



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on November 7, 2006

Date of Meeting: October 3, 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 5:39 p.m. on Tuesday, October 3, 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
Shirley C. Scott	Council Member Ward 4
Steve Leal	Vice Mayor, Council Member Ward 5
Nina J. Trasoff	Council Member Ward 6
Robert E. Walkup	Mayor

Staff Members Present:

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

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 Pastor Glen Foster, Pantano Baptist Church, after which the pledge of allegiance was led by Boy Scout Troop 251 and presented by the entire assembly.

Presentations:

- a. Mayor Walkup proclaimed October to be "Disability Awareness Month". Barton Beck, Chair of the Commission on Disability Issues accepted the proclamation.
- b. Mayor Walkup proclaimed the week of October 2 through 8 to be "Financial Planning Week." Rick Kelley, President of the Tucson Chapter of the Financial Planning Association accepted the proclamation.
- c. Mayor Walkup announced Tim Wiedenkiller would sing a song called, "We No Peel Nopal No More."

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 532, dated October 3, 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 Scott expressed how glad she was to be back and thanked everyone who assisted her during that very difficult time. She gave statistics on Ward 4's sixth annual Back to School Bash held in August.
- b. Vice Mayor West announced the League of Women Voters would be at Ward 2 on October 7, 2006 to present the nineteen ballot measures. Ward 2 would host a town hall October 11, 2006 which would involve the water taste test and some presentations on the long range water plan. On October 14, 2006 Ward 2 would be hosting a Rio Nuevo tour and on October 26, 2006 there would be a Senior Women's Conference requiring, both require reservations.

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

Mayor Walkup announced City Manager's communication number 533, dated October 3, 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.

Mike Hein, City Manager, said there were no reports.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 531, dated October 3, 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. Grant Road Mobil, Ward 3
2402 N. 1st Ave.
Applicant: Rodney Scott Herbert
Series 10, City 89-06
Action must be taken by: October 13, 2006
Staff indicated the applicant was in compliance with city requirements.
Public Opinion: Written Arguments Opposed Filed
 Written Argument in Favor Filed

Considered Separately

2. Metro Gas, Ward 2
7889 E. 22nd St.
Applicant: Gurcharan Singh
Series 10, City 90-06
Action must be taken by: October 16, 2006
Staff indicated the applicant was in compliance with city requirements.

Person Transfer

3. Local Dough, Ward 6
1702 E. Speedway
Applicant: Karl Joseph Granrath
Series 07, City 88-06
Action must be taken by: October 13, 2006
Staff indicated the applicant was in compliance with city requirements.

c. Special Event

1. South Tucson Lions, Ward 6
900 S. Randolph Way
Applicant: David F. Gonzales
City T59-06
Date of Event: October 22, 2006
Fundraiser
Staff indicated the applicant was in compliance with city requirements.

2. Southern Arizona Blues Heritage Foundation, Ward 6
900 S. Randolph Way
Applicant: Mark P. Oliver
City T66-06
Date of Event: October 15, 2006
Promote Blues & Heritage Music Within the Community
Staff indicated the applicant was in compliance with city requirements.
 3. Muscular Dystrophy Association, Ward 5
2500 E. Ajo Way
Applicant: John Chris Tompkins
City T75-06
Date of Event: October 6-8, 2006
Raise Funds for MDA
Staff indicated the applicant was in compliance with city requirements.
- d. Agent Change/Acquisition of Control
1. Club Envy, Ward 6
6211 E. Speedway
Applicant: Lawrence Earl Chanenson
Series 06, City AC20-06
Action must be taken by: October 23, 2006
Staff indicated the applicant was in compliance with city requirements.

It was moved by Council Member Trasoff, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b2, 5b3, 5c1 through 5c3 and 5d1 to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

b. New License

1. Grant Road Mobil, Ward 3
2402 N. 1st Ave.
Application: Rodney Scott Herbert
Series 10, City 89-06
Action must be taken by: October 13, 2006
Staff had indicated the applicant was in compliance with city requirements.
Public Opinion: Written Arguments Opposed Filed
 Written Argument in Favor Filed

Kathleen S. Detrick, City Clerk, announced the item to be considered separately was Item 5b1. This was a request for a new license, Grant Road Mobil. Written arguments had been filed regarding this item. The applicant was present, as was one of the protestors. This license was located in Ward 3.

Mayor Walkup recognized Council Member Uhlich.

Council Member Uhlich asked the applicant or representative to come forward.

Thomas R. Aguilera, representing the applicant, asked for a procedural change, and requested to speak after the protestors had commented on the application.

Jane R. Evans told the Council they had seen her there twice before, protesting liquor licenses within the Keeling Neighborhood Association. She commented that within their association boundaries, they had twenty-three liquor licenses. She felt that was an adequate number. At the intersection where Grant Mobil is located, there was another Series 10 license right across the street. There was also Fry's grocery store across the street that sold packaged liquor, and on the same side of the street, just behind the parking lot, there was a CVS Pharmacy that also sold packaged liquor. She felt that spoke to itself and stated they did not need another liquor license at this location, let alone in their neighborhood.

Ms. Evans stated they were a high domestic violence neighborhood in the City of Tucson, and alcohol had been proven to be part of the domestic violence problem. She urged the Council to sincerely think about that when considering the application. She said the burden of proof was on the applicant to prove the convenience needed to be served by the public and challenged anyone in the room to say it would be inconvenient for them to get alcohol within that intersection, if there were already three places they could go to.

Ms. Evans commented that Grant Road Mobil was a gas station. She said she realized, after talking to a lot of younger people, that she happened to come from a generation when gas stations really sold gas and convenience stores were something totally separate. She said that the society had changed that, and believed it was not fair to our society. She urged the Council to take into consideration the problems the neighborhood had, and asked that they deny the liquor license application.

Mr. Aguilera spoke on behalf of the applicant, and said Rodney Herbert was also there to address the concerns raised by the protestor. He added that Ms. Evans articulated the legal standard, and they had the burden of proof. Mr. Aguilera said they had a two-prong test, it was the convenience test or location test, and personal qualifications test. In the case of Grant Road Mobil, the personal qualifications of the applicant were not in dispute, and had not been raised by the protestors. He noted that the applicant had over forty licenses in the State of Arizona. The applicant had operated at the First Avenue location for the last three years without incident and without any violations.

Mr. Aguilera said he saw the Council nodding their heads "yes" in support of many of the comments made by the protestor. He stated that while driving from Craycroft to the Freeway last week, he noticed that there were only two options on the north side of Grant for somebody to take advantage of the convenience of buying gas,

buying groceries, and a six-pack of beer. He was also struck recently by the notion that not more than three years ago, the Council approved a license at that North First Avenue location. He said he started thinking about that, in terms of public convenience, and about the law. It struck him that there was a Statute called 4-201G, which stated that if you were granted a license like this series license, and the next person who tries to apply is unsuccessful for whatever reason, maybe personal qualifications, maybe another reason, that public convenience had been established and therefore that original licensee could have a license there infinitum. He was also struck by the Council's approval of licenses within the mile-radius, most recently the Osco Drug Store.

Mr. Aguilera added that a few months ago Osco contacted him asking if he would represent them in front of the City Council. He told the Council that they did not know how many applicants he did not represent, for reasons that he had been made aware of over the years, not least of which by Council Member Leal. He was cognizant of those issues. So when he started thinking about it, he thought that he would have said "no" to Osco. A Series 9 was a hard sell; it was a much harder sell traditionally than a Series 10. He added the Council knew the reasons why, and he did not have to go into it. That public convenience most recently was again visited when Osco obtained its Series 9. He thought to himself that this was not an additional license. This license had been there for many years, and about three years ago, the Council, with the exception of Council Member Trasoff and Council Member Uhlich, agreed that this was a location that should have a license.

Mr. Aguilera said with that in mind, in knowing the applicant and knowing the strong qualifications of the applicant, he agreed to go for the application and present their case to the Council, and also be there to be able to answer questions or concerns raised by the protestor. He noted that the Keeling Neighborhood Association, an active neighborhood association, was one that they reached out to the day they filed the application. The neighborhood association had not filed protests in this case. He said it might seem like they had, because their President had submitted a letter of protest to the Council. She did so on her personal behalf. She mentioned her affiliation with Keeling, but Keeling had not filed protests. He stated that Mountain/First Neighborhood Association had filed protests, and noted that they were not in attendance. The Keeling Neighborhood Association was right in the area of the one most affected. They were not in attendance and they did not file protests in this case.

Mr. Aguilera stated they did reach out to the neighborhood associations early on. They reached out to Council Member Uhlich's staff and invited all the people interested. Recently, Council Member Uhlich's office facilitated such a meeting and they were able to enjoy a surprise visit of Michael Rankin, City Attorney, and another City Attorney. They also had the chance to meet with the protestor who was present at the Mayor and Council Meeting, and also with Pat Martin, who was no stranger to the Council. She was there to speak to the neighborhood association on behalf of his client. Mr. Aguilera said he had known Ms. Martin of the Twenty-Ninth Street Coalition, for many years; and for her to drive down and do that spoke volumes to him. He wanted the Council to know

that she was at the meeting in support of the applicant, because of the respect she had earned.

Mr. Aguilera stated he had written many notes, because he had the tendency to ramble. He knew the Council wanted him to move quickly. He said he would look at the notes and try not to be redundant about what Mr. Herbert was going to say. He said that Mr. Herbert was not going to talk to the Council about the law. The law was convenience. That was what they were there about. He said they did not get a lot of guidance from case law, but there was a case that gave them a few things to consider – the extent and the number of licenses in the area. That was a valid concern. The extent and demand in the area had been proven lately by the issuance of Osco and some of the other licenses. He noted that the Grant Road Mobil license had been there for as many years as it had, and it was running successfully. He said Mr. Herbert would talk about how sales had dropped since the interim permit was taken.

Council Member Uhlich asked Mr. Aguilera to highlight his key points and then they would have Mr. Herbert comment.

Mr. Aguilera said he wanted the Council to know that Mr. Herbert would address the issues associated with convenience, how he ran his business, and that there was something in the law that notes that this license could not be a mere incidental to his business. He said it was not, it was an integral part, and they were going to talk about that. Mr. Aguilera said he had already addressed the issues about the different licenses and the number of licenses in the area. There were less than nine Series 10's in the mile radius, and this was not a case where they were looking at a bar or a Series 9 license. He said they were looking at a place where somebody could come in and purchase gas and buy beer. He referred to some pictures he had, and said they did have the use of the cards about the underage, stating they were compliant with all the licensing issues. The training had been done extensively and was not at issue.

Rod Herbert, Chief Financial Officer for Reays Ranch Investors, said he would take less time than his attorney would. He added that Mr. Aguilera covered most of the points that he wanted to bring to the Council's attention, and he wanted to reiterate a couple of things. He said it was important to them to apply for the license three years later. That was because of two main incidences or situations that were in front of them at the time of the previous application that were brought to his attention by Council Members and by the Tucson Police Department. The Tucson Police Department incident was resolved within a day of that application three years ago, the day after the Council met. The other problem was that they were told by a Council Member that because he did not appear with the Council Member ahead of time and invite the homeowners associations to meet with him, that they were going to seek denial, as they did not think it was very prudent of an operator.

Mr. Herbert stated they operate approximately forty convenient stores throughout the state, currently. They have all the liquor training that was required by the State and City. They had very qualified supervisors and managers overseeing their operations.

The problem with the homeowners, as Mr. Aguilera pointed out, they made a call to them first this time and met in the Council Member's office this past Friday. Mr. Herbert said all he got out of that meeting was that it did not matter what they say they want to do. They were going to fight him. He was there to offer to see what he could do as an operator to meet their needs, but was told that it did not matter what he did. Their application would be turned down.

Mr. Herbert told the Council that they had operated the business with an interim permit for three years. Five weeks ago their license was pulled because the interim permit was over. Since that time, they have had a twenty-three percent decrease in sales at that store. They have had an eleven-percent decrease in the number of gallons sold at their store. All the other stores they operate had a combined eight-percent increase over last year. Mr. Herbert pleaded with the Council to understand that this was a very integral part of that operation and said it was extremely important that they be able to sell alcohol at that location. Their location was previously approved. He invited the Council to visit the location and said the Council would see that yes, there was a CVS Pharmacy, there was a Fry's, but they would have to cross five lanes of traffic to go to the Fry's or CVS Pharmacy. He reiterated that they were a convenience store. Customers can pull in and within two minutes be in the store, buy what they want, fill up with gas, and they can leave. Customers can not do that at Fry's or CVS Pharmacy. That was the name of their game, convenience. Mr. Aguilera said he would be happy to answer any questions.

Council Member Uhlich allowed Vice Mayor West to say a few words.

Vice Mayor West told the applicant that they had gas stations come before the Council all the time, and it was always the same thing – the convenience of the customer, and they drive away with maybe an open bottle. She said she wondered why she had to go to one place to get her brakes taken care of, another place to get an oil change, another place to get gasoline, and asked why she could not do all that at his gas station and then their business would be viable. Vice Mayor West said a lot of them thought that convenience would be served if they would go back to customer service again by servicing their cars, rather than selling beer. She referred to a good friend who did that at the corner of Craycroft and Speedway. She said he did not sell any junk food, and she had to call ahead to get an appointment if she wants to have her car taken care of. That business was busier than they want to be. She urged other gas stations to follow suit.

Council Member Uhlich said she reviewed the materials and acknowledged the time and energy spent on behalf of the applicant. She knew the meeting held at her office was an investment of time and energy. She also acknowledged that she heard Grant Road Mobil had contributed to various neighborhood events. She knew the applicant was making an effort to participate in the community and said she certainly appreciated that. She stated, as was noted, that it was not the responsibility of the neighborhood associations to demonstrate against the applicant. It was really for the applicant to demonstrate that it would truly not only show that public convenience required the license, but also that the best interest of the community would be substantially served. It was a high threshold. She hears the argument about moving east along Grant, but did not

believe the inconvenience of making a left hand turn outweighed the interest of trying to reduce domestic violence in the area and other critical community concerns.

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

6. CALL TO THE AUDIENCE

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

- a. Joan Reilly spoke about the Dorado Country Club development project and rezoning and asked the Mayor and Council to recognize their need to revitalize their neighborhood and to authorize this rezoning request.
- b. Russ Dove thanked the Council and Council Member Uhlich for hosting the Town Hall on the Cox Cable negotiations and requested that the Mayor and Council not let Cox Cable negotiate away the public access channels.
- c. Michael Toney spoke about the upcoming election and ballot measures and also the Memorandum of Understanding regarding the University of Arizona Science Center.

7. CONSENT AGENDA – ITEMS A THROUGH B

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

A. FINANCE: COMMUNITY SUPPORT FUND TRANSFER FOR VIVA ARIZONA

1. Report from City Manager OCT3-06-537 WARD 3
2. Resolution No. 20466 relating to Finance; approving and authorizing the allocation of four hundred dollars (\$400) from the Community Support Fund, Account No. 001-183-1898-268, to VIVA Arizona to assist in covering costs for the VIVA Arizona Christmas event; and declaring an emergency.

This was a request by Council Member Uhlich. Allocation of funds was as follows: Council Member Uhlich - \$400.00

B. INTERGOVERNMENTAL AGREEMENT: WITH THE INTEGRATED LAW AND JUSTICE AGENCY OF ORANGE COUNTY, CALIFORNIA FOR SHARING OF LAW ENFORCEMENT INFORMATION

1. Report from City Manager OCT3-06-530 CITY-WIDE
2. Resolution No. 20465 relating to police; approving and authorizing execution of an Intergovernmental Agreement between the City of Tucson and the Integrated Law and Justice Agency of Orange County, California for Sharing Law Enforcement Information; and declaring an emergency.

It was moved by Council Member Ibarra, duly seconded, that Consent Agenda Items A and B, 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, Uhlich, Scott, Leal and Trasoff;
Vice Mayor West and Mayor Walkup

Nay: None

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

8. **PUBLIC HEARING: GROVES NEIGHBORHOOD PLAN AMENDMENT TO ALLOW PARKING IN AN AREA DESIGNATED FOR RESIDENTIAL USE**

Mayor Walkup announced City Manager's communication number 529, dated October 3, 2006, would be received into and made a part of the record. He also announced this was a time and place legally advertised for a public hearing on amending the *Groves Neighborhood Plan*. Mayor Walkup asked if the applicant or representative was present and if they wished to make any brief comments before the public hearing.

Don Laidlaw, Laidlaw Consulting announced he had no comments other than to concur with the staff report, however Mr. Michael Lyman, president of the Groves Lincoln Park Neighborhood Association was there to address the Council.

Michael Lyman, president of the Groves Lincoln Park Neighborhood Association stated they had put a lot of hours into this project and had canvassed the neighborhood very thoroughly. AFNI said if they could not get more parking, they would move the location. They had a lot of people in the neighborhood that walk to work and were employed from all areas of the neighborhood. AFNI at one time was an old shopping center, a Fry's and Thrifty's that attracted the homeless, gangs and crime. They were

very fortunate to bring in AFNI and Info NXX. They came to an agreement with Mr. Lopez and Mr. Laidlaw on the type of parking and landscaping that would be there. One of the biggest concerns discussed at neighborhood meetings was what could be done about the high school students in the alley, smoking dope, having sex, fighting, starting fires, and speeding cars through the alley. When Mr. Laidlaw called him and made his intentions known, Mr. Lyman knew they had the answer. They next thing he knew they were grading and he thought they had permits. Kids do not hang out there anymore and there were no more speeding cars. They made an agreement with AFNI, to put signs on the walls to keep employees from throwing trash over the fence and from blasting their stereos. So far it is working. The parking lot was a big asset to the neighborhood and hoped that Mayor and Council would issue the permits.

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

Michael Toney stated he attended the Planning Commission's hearing and they took a very good look at this item and the various perspectives. He said he would support the Planning Commission's recommendation and not the staff recommendation.

Merff Lyman, secretary of the Groves Lincoln Park Neighborhood Association, stated that in addition to what Mr. Lyman said, they spent many hours in meetings with not only Mr. Lopez, but with the administration staff from Santa Rita High School. They had been in on this joint venture for the entire time. She stated that at the Planning Commission meeting, if someone desired to speak on behalf of the Neighborhood Association, it would be nice if they came out and met with the Neighborhood Association, viewed the site, was in concert with what went on at that time and made an appropriate recommendation on their behalf. This agreement had been welcomed by the neighbors, the school, as well as the businesses, and they would like to see the item go forth.

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

Mayor Walkup asked the City Clerk to read Resolution 20467 by number and title only.

Resolution No. 20467 relating to planning and zoning; amending the *Groves Neighborhood Plan* Land Use Map to allow parking in the area located on the approximate 2.2-acre narrow, elongated site on the western side of Pantano Road, south of Escalante Road; and declaring an emergency.

It was moved by Council Member Scott, duly seconded, to pass and adopt Resolution 20467.

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, Uhlich, Scott, Leal and Trasoff;
Vice Mayor West and Mayor Walkup

Nay: None

Resolution 20467 was declared passed and adopted by a roll call vote of 7 to 0.

9. ZONING: (C9-06-17) WASHINGTON FEDERAL SAVINGS – BROADWAY BOULEVARD, R-3 TO C-1, CITY MANAGER’S REPORT

Mayor Walkup announced City Manager’s communication number 535, dated October 3, 2006 would be received into and made a part of the record. He also announced this was a request to rezone property located at the southeast corner of Broadway Boulevard and Niven Avenue. Mayor Walkup asked if the applicant or representative was present.

Don Laidlaw, Laidlaw Consulting, representing the applicant announced he had no presentation to make, except to say that they agreed with the zoning conditions.

Council Member Trasoff complimented Mr. Laidlaw and neighbors for working together on the eight requests of the developer.

It was moved by Council Member Trasoff, duly seconded, and carried by a voice vote of 7 to 0, to authorize the request for rezoning as recommended by the Zoning Examiner.

10. ZONING: (C9-06-21) DORADO COUNTRY CLUB – SPEEDWAY BOULEVARD, RX-2, O-3, AND C-1 TO RX-2 AND OCR-1, CITY MANAGER’S REPORT

Mayor Walkup announced City Manager’s communication number 536, dated October 3, 2006 would be received into and made a part of the record. He also announced this was a request to rezone property located at the north side of Speedway Boulevard and east of Wilmot Road. Mayor Walkup asked if the applicant or representative was present.

Mike Marks, MGM Consulting, representing NCH Corporation announced they were agreeable to all of the rezoning conditions that were recommended. They were also very pleased to have the recommendation of the Zoning Examiner, support of staff and the support of a very substantial number of people within the Dorado Country Club, individuals, as well as the master association. He said they had a number of those individuals present and asked for them to standup and show their support.

Vice Mayor West thanked the Dorado Country Club people for coming tonight and said she knew it was a fair distance to drive to show their support. They had received one hundred five letters in support of the project, and only thirty-five against. It was because people have worked so hard to reach a majority in the neighborhood that this had taken place and she thanked them. She said there was one thing that she would like to read into the record, because it was a concern to the surrounding property owners. "To provide further assurance to the surrounding neighbors that the building height would not be increased from a maximum of forty feet with public input. Any change in building height would require an approval by the Mayor and Council in accordance with the Zoning Examiner legislative procedure, which includes a public hearing before the Zoning Examiner and a decision by the Mayor and Council." She asked Mr. Marks if he was agreeable to that condition.

Mr. Marks responded that they were.

Vice Mayor West said that she would not belabor it any further. She was glad to know that the tree would be out of the tennis court, that the pool would be gone, that the golf course greens would be improved and that Rose Hill wash would once again become an amenity.

It was moved by Vice Mayor West, duly seconded, and carried by a voice vote of 7 to 0, to approve the request for rezoning as recommended by the Zoning Examiner.

11. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 534, dated October 3, 2006 would be received into and made a part of the record. He asked if there were any personal appointments to be made.

There were no appointments.

Vice Mayor West announced that she was invited to speak to the Citizens Transportation Advisory Committee (CTAC) last night and they did not have a quorum. She said she understood that they needed a couple of new members. She asked if there were people that needed to make appointments to CTAC, if they would please do it, so that they could have a quorum. It was hard for people to go and sit there and then not have a quorum and have to leave.

12. ZONING: (SE-06-23) HOME DEPOT – OLD VAIL ROAD C-1 AND I-2, SPECIAL EXCEPTION LAND USE, CITY MANAGER'S REPORT AND ORDINANCE ADOPTION

Mayor Walkup announced City Manager's communication number 538, dated October 3, 2006 would be received into and made a part of the record. He also announced this item was a special exception land use request for property located at the

southwest corner of Houghton and Old Vail Road. Mayor Walkup asked if the applicant or representative was present and if they were agreeable to the proposed conditions.

Thomas Sayler-Brown, Sayler-Brown Bolduc Lara Architects, announced the applicant agreed to all of the conditions. He said they were very appreciative of the effort that Council Member Scott's Office gave them. He asked if Carolyn Campbell could have the opportunity to come up and say a few words.

Carolyn Campbell, representing the Coalition for Sonoran Desert Protection, announced they got into the process fairly late, because they were made aware of the fact that a natural wash was not being recognized as such on this property. She said hopefully the work that she was doing with the City Council on some guidelines for protection for all the washes, all the proposed ERZ washes and any other washes that would be mapped. It had been a really great experience being able to work with Bourn Partners because of what they were developing on the site now in terms of site wash mitigation, being able to recreate the wash system, connect it back into the Julian Wash system and also creating a model in terms of water harvesting. She said she had the commitment from Bourn Partners to continue working on this project. Unfortunately, they might be creating an attractive nuisance there and she was working with the Audubon Society on what might be able to occur on site. She certainly did not want to create such a model where it was okay not to protect washes in their natural state. She said she was committed to continue to work on this project and working with the City on wash protection.

Mayor requested the Walkup City Clerk read Ordinance 10327 by number and title only.

Ordinance No. 10327 relating to zoning; a special exception land use change of zoning – large scale retail establishment – Home Depot – Old Vail Road; approving with conditions the construction of a 137,627 square foot home improvement retail center (Home Depot) in the I-2 and C-1 zones – Case SE-06-23; and setting an effective date.

Kathleen S. Detrick, City Clerk, announced a clerical correction on Ordinance 10327, on page one, section one. A phrase was left out which deleted an exhibit to the Ordinance, which was a map. She said the fifth line of section one presently read, "Old Vail Road requests in Case SE-06-23 is approved subject to the conditions." She stated what it should say was, "Old Vail Road requested in Case SE-06-23 as shown on the attached map marked Ordinance 10327," then continues on, "approved subject to conditions."

It was moved by Council Member Scott, duly seconded, to approve the request as presented and pass and adopt Ordinance 10327 with the corrections.

Council Member Uhlich said she applauded the Ward 4 Office and staff, Bourn Partners, Ms. Campbell and the other stakeholders who came together. She said that she knew at the last minute concerns were raised, which did come through the committee that she chairs, and they could have really created some horrible problems. She said they

handled it beautifully and really with a collaborative spirit and she appreciated that and that they have come to some good resolution. She said that this was not the first time she had seen Bourn Partners sort of rally at the last minute to bring things together nicely and she appreciated that very much.

Council Member Trasoff announced she was very impressed with this, it set a model for how they needed to work together as a community when there were problems. Instead of fighting, they came together, talked and figured out a resolution. She said it spoke well for the new Sustainability Department that was able to work with the different sides and bring everybody together, so that they came to a decision that was going to benefit both the public interest, private interest, and environmental interest, and that was important.

Mayor Walkup asked for a roll call vote.

Upon roll call, the results were:

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

Nay: None

Ordinance 10327, as corrected was declared passed and adopted by a roll call vote of 7 to 0.

13. ADJOURNMENT: 6:51p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, October 10, 2006, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 3rd day of October 2006, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:rg/cdj