. He thought Caz Robbins was present representing the Limberlost Homeowner's Association and might add further comments. Other than that, they were fine with the stipulations previously stated.

Mayor Walkup said the public hearing would last no more than one hour and speakers were limited to five-minute presentations.

Cazlin Robbins, representing the Limberlost Neighborhood Association, said they had met with Mr. Reyes and as he was willing to sign the existing covenant with the neighborhood association, they approved the extension.

Michael Toney said there were a few things in the conditions that were not well thought out. He read condition 1c and stated fifteen feet was not very much, considering the size and the fact that there had been no real success in figuring how to reduce asphalt and coverage to deal with parking issues. Maybe they could have two strips of cement and natural rocks and sand between. It would also save money for the developer.

Mr. Toney read condition 1f and stated that maybe drivers would load at 6:00 a.m. and play rap music. Mr. Toney read condition 12 and stated it did not specify the days of the week deliveries would be made.

Mr. Toney read condition 14 and stated that seventy-five feet was very long and monotonous. He did not know why they were digging up more because it was like Oregon where they crossed the freeway and chopped all the trees down. Then they come here to build.

Mayor Walkup asked if there was anyone else who wanted to speak, hearing no one, he asked for a motion to close the public hearing.

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

Council Member Uhlich wanted to applaud the developer involved in the property for working with the neighborhood to change the access to the site to just one point along First Avenue. She also wanted to note that initially the developer had planned on the possibility of a payday lending institution or some kind of financial institution like that and had agreed to hear the wishes of the neighborhood. It was her understanding that it would not be added as a condition of the extension but that the ordinance, which Mayor and Council had passed recently, would come into play on the property because construction had not commenced.

Jessie Sanders, Development Services Deputy Director, confirmed that was correct.

Council Member Uhlich said they would not be adding that as a condition of zoning, but wanted to note there had been a concurrence from the developer to seek out other sources of occupancy for that site. She hoped staff could be of help with it. It was a great location in one of the best wards in the city. It was a great place to do business along side wonderful neighborhoods and she hoped they could support the success of the development.

It was moved by Council Member Uhlich, duly seconded, to approve the requested five-year time extension from September 17, 2006, to September 17, 2011, subject to compliance with the revised conditions of rezoning, including condition 24.

Council Member Trasoff said she had a difficult time understanding what Mr. Reyes said and she wanted to know if it was because construction had not begun that the development had to conform to the city's conditions.

Council Member Uhlich said it was both. The developer had given the assurance that it would be the case. She wanted to note that the developer had been supportive and cooperative in talking it through with the neighborhood. It was worth noting it was probably the first time that ordinance was specifically coming into play and she said it was a good location to seek out other uses rather than another payday lending shop.

Council Member Trasoff said she was not surprised the developer was easy to work with on that issue. She asked, in future instances, if the City was protected on this and other ordinances Mayor and Council passed. She asked if conditions were extended for five years, did Mayor and Council need to be watchful to make sure those kinds of incidents were not in there or would the extension automatically be subject to the ordinances passed by Mayor and Council even if passed after the initial approval.

Mr. Sanders said he understood there was no grandfathering for any project against any ordinance unless they had already gotten permits and had commenced construction prior to the passing of that particular ordinance. That was why it did not affect this case.

Council Member Trasoff said extending zoning did not grandfather them past any ordinance.

Mike Rankin, City Attorney, said Mr. Sanders was correct and staff would remain watchful to make sure the protection that were intended by the Mayor and Council were in place.

The motion to approve the requested five-year time extension from September 17, 2006, to September 17, 2011, subject to compliance with the revised conditions of rezoning, including condition 24 was declared passed and adopted by a voice vote of 6 to 0, (Council Member Scott absent/excused).



**10. PUBLIC HEARING: AMENDING TUCSON CODE (CHAPTER 26) RELATING TO FLOODPLAIN AND EROSION HAZARD REGULATIONS**

Mayor Walkup announced that City Manager's communication number 437, dated August 8, 2006, would be received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on proposed amendments to conform to state and federal regulations. Before the public hearing began staff would make a brief presentation.

Jim Glock, Transportation Director, stated that Tucson was designated as a flood risk community according to the Federal Emergency Management Agency (FEMA), and as a FEMA compliant community, the City was required to adopt a floodplain management ordinance, which would comply with the State of Arizona, Arizona Department of Water Resources (ADWR), and FEMA Rules and Guidelines. The City first adopted a floodplain ordinance in March 1982 and had subsequently approved the revisions through June 1990, which was the last adopted version. The proposed amendments were primarily clarifications and explanations of scientific terms already quoted in the regulations and additions of language to make the regulations more closely conform to the language in state and federal laws. The amendments did not make any substantive change in the regulations and did not affect the enforcement and compliance requirements currently in affect for all developments and affected persons living in floodplains. Those amendments would satisfy FEMA & ADWR that were floodplain ordinances were in compliance with their rules and regulations and continue to allow for the federal subsidized Flood Insurance Program.

Mayor Walkup announced the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations. He asked if anyone wished to speak at that time.

Michael Toney stated he did not understand what staff was doing, but for the five hundred-year floodplain, he looked at charts for the area around Pima County and near Brawley Wash. What he found was an elevation of three more feet for the five hundred year floodplain. He stated the hurricanes were coming through a lot stronger. He thought it had something to do with jet fuel and aerosols wiping out the ionosphere and the ozone. The ultra violet rays were coming through much stronger. There was a person who did detailed studies of jet fuel, gas fumes, and aerosols, etc., affecting global warming and other issues. There would be big storms coming through, like the last of July, which flooded and wiped out north of Rattlesnake Creek. There were pictures of the roads where the concrete was wiped out. It would be foolish to think that would not continue until a way was found to get the ozone back to where it was. It seemed to be like the Copper Queen Mine; they went in and devastated it and left to go devastate somewhere else. He had a sense of the lost in space nature of Arizona legislature and the federal legislature. But if they were not going to deal with the five hundred flood, he asked why was staff doing housekeeping tasks here when they just saw, staff probably had the item completed before what happened when the flood came at the end of July. It made sense to him to use the five hundred year floodplain because those thing were

relative when one looked at the evolving weather pattern, the global warming, predictions of people, the melting ice cap, and the whole thing going on. The storms were getting more severe and the hurricanes were more severe. He could not say categorically what would be happening in the future but it would be nice to see some real, thorough investigation of that and the utilization of the concepts of Vice Mayor Leal embraced. Certainly within a three hundred-year period there would be some phenomenal storms coming along. Perhaps along with that staff could review the building codes. The Incas and the Egyptians would build and it would last for hundreds of years. Here buildings last forty or fifty years, were wiped out and rebuilt. They would need to recycle a lot of steel.

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

Mayor Walkup asked the City Clerk to read Ordinance 10311 by number and title only.

Ordinance No. 10311 relating to floodplains; amending the Tucson Code, Chapter 26, floodplain, stormwater, and erosion hazard management, Article 1. In general, Division 1. Floodplain and erosion hazard area regulations, Sec. 26-1.1 Authority, Sec. 26-1.3 Basis for establishing special flood hazard areas, Sec. 26-2 Definitions, Sec. 26-3 Floodplain boundaries, elevations, Sec. 26-5.2 Floodway fringe development, Sec. 26-5.3 Special flood hazard areas, Sec. 26-11.3 Penalties, violations, unlawful acts, classifications, Sec. 26-11.4 Declaration of public nuisance; abatement, and Sec. 26-12 Appeals and variances; and declaring an emergency.

It was moved by Vice Mayor Leal, duly seconded, to pass and adopt Ordinance 10311.

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

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Scott

Ordinance 10311 was declared passed and adopted by a roll call vote of 6 to 0.

**11. ZONING: (C9-05-25) ALTSCHUL – BELLEVUE STREET, R-1 TO P, CITY MANAGER’S REPORT**

Mayor Walkup announced that City Manager’s communication number 399, dated August 8, 2006, would be received into and made part of the record. He said this was a request to rezone property located north of Speedway Boulevard on the West Side of the Alamo Avenue Alignment. The Zoning Examiner and Development Services recommend approval subject to certain conditions. He asked if the applicant or representative was present and if they were agreeable to the proposed requirements.

Joaquin Rincon, Civil Works Engineering, stated they were agreeable to the proposed requirements.

It was moved by Council Member Trasoff, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Scott absent/excused), to authorize the request for rezoning as recommended by the Zoning Examiner.

**12. ZONING: (C9-89-20) ESTES – VALENCIA ROAD, O-3 TO C-1, CHANGE OF CONDITION AND PRELIMINARY DEVELOPMENT PLAN, ORDINANCE ADOPTION**

Kathleen S. Detrick, City Clerk, stated that she had a letter from the applicant in the case requesting a thirty-day continuance on the item. The property was located in Ward 1.

(Note: Council Member Uhlich departed the chambers at 7:09 p.m.)

Council Member Ibarra said he and the applicant decided there were some neighbors they needed to talk to on the issue, so they were asking for a thirty-day continuance to September 6, 2006.

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 5 to 0, (Council Members Scott and Uhlich absent/excused), to continue this item until the meeting of September 6, 2006.

Kathleen S. Detrick, City Clerk, announced the item would be continued to the meeting of September 6, 2006 at 5:30 p.m. and held in the Mayor and Council Chambers at City Hall, 255 West Alameda Street.

**13. ZONING: (C9-06-12) FOWLER-WOODLAND ROAD, SR TO RX-1, CITY MANAGER'S REPORT AND ORDINANCE ADOPTION**

Mayor Walkup announced City Manager's communication number 422, dated August 8, 2006, would be received into and made part of the record. He asked if the applicant or representative was present and if they were agreeable to the proposed requirements.

Council Member West reminded Council that the applicant was currently out of the area and had sent a letter stating he was agreeable.

Mayor Walkup asked the City Clerk to read Ordinance 10308 by number and title only.

Ordinance No. 10308 relating to zoning: amending zoning district boundaries in the area located on Woodland Road, south of Tanque Verde Road and north of Tanque Verde Creek in Case C9-06-12, Fowler-Woodland Road, SR to RX-1; and setting an effective date.

It was moved by Council Member West, duly seconded, to approve the request for rezoning as recommended by the Zoning Examiner and pass and adopt Ordinance 10308.

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

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Scott and Council Member Uhlich

Ordinance 10308 was declared passed and adopted by a roll call vote of 5 to 0, (Council Member Scott absent/excused and Council Member Uhlich departed at 7:09 p.m.)

**14. ZONING: (C9-06-11) GOLDMAN – 25<sup>TH</sup> STREET, R-1 TO P, CITY MANAGER'S REPORT**

Mayor Walkup announced that City Manager's communication number 419, dated August 8, 2006, would be received into and made part of the record. This was a request to rezone property located on the northeast corner of Winstel Avenue and Twenty Fifth Street. The Zoning Examiner and Development Services recommended approval subject to certain conditions. He asked if the applicant or representative was present and if they were agreeable to the proposed requirements.

Don Laidlaw, Laidlaw Consulting, said there were fifteen conditions stated in the Zoning Examiner's Report, with which he was in agreement. He asked to add a condition, but first he wanted to compliment Vice Mayor Leal for convening a meeting at the Ward 5 Office, at which there were other neighborhood representatives, and the new condition arose from that meeting. He accepted the blame for not having the condition inserted until the last minute. He thought Mayor and Council would agree that it was a good condition. The condition would read, "The parking provided in the rezoning site shall only serve land uses allowed in the C-1 commercial zone or more restricted zones." Mr. Laidlaw said what that meant was they would be expanding the commercial area but at the same time they would be limiting the uses to those that were most compatible with the neighborhood and deleting the objectionable uses, such as adult entertainment, bars, and car lots. It would be a neighborhood friendly use even though it was expanded. He thought that it was very positive. It would be numbered condition 16.

(Note: Council Member Uhlich returned to the chambers at 7:12 p.m.)

Vice Mayor Leal thanked Mr. Laidlaw for his goodwill over time and for working with the community and make it a better project.

It was moved by Vice Mayor Leal, duly seconded, and carried by a voice vote of 6 to 0, (Council Member Scott absent/excused), to authorize the request as recommended by the Zoning Examiner, with the additional condition 16, as it was read into the record.

**15. CITY MAGISTRATES: APPOINTMENT OF MICHAEL LEX AS A CITY MAGISTRATE**

(Note: This item was taken out of order and considered after Item 6.)

**16. REAL PROPERTY: FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT WITH PATHWAY HOLDINGS, LLC FOR THE SILVERBELL RESIDENTIAL SUBDIVISION**

Mayor Walkup announced that City Manager's communication number 429, dated August 8, 2006 was received into and made a part of the record. He asked the City Clerk to read Resolution 20427 by number and title only.

Resolution No. 20427 relating to real estate; authorizing and approving the execution of an amended Development Agreement between the City of Tucson and Pathway Holdings, L.L.C. for the construction of the Silverbell Residential Subdivision located at Silverbell Road and Goret Road; and declaring an emergency.

It was moved by Council Member Ibarra, duly seconded, to pass and adopt Resolution 20427.

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

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Scott

Resolution 20427 was declared passed and adopted by a roll call vote of 6 to 0.

**17. APPEAL: (S-06-07) APPEAL OF THE SIGN CODE ADVISORY AND APPEALS BOARD DECISION - HOUGHTON ROAD COMMERCIAL CENTER (CITY APPEAL NO. S-06-001)**

Mayor Walkup announced that City Manager's communication number 432, dated August 8, 2006, would be received into and made part of the record. He also announced that this was an appeal of a decision made by the Sign Code Advisory and Appeals Board.

Kathleen S. Detrick, City Clerk, announced the order of the appeal. First, she said the City Attorney would summarize the procedural question presented in the case and the nature of the action.

Mike Rankin, City Attorney, said this was an appeal of the decision of the Sign Code Advisory and Appeals Board denying the request for a sign area variance to the Houghton Road Commercial Center. He stated the appellant requested the decision be reversed and that the submitted variance, which would allow Lot 2 of the development, 1.9 square feet of sign area per foot of frontage; Lots 3 and 4 of the development, 1.25 square feet of sign area per foot of frontage; and allow tenants on Lots 2 and 3 in the development to have 1.25 square feet of sign area per foot of tenant frontage, be granted. Mr. Rankin explained that sign code appeals from the Sign Code Advisory and Appeals Board could be brought to the Mayor and Council, which was what was being considered. He stated the Mayor and Council had the authority to affirm, reverse or modify the decision of the Sign Code Advisory and Appeals Board. He said the appeal was on the record, which meant it was on the evidence presented to the Board. He informed the Mayor and Council they could hear testimony from the applicant and any information from staff, but there was to be no consideration of new evidence.

Ms. Detrick announced that Developmental Services would present a summary of the appeal.

Debbie Capple of Development Services said the Houghton Road Commercial Center was a 7.7-acre parcel of land located on the northeast corner of Houghton Road with five hundred feet of street frontage and Meadow Willow Trail with six hundred

seventy feet of street frontage. Houghton Road was designated as a scenic route on the major streets and routes plan. This development has been divided into four lots. Lot 1 has been developed with an Ace Hardware building set back five hundred feet from Houghton Road and two hundred feet from Meadow Willow Trail. The subject of the applicant's requested variance was for Lots 2, 3 and 4. On June 14, 2006, the applicant requested a variance to allow Lot 2 to have 1.9 square feet of sign area per foot of development frontage. Lot 2 currently had one hundred eighteen feet of frontage on Houghton Road and had been developed with a four thousand four hundred eighty square foot Ventana Tire and Auto Center building and another four thousand nine hundred ninety five square foot building that was currently vacant. Based on their request of 1.9 square feet, they wanted to have two hundred twenty four square feet of signage to be shared by the two buildings. This would be an increase of one hundred thirty five square feet of sign area for the development, over what the sign code allowed.

Ms. Capple said the second part of the variance was to allow the development and each tenant on Lots 2, 3 and 4 to have 1.25 square feet of sign area per frontage. Lot 3 was an undeveloped 1.03-acre parcel that had one hundred eighteen feet of street frontage on Houghton Road. They asked if at 1.25 square feet, they would be allowed to have one hundred forty eight square feet of sign allowance. This would be an increase of 59.5 square feet. Lot 4 was also an undeveloped 1.25-acre parcel that had one hundred forty three feet of street frontage on Houghton Road and three hundred feet on Meadow Willow Trail. Again at 1.25 square feet they would be allowed to have one hundred forty eight square feet of sign allowance, which would be an increase of the seventy-two square feet on Houghton Road. They also had three hundred feet of frontage on Meadow Willow Trail at 1.25 square feet, which allowed them three hundred seventy five square feet of sign allowance. This would be an increase of one hundred fifty square feet on Meadow Willow Trail.

Ms. Capple said at the hearing on June 14, 2006, Development Services staff recommended approval based upon the size of the development, the limited amount of street frontage on Lots 2, 3 and 4, the set back and orientation of the existing buildings from the streets, and the applicant being specific as to the allocation of sign area per tenant. At the hearing, the variance was denied. The Sign Code Advisory and Appeals Board denied this case as presented due to the fact a hardship was not proven. The Board felt granting this variance would result in a special privilege to the property. The applicant was now appealing the decision to the Mayor and Council. They requested the decision be reversed and the submitted variance, which would allow Lot 2 of the development, 1.9 square feet of sign area per foot of frontage, Lots 3 and 4 of the development 1.25 square feet of sign area per foot of frontage, and also allow tenants on Lots 2, 3 and 4 in the development to have 1.25 square feet of sign area per foot of tenant frontage. Staff recommended that Mayor and Council consider the merits of the appeal and vote to uphold, reverse or modify the decision of the Board.

Ms. Detrick announced the order of the appeal. The first would be the applicant, Steve Koch, of M.E.F. Co., Inc. Second, the opposition to the appeal would be presented by an affected neighbor or one designated representative of the affected neighbors

speaking in support of the Sign Code Advisory and Appeals Board decision. Third would be any other rebuttal as permitted by the Mayor and Council. The governing body could question the party filing the appeal or direct questions to staff in order to establish reasons for granting or denying the appeal. After the presentation, the Mayor and Council could discuss the case or act on it. The time limit for argument would be ten minutes for each side. The parties could use that ten minutes either in direct address to the Council or in rebuttal, and could divide it any way they choose; however, the limit was ten minutes. The evidence being considered was the verbatim transcript of the Sign Code Advisory and Appeals Board Hearing. No new evidence or testimony would be allowed. Mayor and Council could also consider the argument of the parties in reaching a decision. She called on the applicant, and said he had ten minutes.

Steve Koch, M.E.F. Company, said he did not realize there would be someone present from Development Services. He said Ms. Capple had stated almost everything he was going to say. He thought this was a new process, as he assumed from conversations with Chuck Stevenson from the City, that requests did not usually go before Mayor and Council. They just ended at the Sign Code Advisory Appeals Board. The main problem he had was the hired employees working for the City Sign Department had a staff meeting, recommend approval, and then a Citizen's Board denied it. He felt a few years ago the Board was going with the recommendation of the City staff. Now he felt the Board was basically denying everything. Mr. Koch said there were four developments between Valencia and Rita Road on Houghton Road. Their development was the second one south. He pointed out that basically what they asked for in terms of the increase in sign area had been granted to the development north of them, and to the Fry's Shopping Center on the corner of Rita and Houghton. He reiterated the Board had granted the increase in square footage to both of those developments, yet they were denied it, as was the fourth project directly south of them. He felt it was not fair.

Mr. Koch stated the Board said they did not prove a hardship. Mr. Koch pointed out that all the lots along Houghton Road were very deep, and if they had to abide by the Sign Code, without getting a variance, the signs for the buildings in the back of the development were not going to be readable. He said there would be retail outlets' that customers would not be able to see the signage from the road. He stated they did not develop the depth of the lots, they were there when they purchased the lots; and that was the hardship presented to the Board. The Board denied it, saying there was no hardship. Mr. Koch said they were just asking the Mayor and Council to reverse the decision.

Ms. Detrick announced that Mr. Koch he had seven minutes left, if he wished to speak again after the next speaker. She stated the second speaker was in opposition to the appeal presented by an affected neighbor or one designated representative of the affected neighbor speaking in support of the Sign Code Advisory and Appeals Board decision. Although no one checked in with her prior to the meeting, Ms. Detrick said she had a card from Al Wiruth, Rita Ranch Neighborhood Association, requesting to speak on this issue as a representative of the neighborhood. She asked Mr. Wiruth if that was correct and restated he would be speaking in support of the decision of the Board. She informed Mr. Wiruth that he had ten minutes.



Al Wiruth, President of Rita Ranch Neighborhood Association, said the only information the association received regarding this issue was a notice from Development Services saying there was a request for a sign. Mr. Wiruth stated that as Mr. Koch had indicated, several of the lots were not developed. They were never notified. They thought that because the lots had never been developed, the association submitted a request for denial to the Sign Code Advisory and Appeals Board. He asked the Mayor and Council to affirm the decision of the Sign Code Advisory and Appeals Board.

Ms. Detrick asked Mr. Koch if he had anything else he wanted to add before the Mayor and Council proceeded.

Mr. Koch had no further comments.

Ms. Detrick said if there were no other rebuttals, the governing body could proceed with the appeal process, question the party filing the appeal or question staff, and then proceed to act upon the case.

Council Member Trasoff said she had spoken with Council Member Scott's staff and they asked her to comment on Council Member Scott's behalf. They said Council Member Scott had looked into this and her request was, and Council Member Trasoff supported her decision, that the Mayor and Council affirm the decision of the Sign Code Advisory and Appeals Board, thereby denying the applicant's request.

Mayor Walkup announced it had been moved and seconded. He asked if there was any further discussion.

Council Member Trasoff asked to make a couple of points. First, this was a scenic corridor and she thought that was very important. Secondly, the Mayor and Council had appointed citizens to the advisory boards to give them the input of the people of the community. The advisory board's job was not to rubberstamp what staff did, but to consider their recommendations with the information in hand and provide guidance to Council as to what the board believed was important for the community. She respected the people on that committee. She respected the fact that, as citizens, they listened carefully; and there had been several occasions on which they accepted staff recommendations and others where they had denied. She believed they gave good consideration; and therefore she was going to respect their decision, and also support Council Member Scott's request.

Council Member West said she thought this was a difficult situation because they had the staff recommending it, and the Sign Code Advisory Appeals Board going against the recommendation. She said she was going to vote for Council Member Trasoff's motion; but at the same time, she found there were some variables that did not quite hold true. For example, she did not believe the lots were on the Houghton Road scenic corridor. It said on page three of three that based upon the size of the development, there is a limited amount of street frontage on Houghton Road. She heard Mr. Wiruth say that the lots were not even developed yet. She thought this was premature and perhaps there

was a need for some additional work on the part of City staff as far as granting variances in the future. She thought that while this did not seem to be precedence setting, in some ways it could be, particularly with the amount of development that was going on out there.

Debbie Capple asked to address Council Member West's statement. She said that Lot 1, which was part of Houghton Road Commercial, but was not part of this appeal, had already been developed by an Ace Hardware. They had gone for a variance probably a year and a half ago and was granted the variance from the Sign Code Advisory and Appeals Board. Lot 2 was currently developed with a Ventana Tire and Auto Center building and there was a building on the front. Those buildings' signage would not front onto Houghton Road, they would be facing to the north. She added that Lots 3 and 4 were vacant.

Mayor Walkup asked if there was further discussion. Hearing none, he called for the vote.

The motion to uphold the decision of the Sign Code Advisory and Appeals Board was declared passed by a voice vote of 6 to 0, (Council Member Scott absent/excused).

#### **18. MAYOR AND COUNCIL: SELECTION OF A VICE-MAYOR**

Mayor Walkup announced that City Manager's Communication number 439, dated August 8, 2006, would be received into and made a part of the record. He asked the City Clerk to read Resolution 20430 by number and title only.

Resolution No. 20430 relating to the Vice-Mayor of the Mayor and Council; selecting a Vice-Mayor.

Council Member Uhlich commended Vice Mayor Leal for his service in the last eight months, stating he had done a commendable job in serving the community and Mayor and Council as well. She said that, as the materials noted, what they were trying to accomplish was a rotation of the position of Vice Mayor, so that they could get back into what had been a tradition of Council. She said in 2001, that rotation process stopped, and beginning with the appointment of Council Member Leal, the Council was renewing their commitment to that type of process, whereby each member of the body would serve during their four-year tenure. In the spirit of that desire, each member would be offered the position in numeric sequence. She added that Council Members Trasoff and Ibarra at this time had passed on the opportunity to serve, for reasons they might or might not wish to comment on.

Council Member Uhlich nominated Council Member West to serve as Vice Mayor for the coming period.

Council Member Ibarra offered an amendment, which he and Council Member West had been trying to bring up for a number of years. He believed that when someone was running for re-election, they should not be allowed to have the position of Vice

Mayor, to ensure the position would not be used as a political tool. With that being the case, he asked that the amendment be that the position of Vice Mayor not fall on someone who was running for re-election at the time. That way, they could make sure it would not become a political tool and that it would be passed on as the rotation showed.

Council Member Uhlich said instead of accepting an amendment that evening, Mayor and Council needed to look and see if the amendment could practically occur. She said they had some conversation about the fact that there may be periods of time where persons who were not running for election would still not choose to serve for family reasons or other reasons. If they could sort through practical details, she would appreciate the spirit of that; and if they could continue that conversation, she preferred to move forward with the motion as it was presented.

Council Member Ibarra said he would let it go, but he thought the Vice Mayor position in recent years had turned into a political tool. The fact of the matter was that the Mayor and Council needed to elevate the discussion to show they were not falling into that same mentality. He believed Mayor and Council needed to do it because it would show the community and themselves that it was not something that would be used to benefit someone in a re-election year. In his opinion, it destroyed the rotation of it all. He hoped Council Member Uhlich would reconsider the amendment and put it into the motion stating Mayor and Council would make a commitment to the rotation and not use it as a political tool. He said he understood Council Member Uhlich's position, but thought she should reconsider the motion.

Council Member Uhlich stated she appreciated the spirit of the amendment, and she looked forward to further conversation; but she wanted her motion to stand.

Council Member Trasoff said Mayor and Council would talk about it another time. She thought the only political tool was denying people the opportunity to serve during their term in office and that was what made it political. She had a hard time understanding, how the Vice Mayor position would have any impact on an election. She did not see that it would give them any kind of advantage. The political tool issue would be for everyone to have a chance.

Council Member West thought it would be a magnanimous act if it went through on the part of the Mayor and Council majority.

Mayor Walkup asked the motion maker if they were establishing a rotation by designating or nominating Council Member West. He asked if it meant a rotation system was in the making.

Council Member Uhlich stated they would be going in numeric sequence. Council Member Trasoff had declined at that time to serve because of the early part of her tenure in office, and Council Member Ibarra also declined to take the office at that time for other reasons. The Council was trying to get back into a numeric sequence. At

the time the Vice Mayor position was rotated, Council Members could either accept or decline.

Mayor Walkup asked if the rotation system would be in place as of that moment.

Council Member Ibarra confirmed the next Council Member in the rotation would be Ward 3 and then Wards 4, 5, and 6.

Council Member Uhlich affirmed that was correct.

Council Member Trasoff clarified, as Council Member Uhlich said, she declined participation at this time, because she was only in office for eight months and she thought it was more appropriate to have someone more seasoned and experienced to take the Vice Mayor position. She added that she looked forward to the position in the future during her tenure.

Mayor Walkup asked if there was further discussion and hearing none called for a roll call vote.

Ms. Detrick clarified the roll call was on the motion to pass and adopt Resolution 20430, and inserting the name of Council Member West as the Vice Mayor.

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Council Member Scott

Resolution 20430, naming Council Member West as the Vice Mayor, was declared passed and adopted by a roll call vote of 6 to 0.

Mayor Walkup complimented Council Member Leal on his performance as Vice Mayor. He said it was a busy role, and had definite significance in City business. He appreciated the times when he asked him to fill in for him.

## **19. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS**

Mayor Walkup announced City Manager's communication number 398, dated August 8, 2006, would be received into and made a part of the record.

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

Kathleen S. Detrick, City Clerk, explained there would be two separate motions. The first motion would be to approve the appointments in the report, appointing Melanie Morrison in the Community Partner category, and John Showalter as the Real Estate/Finance representative, to the Metropolitan Housing Commission; appointing Tom Ellis in the Parks/Recreation Housing category, to the Metropolitan Education Commission; appointing Jean Paul Jorquera to the Commission on Disability Issues; and appointing Ursula Kramer to the Citizens' Water Advisory Committee.

It was moved by Vice Mayor West, duly seconded, and carried by a voice vote of 6 to 0, (Council Member Scott absent/excused), to approve the appointments as directed by the City Clerk.

Ms. Detrick announced the final appointment was to the City Magistrate Merit Selection Commission, which was a nomination put forward by Council Member Trasoff. She reminded the Council that on this particular commission, there were three members selected by the members of the governing body who represented the political party in the majority; and that is what this appointment was. This would be an appointment made by the Democrats on the Council. She added that Mayor Walkup would not be able to vote on the item.

It was moved by Council Member Trasoff, duly seconded, and carried by a voice vote of 4 to 0, (Council Members Ibarra, Uhlich, Leal and Trasoff all members of the Democratic Party; Council Member Scott absent/excused), to appoint Reverend D. Grady Scott to the City Magistrate Merit Selection Commission.

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

Vice Mayor West announced her personal appointment of Carol Zimmerman to the Citizens' Water Advisory Committee.

**20. ADJOURNMENT 7:43 p.m.**

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

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MAYOR

ATTEST:

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CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 8<sup>th</sup> day of August 2006, and do hereby certify that it is an accurate transcription.

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DEPUTY CITY CLERK

KSD:kad/jr