



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on May 5, 2020.

Date of Meeting: October 10, 2019

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:38 p.m., on Thursday, October 10, 2019, 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
Paul Cunningham
Paul Durham
Shirley C. Scott
Richard G. Fimbres
Steve Kozachik
Jonathan Rothschild

Council Member Ward 1
Council Member Ward 2
Council Member Ward 3
Vice Mayor, Council Member Ward 4
Council Member Ward 5
Council Member Ward 6
Mayor

Absent/Excused:

None

Staff Members Present:

Michael J. Ortega
Michael Rankin
Roger W. Randolph

City Manager
City Attorney
City Clerk

2. INVOCATION AND PLEDGE OF ALLEGIANCE AND APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

a. INVOCATION

The invocation was given by Rabbi Helen Cohn, Congregation M'kor Hayim.

b. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was presented by the entire assembly.

c. PRESENTATIONS:

1. Mayor Rothschild proclaimed October 20 through October 26, 2019 to be "National Friends of Libraries Week." Representatives from Friends of the Pima County Public Library accepted the proclamation.
2. Mayor Rothschild proclaimed October to be "Dysautonomia Awareness Month." Emily Rich accepted the proclamation.
3. Vice Mayor Scott presented Certificates of Appreciation to the many supporters and volunteers of the 19th Annual Ward 4, "Back to School Bash."

d. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Rothschild announced City Manager's communication number 327, dated October 10, 2019, 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 Cunningham, duly seconded, and carried by a voice vote of 7 to 0, to approve the appointment(s) of Paolo DeLorenzo to the Barrio Historico Historic Zone Advisory Board (BHHZAB), Mark Taylor to the Citizens' Water Advisory Committee (CWAC), and Nicole Lowery to the Self Insurance Trust Fund Board of Trustees (TRUST).

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

Council Member Fimbres announced his personal appointment of Peter Norback to the Complete Streets Coordinating Council (CSCC).

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Rothschild announced City Manager's communication number 328, dated October 10, 2019, 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 Vice Mayor Scott, Council Members Romero, Cunningham, and Fimbres.

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 329, dated October 10, 2019, was received into and made part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events and asked for that report.

No report was given.

5. LIQUOR LICENSE APPLICATIONS

Mayor Rothschild announced City Manager's communication number 330, dated October 10, 2019, 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. International Brands & Beverages, Ward 3
2525 N. Tucson Blvd. #0234
Applicant: Andrea Dahlman Lewkowitz
Series 4, City 55-19
Action must be taken by: October 5, 2019

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

2. Serial Grillers, Ward 6
5975 E. Speedway Blvd.
Applicant: Travis Harley Miller
Series 12, City 57-19
Action must be taken by: October 14, 2019

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

3. Fresh Pho Sushi NT Restaurant, Ward 2
7159 E. Broadway Blvd.
Applicant: Trac Le
Series 12, City 59-19
Action must be taken by: October 18, 2019

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

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

Person/Location Transfer(s)

4. Bojangles Night Club, Ward 5
5244 S. Nogales Hwy
Applicant: Marisa Meza
Series 6, City 56-19
Action must be taken by: October 12, 2019

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

NOTE: State law provides that for a person and location transfer Mayor and Council may consider both the applicant's capability qualifications reliability and location issues. (A.R.S. Section 4-203; R19-1-102)

Location Transfer(s)

5. Frys Food & Drug #17, Ward 5
4150 E. 22nd St.
Applicant: Jeffrey Craig Miller
Series 9, City 60-19
Action must be taken by: October 21, 2019

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

6. Frys Food & Drug #21, Ward 3
555 E. Grant Rd.
Applicant: Jeffrey Craig Miller
Series 9, City 61-19
Action must be taken by: October 21, 2019

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. Dusk Charities LLC, Ward 6
220 S. 5th Ave.
Applicant: Page W. Repp
City T91-19
Date of Event: November 9, 2019 - November 10, 2019
(Dusk Music Festival)

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

2. Tucson Celtic Festival Association, Ward 3
4502 N. 1st Ave.
Applicant: Erin Renee Haugen
City T92-19
Date of Event: November 1, 2019 - November 3, 2019
(Fundraiser)

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

3. St. Cyril of Alexandria Catholic Parish, Ward 6
4725 E. Pima St.
Applicant: Enriques Varela-Nungaray
City T97-19
Date of Event: November 15, 2019 - November 16, 2019
(School Fundraiser)

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

4. Museum of Contemporary Art Tucson, Ward 6
265 S. Church Ave.
Applicant: Elizabeth Courtney Johnson
City T105-19
Date of Event: October 25, 2019
(Fall Fundraiser)

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

5. University of Arizona Alumni Association, Ward 6
1303 E. University Blvd.
Applicant: Melinda Burke
City T107-19
Date of Event: October 31, 2019
(Alumni of the Year Awards Ceremony)

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

6. University of Arizona Alumni Association, Ward 6
1303 E. University Blvd.
Applicant: Melinda Burke
City T108-19
Date of Event: November 1, 2019
(1969 Class Reunion Reception)

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

7. University of Arizona Alumni Association, Ward 6
1303 E. University Blvd.
Applicant: Melinda Burke
City T109-19
Date of Event: November 2, 2019
(2019 Homecoming)

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

8. Tucson Veterans Serving Veterans, Ward 6
900 S. Randolph Way
Applicant: Bruce Hamilton
City T111-19
Date of Event: November 10, 2019
(Hats off to Heroes)

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

9. Saints Peter & Paul Roman Catholic Parish - Tucson, Ward 6
1436 N. Campbell Ave.
Applicant: Patrick M. Crino
City T112-19
Date of Event: October 26, 2019
(School Fundraiser)

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

10. Arizona Craft Brewers Foundation, Ward 6
503 E. 9th St.
Applicant: Robert James Fullmer
City T114-19
Date of Event: November 1, 2019
(Panel Talk about Grain)

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

11. Living Streets Alliance, Ward 5
5201 S. 12th Ave.
Applicant: Kylie M. Walzak
City T115-19
Date of Event: October 27, 2019
(Cyclovia)

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

12. Fox Theatre Foundation, Ward 1
115 N. Church Ave.
Applicant: David Anthony Volk
City T116-19
Date of Event: October 20, 2019
(Fox Theatre "Chasing Rainbows" Gala)

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

13. Make Way for Books, Ward 6
3330 E. Speedway Blvd.
Applicant: Allyson Jennifer Baehr
City T120-19
Date of Event: October 19, 2019
(Bookman's Midtown Midnight Madness Celebration & Sale)

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

d. Agent Change/Acquisition of Control/Restructure

NOTE: There are no application(s) for agent changes scheduled for this meeting.

It was moved by Council Member Durham, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b1 through 5b6 and 5c1 through 5c13 to the Arizona State Liquor Board with a recommendation for approval.

6. CALL TO THE AUDIENCE

Mayor Rothschild announced this was the time that 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:

Rocque Perez
Josh Campbell
Maria Voris

Cara Bissell
Bryan Robert
Micah Blatt

Caraleen Lopshire
Mike Humphrey
Brent Davis

Council Member Romero requested that Scott Clark, Planning and Development Services Department Director, look into Ms. Voris' concerns.

Council Member Kozachik said he was going to bring up the Flexible Lot Development (FLD) process during the Study Session earlier that day when referring to the energy. There was a comment in the material handed out that solar was not mentioned in the FLD process. He said it was mentioned and not part of the criteria. He referred to what Maria Voris said as a real-time and contentious conversation because the development project was under review and design, and not just academic discussions about what needed to be done in the future. The FLD was a way to develop infill subdivisions and not drop kick the conversations Ms. Voris mentioned or ignore the mitigation measures intended to be used as a catalyst to incentivize the infill. They had to preserve the same kinds of privacy mitigations and setbacks that were intended to be built into it. If there were unintended consequences built into the existing law, they needed to bring some level of compliance when the plan reviewers looked at what was being proposed, including the current Mountain View project, and not simply say it was a mistake and be fixed next time with the next neighborhoods.

Council Member Kozachik agreed with Mr. Blatt's interpretation that a church was a word of art and should refer to it as a place of worship. He reminded him that the previous weekend there was another incident at the Islamic Center of Tucson (ICT). There was also an eviction process in place where another incident occurred, and someone tossed bottles out of a tower. He said Mr. Blatt may continue referring back to a May email exchange, but he would not physically go and measure the distance between his business and the place of worship across the street.

Council Member Romero asked the City Attorney, if the previous exchange was allowed to happen.

Mike Rankin, City Attorney, said the Open Meeting Law allowed a council member to respond to direct criticism but confirmed Council Member Romero's comments the exchange had been concluded with Council Member Kozachik's response.

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 K**

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 OCT10-19-331 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of December 18, 2018
3. Mayor and Council Study Session Minutes of December 18, 2018

b. **MAYOR AND COUNCIL: MEETING SCHEDULE FOR 2020**

1. Report from City Manager OCT10-19-332 CITY WIDE
2. Ordinance No. 11690 relating to Administration; establishing the Mayor and Council's 2020 meeting schedule; and declaring an emergency.

c. **INTERGOVERNMENTAL AGREEMENT: WITH ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION ("AHCCCS") FOR FEDERAL MATCHING FUNDS FOR THE ACCESS TO PROFESSIONAL SERVICES INITIATIVE AT TUCSON MEDICAL CENTER**

1. Report from City Manager OCT10-19-333 CITY WIDE
2. Resolution No. 23106 relating to Intergovernmental Agreements (IGA); approving an IGA between Arizona Health Care Cost Containment System Administration (AHCCCS) and the City of Tucson (City) to allow the City to provide funding to secure federal matching funds for Access to Professional Services Initiative Program (APSI) at Tucson Medical Center (TMC); and declaring an emergency.

d. **TUCSON CODE: AMENDING (CHAPTER 20) RELATING TO SPEED LIMITS; REPEALING ORDINANCES 11678, 11679, 11222, 11223, 11224 AND 11225**

1. Report from City Manager OCT10-19-334 CITY WIDE
2. Ordinance No. 11692 relating to Motor Vehicles and Traffic; repealing Ordinance No. 11678 adopted September 4, 2019; designating current streets or parts of streets where thirty miles per hour speed limit is imposed, pursuant to Chapter 20, Article V, Section 20-140 of the Tucson Code; and declaring an emergency.

3. Ordinance No. 11693 relating to Motor Vehicles and Traffic; repealing Ordinance No. 11679 adopted September 4, 2019; designating current streets or parts of streets where thirty-five miles per hour speed limit is imposed, pursuant to Chapter 20, Article V, Section 20-141 of the Tucson Code; and declaring an emergency.
 4. Ordinance No. 11694 relating to Motor Vehicles and Traffic; repealing Ordinance No. 11222 adopted December 9, 2014; designating current streets or parts of streets where forty miles per hour speed limit is imposed, pursuant to Chapter 20, Article V, Section 20-142 of the Tucson Code; and declaring an emergency.
 5. Ordinance No. 11695 relating to Motor Vehicles and Traffic; repealing Ordinance No. 11223 adopted December 9, 2014; designating current streets or parts of streets where forty-five miles per hour speed limit is imposed, pursuant to Chapter 20, Article V, Section 20-143 of the Tucson Code; and declaring an emergency.
 6. Ordinance No. 11696 relating to Motor Vehicles and Traffic; repealing Ordinance No. 11224 adopted December 9, 2014; designating current streets or parts of streets where fifty miles per hour speed limit is imposed, pursuant to Chapter 20, Article V, Section 20-144 of the Tucson Code; and declaring an emergency.
 7. Ordinance No. 11697 relating to Motor Vehicles and Traffic; repealing Ordinance No. 11225 adopted December 9, 2014; designating current streets or parts of streets where fifty-five miles per hour speed limit is imposed, pursuant to Chapter 20, Article V, Section 20-145 of the Tucson Code; and declaring an emergency.
- e. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH KAITLIN ALYSSA FARMER, OWNER OF PARCEL 205-63-0970, FOR WATER SERVICE
1. Report from City Manager OCT10-19-335 WARD 4 AND OUTSIDE CITY
 2. Resolution No. 23101 relating to Pre-Annexation and Development Agreements; authorizing and approving the execution of a Pre-Annexation and Development Agreement between the City of Tucson and Kaitlin Alyssa Farmer, owner of Parcel 205-63-0970
- f. FINAL PLAT: (S19-003) BIO-LIFE PLASMA SERVICES CENTER, BLOCK 1
1. Report from City Manager OCT10-19-336 WARD 4

2. Staff recommends that the Mayor and Council approve the 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. FINAL PLAT: (S18-053) VALENCIA CROSSING, NEIGHBORHOODS 3 AND 4, LOTS 1 THROUGH 162, AND COMMON AREAS "A-1" THROUGH "A-8", AND "B-1"
1. Report from City Manager OCT10-19-337 WARD 5
 2. Staff recommends that the Mayor and Council approve the 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.
- h. AGREEMENT: WITH THE UNITED STATES GEOLOGICAL SURVEY FOR AQUIFER-STORAGE MONITORING AT THE SANTA CRUZ RIVER HERITAGE PROJECT
1. Report from City Manager OCT10-19-338 WARDS 1, 3, 5 AND 6
 2. Resolution No. 23103 relating to Water; authorizing a Joint Funding Agreement between the U.S. Geological Survey and Tucson Water for Water Resource Investigations to monitor aquifer storage at the Santa Cruz River Heritage Project; and declaring an emergency.
- i. REAL PROPERTY: APPROVING A LEASE AGREEMENT AMENDMENT WITH THE TUCSON CHILDREN'S MUSEUM FOR THE HISTORIC CARNEGIE LIBRARY PARCEL
1. Report from City Manager OCT10-19-339 WARD 6
 2. Resolution No. 23102 relating to Real Property; authorizing and approving the First Amendment to the Lease Agreement dated September 1, 1998, between the City of Tucson ("City") and the Tucson Children's Museum ("TCM") for the historic Carnegie Library parcel ("Property"); and declaring and emergency.
- j. INTERGOVERNMENTAL AGREEMENT: WITH THE TOWN OF ORO VALLEY FOR PROCUREMENT AND CONTRACTING SERVICES
1. Report from City Manager OCT10-19-342 CITY WIDE
 2. Resolution No. 23105 relating to Intergovernmental Agreements; approving and authorizing an Intergovernmental Agreement between the City of Tucson and the Town of Oro Valley for procurement/contracting services; and declaring an emergency.

k. REAL PROPERTY: TERMINATION OF LEASE AGREEMENT, AND SALE OF CITY-OWNED PROPERTY LOCATED AT 465 WEST ST. MARY'S ROAD

1. Report from City Manager OCT10-19-343 WARD 1
2. Ordinance No. 11699 relating to Real Property; authorizing and approving a Lease Termination Agreement with the Tucson Metropolitan Chamber of Commerce for the real property located at 465 West St. Mary's Road and authorizing the sale thereof to Venture UTD 465, LLC; and declaring an emergency.

(Note: Council Member Kozachik departed at 6:41 p.m.)

It was moved by Vice Mayor Scott, duly seconded, and passed by a roll call vote of 6 to 0 (Council Member Kozachik absent/excused), that Consent Agenda Items a - k be approved and/or adopted and the proper action taken.

8. **ZONING: (C9-18-09) SHK FUTURE DEVELOPMENT – BROADWAY BOULEVARD, R-3 TO C-1, ORDINANCE ADOPTION**

Mayor Rothschild announced City Manager's communication number 340, dated October 10, 2019, was received into and made part of the record. He asked the City Clerk to read Ordinance 11698 by number and title only.

(Note: Council Member Kozachik returned at 6:42 p.m.)

Ordinance No. 11698 relating to Zoning: amending zoning district boundaries in the area of 5765 East Broadway Boulevard, approximately 1,850 feet east of North Craycroft Road in Case C9-18-09, R-3 to C-1; and setting an effective date.

It was moved by Council Member Kozachik, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance 11698.

9. **ZONING: (SE-19-17) AT&T - LITTLETOWN ROAD, R-1 ZONE, WIRELESS COMMUNICATION FACILITY, SPECIAL EXCEPTION LAND USE, ORDINANCE ADOPTION**

Mayor Rothschild announced City Manager's communication number 341, dated October 10, 2019, was received into and made part of the record. He also announced this was a special exception land use request for property located north of Littletown Road, east of Craycroft Road and south of the Julian Wash. He said staff recommended approval of the wireless communications tower as a special exception land use in the R-1 zone, and adoption of the ordinance which established conditions for approval. He said the Zoning Examiner recommended approval of the special exception request subject to the recommended conditions.

Mayor Rothschild asked if the applicant or representative was present and agreeable to the proposed requirements.

Steve Olson, representing AT&T, affirmed they were agreeable to the proposed requirements.

Mayor Rothschild asked the City Clerk to read Ordinance 11691 by number and title only.

Ordinance No. 11691 relating to Zoning; a special exception land use - wireless communications facility - SE-19-17 AT&T - Littletown Road - located approximately 600 feet north of Littletown Road, 100 feet east of Craycroft Road, and just south of the Julian Wash; approving with conditions the construction of a wireless communication facility with three antenna panels concealed with a monoelm, 100 feet in height, within an approximately 2,500 square-foot lease area in the R-1 zone; and setting an effective date.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 7 to 0, to approve the request as recommended by the Zoning Examiner and pass and adopt Ordinance 11691.

10. HOUSING AND COMMUNITY DEVELOPMENT: APPROVING THE AFFORDABLE HOUSING IMPACT FEE WAIVER SUBSIDY FOR ESPERANZA EN ESCALANTE PHASE II

Mayor Rothschild announced City Manager's communication number 320, dated October 10, 2019, was received into and made part of the record. He asked the City Clerk to read Resolution 23094 by number and title only.

Resolution No. 23094 relating to Housing and Community Development; approving the waiver of certain impact fees - pursuant to the Affordable Housing Impact Fee Subsidy Program - for the Esperanza en Escalante Phase II 50-unit affordable housing project, located on Calle Polar approximately one-third mile south-southeast of the intersection of Wilmot and Stella Roads; and setting an effective date.

It was moved by Vice Mayor Scott, duly seconded, and passed by a roll call vote of 7 to 0, to adopt Resolution 23094.

11. DEVELOPMENT AGREEMENT: WITH PEACH PROPERTIES HM, INC. FOR THE RONSTADT TRANSIT CENTER PROJECT

Mayor Rothschild announced City Manager's communication number 344, dated October 10, 2019, was received into and made part of the record. He asked the City Clerk to read Resolution 23104 by number and title only.

Resolution No. 23104 relating to Real Property; authorizing and approving the execution of a Joint Development Agreement with Peach Properties HM, Inc., relating to the Ronstadt Transit Center joint development project; and declaring an emergency.

Council Member Kozachik said this was a step in the process that had been going on for several years. He stated they still had a construction agreement, CC&R's and development agreements still to come and it was the opportunity to send it to the Federal Transit Administration (FTA) for approval and to finalize the project with them before it came back to the Mayor and Council. He said there were references to an extension to the Depot Plaza Garage and third-party funding, but there was no reference to it in any of the design concepts and asked for clarification as to why it was included in the materials presented.

Mike Rankin, City Attorney, responded it was listed as a placeholder. He said it was not a required or contemplated part of the project, but there were thoughts the project could be enhanced with an extension of one level down of the existing garage. He said no funding had been identified and stated the placeholders in the agreement were included, in the event third-party funding could be identified and the extension could be included in the project.

Council Member Kozachik asked about the referenced traffic plan and if it would be clarified during the construction agreement phases.

Mr. Rankin confirmed and continued to state the agreement was a Maintenance of Traffic (MOT) Plan which would have to be City approved in connection with the construction plan and with the construction of the temporary and permanent transit facilities. The idea of traffic flow would be maintained. The MOT would allow for the full operational functionality of the transit piece.

Council Member Kozachik verified it would be submitted to the FTA as indicator that it was on the agenda, not necessarily to finalize the conversations.

Mr. Rankin agreed and stated it was also an indicator of what still needed to be done.

Council Member Kozachik asked whether Mayor and Council approval would be required to adopt the CC&R's.

Mr. Rankin stated it was up to the Mayor and Council. He said under the Joint Development Agreement (JDA), most of the approvals were left to the authority of the manager, but the CC&R's would be an important set of documents because it was a joint development (JDA). If the Mayor and Council anticipated the manager and attorney to return for direction and approval of the CC&R's, they would do so.

Council Member Kozachik asked when the conversation would happen.

Mr. Rankin responded the CC&R's would be developed shortly before closing but after FTA approval and preliminary designs of the temporary transit center. However, the work had already begun, in order to have a well-thought out set of CC&R's for the Mayor and Council to consider well in advance of the timeline contemplated in the agreement.

Council Member Kozachik went on to say the City would not receive capital rent if Peach Properties retained over fifty percent ownership. He expressed concern there were numerous opportunities for Peach Properties retaining majority ownership and avoiding any capital rent. He stated he would like it to remain fluid conversations and he would also like to ensure the revenue stream was sufficient in capturing any maintenance obligations going forward on the replacement facility.

Mr. Rankin stated there would be instances where capital rent would not apply in a number of circumstances, such as a condominium lease or sale. There were also provisions in the JDA about the developer's ability to transfer it all, which was subject to City approval, and it would necessitate ongoing conversations as the project was developed.

Council Member Kozachik stated going from the effective date to the construction documents within twelve months seemed aggressive and questioned the feasibility of the timeline.

Keri Silvyn, Lazarus, Silvyn & Bangs, P. C., recommended that the Mayor and Council leave the timeframes, but build in flexibility into the agreement, and re-evaluate and modify the dates after the FTA's approval of the construction agreements, once they had a better sense of what things looked like.

Council Member Kozachik asked if those flexibilities existed once approved by the FTA.

Mr. Rankin stated there were opportunities to clean up the documents, including the Table of Contents, before sending it to the FTA without having to go back to the Mayor and Council for approval again. He recommended the following:

- keep the dates referenced to in the schedule, but add language that indicated the dates were subject to modification by the parties through the Construction Agreement;
- add similar verbiage to the Concept Plan;
- specify the Escrow Period would run until the time of completion and the City acceptance of the replacement facilities;
- indicate that "Holidays" included any City-observed holidays; specify what was meant by "Nominal Rent";
- include in either the Joint Development Agreement or the Conditions, Covenants and Restrictions (CC&R's) that any commercial development would pay into the Business Improvement District;

- include the City would not release any final payments from the Escrow Account until the City accepted the completion of all “punch list” items;
- modify the Deed of Trust so it no longer reflects Maricopa County; and
- the City’s Transportation Department ensured a wide array of Transit products would be available from vending machines.

Council Member Kozachik asked why the City would pay development fees with the money received from the developer to purchase the property.

Mr. Rankin responded they would pay for the property acquired and monies would go into an escrow account, which would pay for eligible costs for the construction of the public improvements only. He said it would include the City’s replacement facilities; temporary transit; permanent transit; the public plaza and the marketplace. As part of that, the developer would lead the development. The City would provide the initial description of the minimum requirements for the transit elements. The developer would be responsible for carrying out the design and construction specifications and in part they would be eligible for development fees; the caps of which and what the fees applied to, would be determined by the City.

Council Member Kozachik clarified the utility relocations relating to the transit functions, were eligible for reimbursement but those related to private developments were not going to bleed off the sale price.

Mr. Rankin confirmed it was correct as outlined in the definitional sections, which outlined what would be eligible for construction off-sets and it was clear it was only for the public pieces.

Council Member Kozachik asked whether the escrow period should be forty-two months, as opposed to thirty months, which gave credit for both the twelve months of design and thirty months of construction.

Mr. Rankin stated the idea was the forty-two months from the effective date, which would be the date of the FTA approval, until the permanent transit center had to be done. The escrow period would only run from the closing on the sale, when the escrow opens, through that forty-two-month period. The closing on the sale was not likely to occur until twelve months after the effective date, because closing would not occur until the design of the temporary center was approved, which meant that the forty-two months only pertained if every step lined up perfectly. He suggested it be captured more cleanly in the final revisions that the escrow period run until the time of completion and City acceptance of the replacement facilities. He said that way the escrow period was for the entire period.

Council Member Kozachik stated there were specific existing contracts for things, such as concessions and maintenance and they need to ensure those existing contracts were not extended to encroach onto those needed once the City took occupancy of the space.

Mr. Rankin confirmed, and stated it was a good reminder for projects with this much lead-time.

Council Member Kozachik stated under the definition of business days, Cesar Chavez day needed to be captured, as the document does not reference City observed holidays.

Mr. Rankin concurred and stated it would be generically amended to read: “any City observed holidays”, to encompass any future changes.

Council Member Kozachik asked why the City would pay rent on the property and whether there was a cap or conversation about what rent may look like.

Mr. Rankin stated it was identified as part of the agreement and the developers would be responsible for construction of the office spaces and would lease it back to the City for a long-term, ninety-nine year or is it nine year ??lease at nominal rent.

Mayor Rothschild asked if nominal was spelled out in the agreement.

Mr. Rankin stated it was not spelled out but agreed that nominal was relatively well understood.

Council Member Kozachik stated he would like to see commitments of where any commercial developments would pay into the BID and asked if the developer would be agreeable to that.

Ms. Silvyn affirmed they were agreeable to that.

Mr. Rankin followed up saying it could be memorialized in the CC&R’s so that it carried forward.

Council Member Kozachik stated they needed a date and time for completion of the “punch list” items on the replacement facility and asked if that was in the construction agreements.

Mr. Rankin confirmed it was in the construction agreements, which specified final payment would not be released out of the escrow account until the accepted final “punch list” items were completed.

Council Member Kozachik stated in the permanent center the vending machines for ticket products, those vending machines should include a wide array of product offerings, as opposed to merely a day pass. He asked if that was an issue between the City and the vendors.

Mr. Rankin responded it was something the Transportation Department would resolve.

Council Member Romero said the project to develop the Ronstadt Transit Center (RTC) had been ongoing since the Fall of 2014. She stated former Council Member Uhlich played an extensive role in bringing together stakeholders that represented communities in the City in having conversations about what they wanted to accomplish with the redevelopments of that space. The direction the Mayor and Council gave at that time was to ensure they would not lose the transit services they provided at the RTC. She asked where the project was in the legal process and at what point would stakeholders and community members be able to participate further in the discussions.

Mr. Rankin responded the goals and concepts described were embedded in the agreements and carried forward throughout. He stated it was what the FTA would review, in including the replacement and enhancement of transit, connectivity and multi-modal aspects. Those goals were also captured in the recitals and the requirements, as well, within the exhibits. He continued saying the developer was required to engage in ongoing public outreach, including during key phases of the concept plan, development and approvals. The City did not include specifics about what groups had to be included, but they made it clear the developer had to be prepared to provide presentations to engage with stakeholders. There would be engagement and outreach throughout the development of the CC&R's and construction agreements.

Council Member Romero stated she wanted to ensure conversations with the developer about the affordability of the proposed three hundred to four hundred residential rental units if the plan was approved.

Mr. Rankin stated the JDA did not require affordability to be included, but as the project moved forward there were other development incentives that could be connected with it.

Council Member Romero asked for clarification around the timing of conversations concerning the Government Property Lease Tax (GPLET) from a legal standpoint. She wanted to know if they approved the project, would discussions with the developer regarding GPLET and community outreach continue or if those conversations needed to happen before approval. She expressed concern over the developer believing they would be getting a GPLET incentive without having a conversation with the community about what the return on investment would be for the City and its residents.

Mr. Rankin confirmed discussions would continue and invited Ms. Silvyn to comment.

Ms. Silvyn stated economic incentives had not been identified but GPLET was on the table, and requirements of which were understood. She pointed out that Peach Properties had spent time with Dean Art ??for the last few months, as well as the Transit Task Force. It was done in coordination with the City of Tucson when it was time to give updates. The commitment to community process and to understanding what needed to be done in requesting economic incentives were not lost on the developers.

Council Member Romero wanted to ensure that as the Mayor and Council they had the capacity to be able to have discussions on how to proceed and avoid confusion for neighborhood partners and stakeholders. She asked if the developer considered a more transit-oriented development, such as universal transit passes, as opposed to one with just additional parking spaces.

Ms. Silvyn stated there was a provision in the JDA that spoke about parking reductions which tied it to transit-oriented developments.

Council Member Romero asked if the City of Tucson would have jurisdiction over the procurement process as a city project.

Mr. Rankin confirmed the City's procurement requirements would apply throughout the process.

Council Member Romero clarified federal requirements would be met to remain in compliance since it was a federally funded piece of land.

Mr. Rankin stated they were complying and would continue to communicate with the FTA to remain in compliance going forward. The agreement would not become effective until after FTA approval.

Council Member Romero asked if there were plans for forming communication, participation and outreach.


Mr. Rankin stated there was no formalized outreach plans, but the developers showed willingness to do anything asked of them. As the process moved forward and if there were specific groups the Mayor and Council wanted to reach out to, they could let them know.

Ron Schwabe, Peach Properties, stated there were continuous meetings with stakeholders over the years and they would continue to do so throughout the process. He also added they were committed to twenty-percent affordable housing. Their first residential project would be a 221(d)(4) Housing Urban Development (HUD) project. They were willing to submit any communications requested from them.

It was moved by Council Member Kozachik, duly seconded and passed by a roll call vote of 7 to 0, to pass and adopt Resolution 23104, including edits recommended by the City Attorney.

12. **ADJOURNMENT:** 7:22 p.m.

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, October 22, 2019, 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 10th day of October 2019, and do hereby certify that it is an accurate transcription.



DEPUTY CITY CLERK

RWR:sb:des:aaa:ds