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# Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on March 17, 2015

Date of Meeting: September 23, 2014

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:33 p.m., on Tuesday, September 23, 2014, all members having been notified of the time and place thereof.

## 1. ROLL CALL

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

Present:

Regina Romero	Council Member Ward 1
Paul Cunningham	Vice Mayor Council Member Ward 2
Karin Uhlich	Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Richard G. Fimbres	Council Member Ward 5
Steve Kozachik	Council Member Ward 6
Jonathan Rothschild	Mayor

Absent/Excused:

None

Staff Members Present:

Martha Durkin	City Manager
Michael Rankin	City Attorney
Roger W. Randolph	City Clerk

**2. INVOCATION AND PLEDGE OF ALLEGIANCE**

The invocation was given by Reverend Nathan Gladish, Sunrise Chapel Swedenborgian, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

- a. Mayor Rothschild proclaimed September 22<sup>nd</sup> through September 28<sup>th</sup>, 2014, as “American Indian Awareness Days.” Jacob Bernal accepted the proclamation.
- b. Council Member Scott presented awards to the Ward 4 Back to School Bash volunteers and supporters.
- c. Council Member Romero and Mayor Rothschild presented awards to the volunteers of the Feria de la Lectura event.

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

Mayor Rothschild announced City Manager’s communication number 293, dated September 23, 2014, was received into and made part of the record. He also announced this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

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

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

Mayor Rothschild announced City Manager’s communication number 294, dated September 23, 2014, was received into and made part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

Current event report was given by Kelly Gottschalk, Assistant City Manager/Chief Financial Officer. A recording of this item is available from the City Clerk’s Office for ten years from the date of this meeting.

**5. LIQUOR LICENSE APPLICATIONS**

Mayor Rothschild announced City Manager’s communication number 304, dated September 23, 2014, was received into and made part of the record. He asked the City Clerk to read the Liquor License Agenda.

- b. Liquor License Application(s)

New License(s)

1. Fired Pie, Ward 6  
350 E. Congress St. #150  
Applicant: Lori Ann Cuomo  
Series 12, City 55-14  
Action must be taken by: September 4, 2014

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

2. Red Lobster #6354, Ward 1  
5315 S. Calle Santa Cruz  
Applicant: Richard Scott Teel  
Series 12, City 61-14  
Action must be taken by: September 25, 2014

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

3. Red Lobster #369, Ward 3  
5061 N. Oracle Rd.  
Applicant: Richard Scott Teel  
Series 12, City 62-14  
Action must be taken by: September 25, 2014

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

4. Red Lobster #869, Ward 6  
5870 E. Broadway Blvd.  
Applicant: Richard Scott Teel  
Series 12, City 63-14  
Action must be taken by: September 25, 2014

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

Public Opinion: Written Argument in Support Filed

5. Circle K Store #1580, Ward 5  
1602 E. Broadway Blvd.  
Applicant: Kim Kenneth Kwiatkowski  
Series 10, City 65-14  
Action must be taken by: September 28, 2014

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

6. Doubletree Hotel, Ward 6  
445 S. Alvernon Way  
Applicant: Andrea Dahlman Lewkowitz  
Series 11, City 66-14  
Action must be taken by: September 26, 2014

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

7. Golden House Chinese Fast Food, Ward 2  
9431 E. 22nd St. #127  
Applicant: Ming San Doe  
Series 12, City 67-14  
Action must be taken by: October 4, 2014

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

8. Jackson Tavern, Ward 2  
2900 N. Swan Rd. #100  
Applicant: Brian Edwin Metzger  
Series 12, City 68-14  
Action must be taken by: October 5, 2014

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

9. Guadalajara Mexican Grill, Ward 6  
4901 E. Broadway Blvd.  
Applicant: Kevin Arnold Kramber  
Series 12, City 71-14  
Action must be taken by: October 3, 2014

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

Public Opinion: Written Argument in Support Filed

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

#### Location Transfer(s)

10. Circle K Store #5318, Ward 4  
7510 E. 22nd St.  
Applicant: Kim Kenneth Kwiatkowski  
Series 9, City 64-14  
Action must be taken by: September 28, 2014

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

NOTE: State law provides that for a location transfer, Mayor and Council may consider whether the public convenience requires and that the best interest of the community will be substantially served by the issuance of a license at that location. (A.R.S. Section 4-203; Rule R19-1-102)

c. Special Event(s)

1. University of Arizona Alumni Association, Ward 6  
1303 E. University Blvd.  
Applicant: Melinda Waters Burke  
City T106-14  
Date of Event: November 8, 2014  
(2014 Homecoming)

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

2. Southwest Medical Aid, Ward 1  
1300 N. Greasewood Rd.  
Applicant: Cheryl Lynn Cecil  
City T108-14  
Date of Event: October 17, 2014  
(Fundraiser)

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

3. Rotary Club of Tucson Foundation, Ward 2  
3231 N. Craycroft Rd.  
Applicant: Wayne LeRoy Meyer  
City T109-14  
Date of Event: October 17, 2014 - October 18, 2014  
(Fundraiser)

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

4. Handi-Dogs, Inc., Ward 2  
3231 N. Craycroft Rd.  
Applicant: Jo Ann Turnbull  
City T112-14  
Date of Event: October 26, 2014  
(Fundraiser)

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

5. YWCA Tucson, Ward 1  
525 N. Bonita Ave.  
Applicant: Eula Liane Hernandez  
City T115-14  
Date of Event: October 12, 2014  
(Purses on Purpose Fundraiser)

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

6. Watershed Management Group, Ward 6  
119 E. Toole Ave.  
Applicant: Becky A. Blacher  
City T116-14  
Date of Event: October 25, 2014  
(Fundraiser)

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

7. St. Cyril of Alexandria Church, Ward 6  
4725 E. Pima St.  
Applicant: Ann C. Zeches  
City T118-14  
Date of Event: October 16, 2014 - October 19, 2014  
(Fundraiser)

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

8. Our Lady Queen of All Saints Catholic Church, Ward 5  
2915 E. 36th St.  
Applicant: Darlene Dooley  
City T119-14  
Date of Event: October 4, 2014 - October 5, 2014  
(Church Fundraiser)

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

9. Tucson Desert Harmony, Ward 6  
160 S. Scott Ave.  
Applicant: Patricia L. Rapp  
City T120-14  
Date of Event: October 18, 2014  
(Fundraiser)

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

10. Artifact Dance Project, Inc., Ward 6  
17 E. Toole Ave.  
Applicant: Rachel Davidson  
City T121-14  
Date of Event: October 24, 2014  
(Fundraiser)

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

11. Youth on Their Own, Ward 6  
33 S. 5th Ave.  
Applicant: Teresa L. Baker  
City T124-14  
Date of Event: October 16, 2014  
(Fashion Show Fundraiser)

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

- d. Agent Change/Acquisition of Control

Note: There were no application(s) for agent changes scheduled for this meeting.

It was moved by Council Member Scott, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b1 through 5b10 and 5c1 through 5c11 to the Arizona State Liquor Board with a recommendation for approval.

## **6. CALL TO THE AUDIENCE**

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

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

Comments were made by:

Jim Wiltbark  
Richard Hernandez  
Stephania Quintana

Vera Lander  
Brian Glenn  
Margo Cowen

Keith Van Heyningen  
Roger Score

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

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

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

a. APPROVAL OF MINUTES

1. Report from City Manager SEP23-14-295 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of April 8, 2014
3. Mayor and council Study Session Legal Action Report and Summary Minutes of April 8, 2014

b. ZONING: (S09-015) DESIGNATING THE TENTATIVE PLAT FOR SILVERBELL CROSSINGS AS A PROTECTED DEVELOPMENT RIGHT PLAN

1. Report from City Manager SEP23-14-298 WARD 1
2. Resolution No. 22292 relating to Zoning: designation of the Tentative Plat/Development Plan for Silverbell Crossings (S09-015) as a protected development right plan; and setting an effective date.

c. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE 2014 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM AWARD

1. Report from City Manager SEP23-14-305 CITY WIDE
2. Resolution No. 22293 relating to Intergovernmental Agreements; approving and authorizing execution of an Intergovernmental Agreement (IGA) between the City of Tucson (City) and Pima County for the 2014 Department of Justice (DOJ) Edward Byrne Memorial Justice Assistance Grant (JAG) Program Award; and declaring an emergency.

(This item was considered separately at the request of Council Member Kozachik.)

d. INTERGOVERNMENTAL AGREEMENT: WITH TUCSON UNIFIED SCHOOL DISTRICT AND AMPHITHEATER UNIFIED SCHOOL DISTRICT FOR SCHOOL RESOURCE OFFICERS FUNDED THROUGH THE ARIZONA DEPARTMENT OF EDUCATION SCHOOL SAFETY PROGRAM

1. Report from City Manager SEP23-14-306 CITY WIDE



2. Resolution No. 22294 relating to Intergovernmental Agreements (IGA); approving and authoring execution of IGAs between the City of Tucson (City) and Tucson Unified School District (TUSD) and Amphitheater Unified School District (AUSD) for School Resource Officers (SROS) funded through the Arizona Department of Education (AZDE) School Safety Program (SSP); and declaring an emergency.

(This item was considered separately at the request of Council Member Romero.)

e. GRANT AGREEMENT: WITH THE ARIZONA ATTORNEY GENERAL'S OFFICE FOR THE VICTIMS' RIGHTS PROGRAM

1. Report from City Manager SEP23-14-296 CITY WIDE
2. Resolution No. 22291 relating to Victims' Rights; approving and authorizing execution of an Award Agreement with the Arizona Attorney General's Office for the FY 2015 Victims' Rights Program (VRP); and declaring an emergency.

f. AGREEMENT: WITH THE RAYTHEON COMPANY FOR THE ASSUMPTION OF FIRE, MEDICAL AND SPECIAL HAZARD SERVICES

1. Report from City Manager SEP23-14-302 CITY WIDE

(This item was continued at the request of staff.)

g. MEMORIAL: URGING THE ADMINISTRATIVE CLOSURE OF ROSA IMELDA ROBLES LORETO'S REMOVAL CASE

1. Report from City Manager SEP23-14-300 CITY WIDE
2. A Memorial relating to Immigration; urging the administrative closure of Rosa Imelda Robles Loreto's removal case.

(This item was considered separately at the request of Council Member Romero.)

h. FINAL PLAT: (S14-006) MAGUIRE HILL ESTATES LOTS 1 THROUGH 3 A RESUBDIVISION OF LOT 1 OF "WILKINS SUBDIVION"

1. Report from City Manager SEP23-14-308 WARD 2
2. Staff recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits were subject to the availability of water/sewer capacity at the time of actual application.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 7 to 0, that Consent Agenda Items a – h, with the exception of items c, d, and g, which were considered separately, and item f, which was continued, be passed and adopted and proper action taken.

## 7. CONSENT AGENDA – ITEMS C

### c. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE 2014 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM AWARD

1. Report from City Manager SEP23-14-305 CITY WIDE
2. Resolution No. 22293 relating to Intergovernmental Agreements; approving and authorizing execution of an Intergovernmental Agreement (IGA) between the City of Tucson (City) and Pima County for the 2014 Department of Justice (DOJ) Edward Byrne Memorial Justice Assistance Grant (JAG) Program Award; and declaring an emergency.

Mayor Rothschild, announced the first item to be considered separately was Consent Agenda Item c, at the request of Council Member Kozachik.

Council Member Kozachik stated the JAG grant was for the funding of body worn cameras. He asked for confirmation that the City was splitting the cost with Pima County, and the City's portion would be about \$183,000.

Robert Villasenor, Chief of Police, stated that was correct.

Council Member Kozachik asked if the City was purchasing the cameras or leasing them.

Chief Villasenor stated the money was for the purchase of the cameras and payment for storage and redaction costs.

Council Member Kozachik asked if the Chief could explain how the captured images would be stored and the cost of storage, personnel time and IT hardware.

Chief Villasenor commented it was a pilot program. He said the Tucson Police Department (TPD) looked into obtaining about forty cameras and said they prepared a Request for Proposal (RFP). He stated the proposal would include information he wanted to look at regarding which was more economical for the City, either to store on the Cloud or to have an in-house server that would do that. Part of the whole project was to determine what would be the most economical and efficient way to implement the cameras and see if they would work for the City of Tucson.

Council Member Kozachik asked if TPD knew what the long term cost of storage was for this information.

Chief Villasenor stated the long term cost of storing the information was part of the RFP for the cameras and they were waiting for the proposal to come back with those cost estimates.

Council Member Kozachik asked if the City was capping it at \$183,000 for four years.

Chief Villasenor stated it was not for four years. He said the amount was for the life of the grant and said TPD would receive the Byrne Justice Assistance Grant every year but he did not know what that amount would be. He would not say they were capping it but rather looking at it as their starting operating budget to get into the program.

Council Member Kozachik stated the grant was for four years and asked if they were sure the \$183,000 was going to cover the cost of the storage, staffing and IT.

Chief Villasenor stated the grant would not cover the entire four years. Each year TPD would get another Byrne Justice Assistance Grant that would apply toward the cost. He said TPD also had other means of funding, such as impoundment fees, which could be used towards the cost.

Council Member Kozachik asked if TPD knew how they would handle Freedom of Information Act (FOIA's) requests with respect to this information.

Chief Villasenor stated that was part of the fact gathering process and it would cover the redaction process and the speed in which they could provide the answers to the FOIA's. He said he did not mean to not answer the question, but those were the types of items they were trying to find out. They had not had that experience before. He said during the Elite Eight U of A game they had used cameras on loan and it was very educational as to the amount of work required for a big event. He said on paper they knew what people told them could be done, but the actuality is what they wanted to experience as they moved forward.

Council Member Kozachik asked if there were any issues with respect to the chain of custody for the use of material as it turned into evidence.

Chief Villasenor stated they did not. He said they had policies in place that would govern how the information was downloaded and stored and then would follow those policies which were vetted through the City Attorney's Office.

Council Member Kozachik stated he was concerned with unforeseen hidden costs that would be incurred and was not sure what those might be, so he did not want to burden the police department's budget with the unknown.

Chief Villasenor stated TPD would not burden their budget which was why they were trying to pay for everything out of the grant monies. He declared none of the funds were coming from the general fund.

Council Member Kozachik asked if any costs associated with staffing, IT, personnel, hardware, software and the responding to FOIA's would be coming out of grant dollars.

Chief Villasenor stated they would have some staffing costs as they did now for any evidentiary item. That was part of what staff did but staff would not be dedicated solely to the camera program or to the evidence supplied by the cameras.

Kelly Gottschalk, Assistant City Manager/Chief Financial Officer, stated it really was a pilot program. They had read about the cameras and researched them, but until they actually got in and started using the cameras, they would not know what the impact would be. She said that was really the point of the pilot.

Council Member Kozachik asked how many cameras TPD had.

Chief Villasenor stated they tested six at one point and had returned all cameras, because they were going out on the RFP they did not want to have any accusations of looking for any one particular type of camera.

Council Member Kozachik stated the process TPD went through after the U of A Elite Eight basketball game was pretty time consuming and staff intensive.

Chief Villasenor stated the reason it was so time consuming was because they did not want to have any delay and they were looking at the entire event. He said in the future the individual events would be shorter in duration and not a four hour operation filmed by fifty different cameras. He explained they would have one event filmed by one camera which would operate at a smaller time capacity.

Council Member Kozachik asked where they had come up with the number forty for the cameras.

Chief Villasenor said that was the estimate arrived at by talking to different vendors and by the grant capacity and not wanting to overextend the grant. He said they felt with the cost of cameras and the projected storage, maintenance and redaction costs, forty would be a good starting number.

Council Member Kozachik stated he would have another Council Member make the motion because he thought they were overstepping what could be afforded.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 6 to 1 (Council Member Kozachik dissenting), to pass and adopt Consent Agenda Item c.

**7. CONSENT AGENDA – ITEMS D**

- d. INTERGOVERNMENTAL AGREEMENT: WITH TUCSON UNIFIED SCHOOL DISTRICT AND AMPHITHEATER UNIFIED SCHOOL DISTRICT FOR SCHOOL RESOURCE OFFICERS FUNDED THROUGH THE ARIZONA DEPARTMENT OF EDUCATION SCHOOL SAFETY PROGRAM
1. Report from City Manager SEP23-14-306 CITY WIDE
  2. Resolution No. 22294 relating to Intergovernmental Agreements (IGA); approving and authoring execution of IGAs between the City of Tucson (City) and Tucson Unified School District (TUSD) and Amphitheater Unified School District (AUSD) for School Resource Officers (SROS) funded through the Arizona Department of Education (AZDE) School Safety Program (SSP); and declaring an emergency.

Mayor Rothschild, announced the next item to be considered separately was Consent Agenda Item d, at the request of Council Member Romero.

Council Member Romero stated there were two intergovernmental agreements (IGA) for School Resource Officers (SRO's) funded through the Arizona Department of Education School Safety Program with the City of Tucson (COT) and Tucson Police Department (TPD). The purpose of the agreement was to establish a partnership between Amphitheater Unified School District (Amphitheater), Tucson Unified School District (TUSD), and TPD for law enforcement and safety education, drug abuse prevention, juvenile delinquency and crime prevention, investigative and referral services and other education and law enforcement programs. She said there were segments of the IGA that talked about witnessing interviews, by the SRO's, of students and the arrest of students. She said on July 8, 2014, Mayor and Council talked about SRO's and they voted on language that was put forward by her, stating SRO's shall not question students through the high school level regarding their immigration status. She did not see any type of language in the agreements that talked about asking students their immigration status and wanted to see if they could add language to help protect students from being asked that question.

Michael Rankin, City Attorney, stated she was correct. The IGA's with the schools did not include any language with respect to TPD's own General Orders (GO's) to carry out the policy direction from Mayor and Council. The IGA's did reserve the authority within TPD to maintain all of their own authority, supervision and policies and guide lines for their own officers. He said the place for General Orders with direction from the police chief to his officers, in terms of carrying out their duties at the schools, would be imbedded in those General Orders rather than in the IGA with the school.

Council Member Romero asked if there was any reference they could make in the IGA to make it clearer regarding that particular question. She stated she looked at the IGAs and her first thought as she was going through them was the witnessing interviews

and arrests of students and for her that was a flag that went up. She said students and parents did not have the complete confidence of SRO's in the schools because students were being asked about their immigration status. She mentioned Mayor and Council talked about the topic of asking students, witnesses and victims of crime about their immigration status and for her it would be much better to have some indication of it in the IGA.

Mr. Rankin stated all he could do was to point to Article 4, Section 2C of the agreements and he believed each agreement read the same, in which TPD agreed to provide the overall coordination and supervision of officers on the school grounds. TPD retained all legal and regulatory rights of control, supervision, retention and assignment of its personnel, on or off duty, in furtherance of the agreement. What that meant was TPD's own GO's and other directives that were provided to the SRO's and one should be aware with respect to SRO's, in addition to the GO's, TPD police chief promulgated an SRO manual which laid out in detail the day to day responsibilities of the SRO's and that would be the place for implementing the policy direction and orders of the chief.

Council Member Kozachik asked if the language was consistent with the GO's.

Mayor Rothschild stated he believed it was included, but to be slightly more explicit, if it was possible, they could add language consistent with the GO's.

Council Member Romero stated she would be more comfortable when writing the agreements, which were being funded through the Arizona Department of Education, if language concerning the SRO's was more explicit. She said the Mayor and Council should have it clearly written into the agreements with the school districts about students or parents not being asked about their immigration status so parents and students did not have to worry about going to school.

Vice Mayor Cunningham asked why Council could not add that sentence into Section L Number 1 page 7.

Mr. Rankin stated they would have to talk with the schools because the City was not the only party in the agreements, if they were to insert language and make it consistent with the revised GO's regarding the limitation on the questioning of juveniles by SRO's or other officers.

Vice Mayor Cunningham asked if they could pass the IGA pending that sentence being added in that one section.

Council Member Romero asked for the suggested language to be repeated. She suggested that they approve the IGA, with the suggested language changes, and then present it to Amphitheater and TUSD.

Mr. Rankin stated the suggested language would be the questioning of students or other juveniles would be conducted in the manner as pursuant to TPD GO's.

Council Member Romero stated she did not know if she was content with the suggested language because there was still some confusion as to what was approved on July 8, 2014, relating to the GO's. The suggested language would have to say immigration status would not be questioned.

Mr. Rankin stated the GO's were revised consistent with the direction of the Mayor and Council, which was the questioning of juveniles, would not occur without the presence of a parent, legal guardian or attorney.

Council Member Romero said that was in question, because on July 8, 2014, with a very clear directive from the Mayor and Council, in which the language was approved and appeared in the Legal Action Report (LAR) stating TPD officers, including SRO's, would not question students through the high school level regarding their immigration status. The motion was approved 6 to 0 at the Mayor and Council study session meeting. She thought Mayor and Council could bring the item back to study session, but for the purpose of approving the IGA with Amphitheater and TUSD she would feel much safer if the language that had been specifically talked about, saying SRO's would not question students about immigration status, was added.

Mayor Rothschild asked if this contract was also with the Department of Education.

Mr. Rankin stated yes.

Mayor Rothschild stated for his comfort level, he would pass it and come back with the explicit GO's for students in school. He asked Mr. Rankin if he could show Council Member Romero what had been revised. He appreciated what Council Member Romero was asking for, which was something a little different. He suggested they bring that back, but he did not want to hold off getting the SRO's. He said, in the case of the SROS, they were not in schools to make arrests; in fact language was pretty clear in the event the police officer believed arrests were going to occur then they would turn it over to the principal or the school. He said he could not make the motion but would like to move forward with the understanding that they would have continued conversation about the GO's.

Council Member Romero stated she did not agree. She said Mayor and Council needed to make sure to add language that would be clear as they went into future agreements with school districts regarding having potential immigration status questions asked of students at the schools. She said it was a chilling effect for a parent and students as they attended school knowing there might be SRO's that could ask them about their immigration status. She stated it was not proper and she would not vote in support of the item.

Council Member Kozachik asked what the inconsistency was between the GO's and the LAR.

Council Member Romero responded saying the Legal Action Report (LAR) had the motion which was submitted to the City Clerk's Office and it showed on the LAR of July 8, 2014, Study Session, which said Mayor and Council and the City of South Tucson adopted the following provisions in relation to SB1070 enforcement; TPD and SRO's officers shall not question students through the high school level regarding their immigration status. It was motioned and approved 6 to 0 by Mayor and Council. Now, she said she was being told by the legal office that was not what was approved, but she stated the Mayor and Council voted on it, she submitted the motion on it to the City Clerk's Office and the LAR showed what was approved.

Mayor Rothschild asked if there a tape of that session.

Mr. Rankin answered affirmatively.

Mayor Rothschild asked if there was a deadline on the IGA, because they could bump the item for two weeks.

Robert Villasenor, Chief of Police, stated the school year had already begun and if Mayor and Council delayed the item two more weeks with change in the verbiage to the IGA, they would also have to go back to the school districts. He understood the desires of Council, was aware of what was said, and stated he had viewed the video. He said the statements were clear that he explained they could not include "shalt not" statements that required police officers to neglect their lawful duty. They needed to do what the law said, as the Chief of Police; he was obligated by Charter to provide for public safety and had control over the police department. He could not agree to implement an order that required him to violate the law. That type of direction required him to violate the law, and he would not do it.

Council Member Romero asked if he would not follow the Mayor and Council's directive.

Chief Villasenor stated he would not violate the law.

Council Member Romero stated he was not violating the law.

Chief Villasenor stated he believed restricting his officers from doing their job was a violation of the law that was passed and written.

Council Member Romero asked if he chose to ignore the Mayor and Council's directive given to him.

Chief Villasenor restated he would not violate the law.

Mayor Rothschild stated he had a pretty good memory of the meeting and remembered the vote. He asked if Mr. Rankin had had a chance to view the tape with



Council Member Romero, because he was not sure if Council Member Romero had a chance to review the tape.

Council Member Romero stated she had reviewed the tape herself and she was very clear where she accepted the direction given by the Chief with the input of Mr. Rankin. It was with the victim and witnesses and limiting the questioning of victims and witnesses of a crime, where she did not, was with the SRO's because they talked very clearly about this potential scenario and they talked about what TPD officers already had in terms of the GO's, not questioning juveniles. But with SRO's they clearly said this was where she wanted to go with the motion. She said she submitted the motion to the Clerk's Office and that intention was where she wanted to be and she remembered very clearly, and also saw it on the recording, that she agreed with the position and advice of Mr. Rankin.

Mr. Rankin stated he wanted to be careful to whether or not they were still in the scope of the agenda item in terms of what they were talking about. He stated he had reviewed the video of the July 8, 2014, Study Session three times and it was actually broken into several parts. The item began under part one of the video and at the forty four minute mark, Council Member Romero made the motion, with respect to the SRO's, making it clear before the second or any discussion that the motion was asking to carry over language changes that had already been made with respect to officers questioning of juveniles. He said the change they made said only in connection with and in the presence of an attorney, guardian or parent would be imbedded within a GO that was specific to SRO's. Mr. Rankin stated then, Council Member Scott asked what was the prior change made with respect to questioning of juveniles. At that time he explained it was adding the limiting factors that it would only occur with the presence of a parent, guardian or attorney. If the motion as made, was adopted by the Mayor and Council that would be the language that would be carried over to the new GO's in respect with SRO's and that was what the Chief had done with language in connection with a GO specific to SRO's. The Chief also added language to further emphasize exactly what the Mayor and Council brought up earlier, that the SRO's occupied a unique position. He said the Mayor talked about, they were not there for the purpose of immigration enforcement, they were there to be an asset at the schools and in that context to the Chief's language and in the GO's he approved emphasized that not only was the questioning of immigration status of a juvenile not occur except in the presence of a guardian, attorney or parent could not occur and the SRO's shall refrain from making those types of inquires unless it was directly related to an issue in a underlying investigation, as the Mayor pointed that out was almost never going to occur the SRO's.

Mayor Rothschild restated, even then, it could only occur with the presence of a parent, guardian or attorney.

Mr. Rankin stated that was correct.

Council Member Romero said she could not see why they could not add the language to the IGA's. She stated she did not agree with their assessment of what

happened at the meeting, especially, because the LAR had the motion as she presented it. The two IGA's should have at least that type of language. She stated she would not make the motion because she believed they needed to have a conversation, a continued dialog, about the item as Mayor and Council. It was unfair to put her colleagues, without seeing the tape and without verifying what they were both stating, under this type of circumstance. She thought the IGA should either not pass or pass with the language that was much clearer about the immigration status of students.

Mayor Rothschild asked if Council Member Romero would entertain the language that Mr. Rankin stated regarding the understanding that a student could not be questioned at all without parent, guardian or attorney present, and the police were prohibited from asking questions regarding immigration status unless it was a direct criminal investigation and then still with a parent, guardian or attorney present. He said they could come back and take up the issue but he did not want to wait on the IGAs.

Mr. Rankin stated the language would be, when interacting with minors SRO's shall refrain from asking about immigration status except when it may be directly relevant to an investigation and only with the permission or in the presence of a parent, guardian or attorney.

Council Member Romero stated she would not make a motion. She said maybe one of her colleagues could make the motion because she thought it was improper to ask students, especially at the schools, about their immigration status.

Mayor Rothschild asked if any of the Council was prepared to make the motion.

Vice Mayor Cunningham asked if they did not pass the item that evening and came back in two weeks with a couple of changes would they lose out on the program.

Chief Villasenor stated he did not think they would lose out on the program but it would delay the implementation of the program. If the verbiage changed on the IGA they would have to go back to the school districts and get them to agree to it at their next meeting and at that time they would be pretty late in the school year.

Vice Mayor Cunningham stated he had been a safe school PO, which was almost equivalent of an SRO, so he could speak with some prior knowledge, and that was that the SRO and safe school PO relationship with the school faculty was very nuanced and SRO's were in the position to gain intelligence they would otherwise not get for the purpose of an investigation. He thought it was a sensitive item and it was more important it was implicit to the schools as to what their limits were, not just the officers. He wanted to make sure if the IGAs were delayed they were not going to lose out on the program.

Chief Villasenor stated he did not believe they would lose out on the program but they would lose valuable time having the SRO's in the schools establishing relationships and with it already being late in the school year, they would like to get the officers in place to establish those relationships.

Council Member Uhlich stated the program was for safety. She asked if there was a way to be very explicit regarding the purpose of the officers on site. She said their function was more for the safety/health of the students so that would seem to be the priority and also reinforced the point that Council Member Romero was trying to make.

Chief Villasenor stated in the course of the agreement they did talk about the importance of establishing relationships. These officers would serve often times in an educational capacity where they would be teaching, they would be certified to act in the classroom working with the students. But, he said, when it came down to it, they were still police officers and if they witnessed a criminal act, they were required to take action. They were trying to emphasize the importance of those relationships, particularly in issues where parents and students would be worried about immigration status that was not the important aspect of the investigation.

Council Member Uhlich stated unless they were actually watching someone cross the border illegally, they would not be witnessing anything related to immigration.

Chief Villasenor stated what they were trying to do, was to not establish anything that said the officers could not do it, impeding on the full enforcement which the law said they had to do.

Council Member Uhlich stated it was very frustrating because the Council was convinced the chances were equal that someone's rights would be violated through questioning. She knew the officers were well trained and she knew that was not the intent of the department. But, she said, they did hear time and again, of people who were here legally on some kind of visa program, or whatever, who had experienced the flip side. She acknowledged they were subject to law suits anyway, and it was frustrating because they were saying they wanted to error on protecting civil rights of folks here and any questioning could in fact violate those rights. Yet, she said, the legal advice they were getting kind of constrained them from focusing on that legal concern and SB1070 put them squarely in that dilemma. Yes, so they were not supposed to explicitly provide that direction but if they were doing it to protect constitutional rights of people then why not let the City be sued for that and let the City's defense be they believe that the enforcement of SB1070 violates people constitutional rights. She suspected the City could end up in court and that, she thought, was the frustration. She fully believed that the City would prevail in court, if only that challenge was brought and they carried out the law the way they believed it should be carried out and that was towards constitutional rights.

Mr. Rankin stated it was frustrating for the Council, police chief and himself, as well. He said it was not their goal to try to obstruct the Council or their ability to implement policy. At the same time they were trying to maintain not just a defensible position but to carry out a law that had been challenged in court and which this portion of it not been thrown out as they knew other provisions in SB1070 had been thrown out but the provision that they were trying to address here, was not. The language the Chief had approved and they worked on together, which afforded to minors the protection of having

an attorney or guardian present before any questioning of immigration status could be in no circumstance arise to a civil rights violation or constitutional rights violation, they were being afforded at a greater level by virtue of his amendment of his GO's.

Council Member Uhlich asked if a person was documented then they were being subjected to a line of questioning that was invalid, she stated she did not agree and if a family was going through something like that and were here legally, then that was very different. She said she was expressing the frustration of Council Member Romero and she was ready to move this agreement forward. She stated they did need SRO's in the schools, but did not know if it was the right decision or not given the dynamic. She said she believed this item could be moved forward, with the explicit language, by putting an addendum in, stating here was the signed contract with an addendum giving the GO's with that explicit language.

Council Member Uhlich commented they were forgetting what it would be like as a parent to know your child might undergo that line of questioning. A parent would say that they would not come in and be subjected to that line of questioning when their child was waiting in the principal's office. Mayor and Council had to think practically about what it was like to for the parent sending their kids to school and wondering if it was just another net that had been set up in the community to harness people. She thought it was less than ideal. She said she would like for Mr. Rankin to think about how they could assert themselves as a city in saying they got what was on the books and were insuring people's constitutional rights by not following that line of questioning and let the City have that day in court, and by saying that they were ready for that challenge and the City would get a legal team that would win.

It was moved by Council Member Uhlich, dully seconded, to approve the item with the explicit general orders, as read, incorporated.

Council Member Scott stated how she was amazed schools were asking for Police Officers to be onsite. She said what a statement it made and she was absolutely amazed that was where society was today and that it was even a discussion. She said she would support the motion, but it shocked her that police officers who needed to be out in community streets taking care of the other things were being asked to monitor what goes on in schools where children were.

Consent Agenda Item d was passed and adopted and the proper action taken by a roll call vote of 6 to 1 (Council Member Romero dissenting), to include the explicit general orders incorporated in the intergovernmental agreement as follows, when interacting with minors, School Resource Officers shall refrain from asking about immigration status except when it may be directly relevant to an investigation and only with the permission or in the presence of a parent, guardian, or attorney.

## 7. CONSENT AGENDA – ITEMS G

- g. MEMORIAL: URGING THE ADMINISTRATIVE CLOSURE OF ROSA IMELDA ROBLES LORETO'S REMOVAL CASE
  - 1. Report from City Manager SEP23-14-300 CITY WIDE
  - 3. A Memorial relating to Immigration; urging the administrative closure of Rosa Imelda Robles Loreto's removal case.

Mayor Rothschild, announced the final item to be considered separately was Consent Agenda Item g, at the request of Council Member Romero.

Council Member Romero stated this item was placed on the agenda by Mayor Rothschild and she thanked him. She was happy to see that Mayor and Council had an opportunity to discuss the resolution for Rosa Imelda Robles Loreto. She said she supported the memorial and actually worked with many different organizations to improve the situation regarding SB1070 in Arizona and the deportation issues that were happening throughout the Country that were tearing families apart. She put forward, on July 8<sup>th</sup>, 2014, a memorial declaring support for the protection of families and children and calling for action to suspend all deportation of persons with no serious criminal history. She mentioned the Mayor and Council were in support and acted on it, which was the right step forward. She said her office sent many letters of support for Ms. Robles to President Obama, the Assistant of the President, Director of Domestic Policy, Cecilia Munoz and to the Department of Home Land Security Secretary, J. Johnson, unfortunately this was not the only letter she had sent to suspend deportation proceedings.

Council Member Romero stated until immigration reform passed, citizens would continue to see their communities and families torn apart. The Country's broken immigration system and the inhumane effects of SB1070 would continue to discriminate against residents, students, and victims and witnesses of crime by having to answer if they were here legally or not. Back in July the resolution, supported by Mayor and Council, declaring support of protection for families and their children and called for action to suspend deportation of persons with no serious criminal history and urged the federal government to provide appropriate care and shelter for children being processed under federal immigration laws. The resolution the Mayor and Council voted on was an overall blanket to protect families from being torn apart. She said the Robles Loreto family was like so many other families in Tucson and throughout this country. She restated the Federal Government had to stop deportations and tearing apart families and had to consider the contribution of the families, like Rosa's and so many others. She emphasized, so many nameless faces of people being deported and torn apart from their children, their wives and husbands. She fully supported the memorial and wanted to remind those present in support of Rosa that the Mayor and Council had taken the right steps and hopefully would continue to do so.

It was moved by Council Member Romero, duly seconded, and passed by a roll call vote of 7 to 0, that the Memorial urging the administrative closure of Rosa Imelda Robles Loreto's removal case be approved by Mayor and Council.

Mayor Rothschild stated by the 7 to 0 vote, the Mayor and Council of the City of Tucson would be forwarding to the President of the United States, the United States Congress, and the Department of Home Land Security Secretary, the Memorial urging and requesting the administrative closure of Rose Imelda Robles Loreto's removal case.

**8. PUBLIC HEARING: AMENDING (CHAPTER 23B) THE UNIFIED DEVELOPMENT CODE RELATING TO SUBDIVISION PLATS FOR CONDOMINIUMS**

Mayor Rothschild announced City Manager's communication number 299, dated September 23, 2014, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on the proposed text amendments to the Unified Development Code related to subdivision plats for residential or non-residential condominiums. He said the public hearing was scheduled to last for no more than one hour and speakers were limited to five minute presentations.

Mayor Rothschild asked if there were any speakers for this item.

Roger Randolph, City Clerk stated there were none.

Mayor Rothschild asked if there were any speakers in the audience that wished to be heard on the matter, upon hearing none he asked for a motion to close the public hearing.

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

Mayor Rothschild asked the City Clerk to read Ordinance 11200 by number and title only.

Ordinance No. 11200 relating to Planning and Zoning; amending the Unified Development Code, Chapter 23B, Sections 8.4.2, and 11.4.20.; and setting an effective date.

It was moved by Vice Mayor Cunningham, duly seconded, to pass and adoption Ordinance 11200.

Council Member Kozachik told Mr. Mazaco he needed to relate his question to the project of Country Club and Sixth and the student housing project which had evolved to a market rate housing project. He said the ordinance which was being looked at and the change spoke about the review of the location of the buildings and also defined subdivision, requiring a new street and the development of two or more lots. The project approved at Country Club and Sixth Avenue both required a new street, had two or more

lots and talked about the location of the buildings. His question was what would have changed in their ability to resist the initial project that was presented if the new language had been in effect, in terms of the Mayor and Council's ability to review it and end up with the superior project they now had.

Jim Mazzocco, Planning and Development Services Deputy Director, stated he did not believe there would have been any change. He said the change being spoken about was related to a state statute, and the change occurred after they had adopted the City's revised subdivision standards. On a condominium plat, he said developers no longer had to show the vertical elements, and if there were less than four units, they did not have to do a subdivision plat, all that was required was a site plan. So basically it said a subdivision plat needed to be presented, as with regular parcels, when developing a condominium, but vertical elements did not need to be shown and no plat was required with less than four units.

Council Member Kozachik clarified they were losing nothing in the Mayor and Council's review.

Mr. Mazzocco stated that was correct.

Council Member Fimbres asked how the State statute differed from the current City ordinance on the matter.

Mr. Mazzocco stated the big change in the State statute was it was not necessary to provide vertical space in the plat document and the change from the City subdivision standard was that developers were required to do a subdivision plat with less than four units, but that was no longer required because the City was in accordance with state statutes.

Ordinance 11200 was declared passed and adopted by a roll call vote of 7 to 0.

**9. PUBLIC HEARING: AMENDING (CHAPTER 23B) THE UNIFIED DEVELOPMENT CODE RELATING TO INDIVIDUAL PARKING PLAN NOTIFICATION, PARK INDUSTRIAL ZONE USES, AND LIGHT INDUSTRIAL ZONE SHELTER CARE**

Mayor Rothschild announced City Manager's communication number 297, dated September 23, 2014, was received into and part part of the record. He also announced this was the time and place legally advertised for a public hearing on the proposed text amendments to various Unified Development Code regulations. He said the public hearing was scheduled to last for no more than one hour and speakers were limited to five minute presentations.

Mayor Rothschild asked if there was anyone wishing to speak on the item.

There was no one.

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

Mayor Rothschild asked the City Clerk to read Ordinance 11201 by number and title only.

Ordinance No. 11201 relating to Planning and Zoning; amending the Unified Development Code, Chapter 23B, Sections 3.3.3, 3.3.5, 4.8.7, 4.9.7, 6.3.4, and 7.4.5.; and setting an effective date.

It was moved by Council Member Uhlich, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance 11201.

**10. ECONOMIC INITIATIVES: ADOPTION OF THE CITY OF TUCSON COMPREHENSIVE DEVELOPMENT STRATEGY (CEDs)**

Mayor Rothschild announced City Manager's communication number 301, dated September 23, 2014, was received into and made part of the record.

Roger Randolph, City Clerk, stated this item was being continued at the request of staff to the meeting of October 9, 2014.

**11. SETTLEMENT AGREEMENT: WITH MACCO, LLC, D/B/A FORTY NINER COUNTRY CLUB, RELATING TO 2003 AGREEMENT FOR PURCHASE OF CERTAIN ASSETS OF 49ER WATER COMPANY**

Mayor Rothschild announced City Manager's communication number 307, dated September 23, 2014, was received into and made part of the record. He asked the City Clerk to read Resolution 22295 by number and title only.

Resolution No. 22295 relating to Water; authorizing and approving a settlement Agreement between the City of Tucson and MACCO, LLC dba Forty Niner Country Club, relating to the 2003 agreement for the purchase of certain assets of 49er Water Company, Inc.; and declaring an emergency.

It was moved by Council Member Scott, duly seconded, to pass and adopt Resolution 22295.

Vice Mayor Cunningham thanked Mr. Avery, Mr. Biggs and staff for a good job. He said it was a beneficial agreement but he would like to see the 49ers approached regarding a pre-annexation agreement.

Resolution 22295 was declared passed and adopted by a roll call vote of 7 to 0.



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

Mayor Rothschild announced City Manager’s communication number 303, dated September 23, 2014, was received into and made part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member Kozachik, duly seconded and passed by a roll call vote of 7 to 0, to approve the appointments of Steven Walker to the category of the American Legion Post 7, Bruce Hamilton to the category of Tucson Veterans Serving Veterans, and C.W. Hall in category of Disabled American Veterans Chapter #4 to the Veterans’ Affair Committee (VAC), the reappointments of Joyce Morgan and Dennis Regnier to Pima County – City of Tucson Commission on Addiction, Prevention, and Treatment (CAPT).

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

Council Member Fimbres announced his personal appointment, Ezekiel Gebrekidane, to the Board of Adjustment.

**11. ADJOURNMENT: 7:34 p.m.**

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council would be held on Thursday, October 9, 2014, 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 23rd day of September, 2014, and do hereby certify that it is an accurate transcription.

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DEPUTY CITY CLERK

RWR:agj:jr