



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
On May 6, 2008

Date of Meeting: November 27, 2007

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 5:47 p.m. on Tuesday, November 27, 2007, 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	Vice Mayor, Council Member Ward 4
Steve Leal	Council Member Ward 5
Nina J. Trasoff	Council Member Ward 6
Robert E. Walkup	Mayor

Absent/ Excused:	None
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Staff Members Present:

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

2. INVOCATION AND PLEDGE OF ALLEGIANCE

(Note: The Invocation and Pledge of Allegiance were taken out of order and conducted at the Public Housing Authority meeting, which was held at 5:33 p.m.)

Presentations:

- a. Mayor Walkup presented a copper plaque to Richard Wiedhoph for being an Extraordinary Citizen of Tucson.
- b. Vice Mayor Scott presented a U.S. Digital Cities Survey award to Ann Strine, Information Technology Director, on whose behalf it was received. Tucson placed number three in the Survey. Vice Mayor Scott also presented an award to the Mayor and Council, and Fred Grey, Director of Parks and Recreation, naming Tucson as a “Playful City.” She then presented a plaque stating Tucson had been a member of the National League of Cities for fifty years to the Mayor and Council.
- c. Mayor Walkup presented a trophy to Vice Mayor Scott as one of five finalists for Women in Municipal Government Leadership.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager’s communication number 636 dated November 27, 2007, was received into and made a part of the record. He also announced this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

- a. Council Member West read aloud a letter from Pat Kilburn, Republican representative on the Logic and Accuracy Testing Group, who oversaw the City elections, congratulating the City Clerk’s staff for their professionalism while conducting the election.

Council Member West also thanked the Mayor and Council and City Staff for all their efforts throughout her term and said she enjoyed working with everyone. She wished them all the best in the future and said she would be a regular at Call to the Audience.

- b. Council Member Trasoff announced that on November 29, 2007, the Ward 6 office would hold a Grant Road community conversation. There would be a brief presentation on the Grant Road improvement plan followed by a facilitated discussion about the future plans for Grant Road.

Council Member Trasoff also announced that on December 1, 2007, there would be a celebration for the opening of the new Dog Park at Reid Park. The park was named "Miko's Corner Playground," in honor of Tucson Police Department (TPD) dog Miko, who had died from injuries sustained in the line of duty.

- c. Council Member Uhlich announced that on December 1, 2007, the Ward 3 office would hold an Open House co-hosted by the Watershed Management Group. The event would include the new rainwater harvesting garden installed at the Ward 3 office. There would also be educational materials and a tour of the facility including the water harvesting project and a slide show presentation.
- d. Mayor Walkup thanked Council Member Ibarra for his twelve years of service and Council Member West for her eight years of service and said that the City was a much better place for all of their efforts.

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

Mayor Walkup announced City Manager's communication number 637, dated November 27, 2007, was 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, reported that on November 17, 2007, the Tucson Police Department (TPD) was re-accredited by the Commission on Accreditation for Law Enforcement Agencies (CALEA), which marked the City's second re-accreditation. The TPD received re-accreditation for the CALEA standards, specifically Chief of Police Richard Miranda and members of the Departments Accreditation staff. The staff traveled to Colorado Springs, Colorado to accept the CALEA Re-Accreditation. The CALEA Accreditation was further proof of TPD's commitment to serve the citizens of Tucson with professionalism and integrity.

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

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 633, dated November 27, 2007, would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

- b. Liquor License Applications

New License(s)

1. Gas City Family Pantry #620, Ward 4
7335 S. Houghton
Applicant: Martha Veronica Bersano
Series 10, City 83-07
Action must be taken by: December 14, 2007
Staff has indicated the applicant is in compliance with city requirements.

c. Special Event(s)

1. Order of AHEPA, Chapter #275, Ward 3
1145 E. Ft. Lowell Rd.
Applicant: James C. Ruboyianes
City T99-07
Date of Event: December 9, 2007
(Fundraising)
Staff has indicated the applicant is in compliance with city requirements.

d. Agent Change/Acquisition of Control

NOTE: There were no agent changes scheduled for this meeting.

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

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. Ron McLoughlin spoke about the celebration of Thanksgiving and the history of the indigenous peoples of the Americas.
- b. Jose Gutierrez said he was an active member of Border Action, and he spoke about human rights and immigration issues. He requested respect and protection for immigrants' families looking for opportunities for betterment of life.
- c. Leopoldo Alcántara, an active member of Border Action and promoter of human rights, said he thought all humankind had been an immigrant from someplace else. It was not easy to leave so much behind and then to suffer hunger, cold, heat, assault and even death in order to achieve the dream of a better life.

- d. Mary Rameriz, a Tucson Water employee, spoke about the recently offered retirement incentives contained in a Memorandum dated November 21, 2007. She was now unable to take advantage of the incentives offered for the end-of service program despite having paid into this program for twenty-five years.
- e. Glenn Webber, a Tucson Water employee, also shared his concerns regarding the atrocity of the retirement incentives as contained in the November 21, 2007 memo, which now excluded any active City employees who had started their end-of-year service program. His concerns centered around being excluded from the current incentives being offered only to those who were still actively paying into the Tucson Supplemental Retirement System (TSRS).

Council Member Uhlich asked Mike Letcher, Deputy City Manager, to look into what the cutoff time was for employees. She also asked that Cindy Bezaury, Director of Human Resources and Jim Cameron, Director of Finance, to look into the issue.

- f. Michael Toney spoke about cameras being installed downtown. He also spoke about tax incremental financing funding.
- g. Reverend Bishop Chicago said respect should be given to the native people who were in this country first. The indigenous people were robbed of the best land. He suggested making Tucson a sanctuary city where all nationalities could be brought together.
- h. Roger S. Tamietti, Tucson Fire Fighters, Local 479, reported the outcome of the Chili Cook off. The amount of \$52,500 was raised for charity to be used in the community during the holiday season.
- i. Joe Sweeney spoke about illegal immigration and the problems it caused.

7. CONSENT AGENDA – ITEMS A THROUGH J

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

- A. ASSURANCE AGREEMENT: (S04-051) GRACIOUS ESTATES SUBDIVISION (RCP), LOTS 1 TO 30
 - 1. Report from City Manager NOV27-07-635 WARD 1
 - 2. Resolution No. 20831 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S04-051 of a Final Plat for the Gracious Estates Subdivision, Lots 1-30; and declaring an emergency.

- B. FINAL PLAT: (S04-051) GRACIOUS ESTATES SUBDIVISION (RCP), LOTS 1 TO 30
1. Report from City Manager NOV27-07-639 WARD 1
 2. Staff recommends that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- C. ASSURANCE AGREEMENT: (S06-083) OASIS - HARRISON SUBDIVISION (RCP), LOTS 1 TO 32, AND BLOCK A AND COMMON AREAS "A-1", "B-1" TO "B-4", "C-1" AND "D-1" TO "D-2"
1. Report from City Manager NOV27-07-640 WARD 2
 2. Resolution No. 20832 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S06-083 of a Final Plat for Oasis – Harrison an RCP Subdivision, Lots 1-32, Block A and Common Areas "A-1", "B-1" thru "B-4", "C-1" and "D-1" thru "D-2"; and declaring an emergency.
- D. FINAL PLAT: (S06-083) OASIS - HARRISON SUBDIVISION (RCP), LOTS 1 TO 32, AND BLOCK A AND COMMON AREAS "A-1", "B-1" TO "B-4", "C-1" AND "D-1" TO "D-2"
1. Report from City Manager NOV27-07-641 WARD 2
 2. Staff recommends that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- E. INDUSTRIAL DEVELOPMENT: AUTHORIZATION FOR THE ISSUANCE OF TUCSON INDUSTRIAL DEVELOPMENT AUTHORITY JOINT SINGLE FAMILY MORTGAGE REVENUE BONDS
1. Report from City Manager NOV27-07-646 CITY-WIDE

2. Resolution No. 20833 relating to finance; a resolution of the Mayor and Council of the City of Tucson, Arizona, approving the proceedings of The Industrial Development Authority of the City of Tucson, Arizona and the Joint Single Family Mortgage Revenue Bond Program of 2008A of The Industrial Development Authority of the City of Tucson, Arizona and The Industrial Development Authority of the County of Pima; approving Standards and Requirements related thereto; approving a General Plan related thereto; approving Program Documents; and authorizing and approving the issuance of not to exceed \$30,000,000 The Industrial Development Authority of the City of Tucson, Arizona and The Industrial Development Authority of the County of Pima Joint Single Family Mortgage Revenue Bonds, Series 2008A in one or more series or issues; and declaring an emergency.

F. FINANCE: LOAN AGREEMENT WITH THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA TO FINANCE A PORTION OF THE WATER SYSTEM CAPITAL PROGRAM

1. Report from City Manager NOV27-07-645 CITY-WIDE
2. Ordinance No. 10476 relating to finance; authorizing the City of Tucson to borrow up to \$17,800,000 from the Water Infrastructure Finance Authority of Arizona; authorizing the execution and delivery of a Loan Agreement setting forth the terms of such loan and providing for the repayment thereof; pledging the Net Revenues of the City's Water System to the repayment thereof; and declaring an emergency.

G. CITY OF TUCSON EMPLOYEES: PROVIDING RETIREMENT INCENTIVES FOR TUCSON SUPPLEMENTAL RETIREMENT SYSTEM MEMBERS

1. Report from City Manager NOV27-07-647 CITY-WIDE
2. Ordinance No. 10482 relating to retirement incentives; adopting an ordinance providing retirement incentives for contributing employee members of the Tucson Supplemental Retirement System; and declaring an emergency.

Kathleen S. Detrick, City Clerk, announced the City Attorney had a correction to read into the record.

Michael Rankin, City Attorney, said there was additional language added to Section 2 of Ordinance 10482 to read as follows:

“Employees must elect one of the forgoing payment options at least ninety days prior to separation from service notwithstanding the foregoing employees who are unable to make the election due to separation from service prior to February 27, 2008, shall begin receiving the sick leave incentive pay out in the year the employee retires and separates from service with the city.”

H. TUCSON CODE: AMENDING (CHAPTER 22) CITY OF TUCSON EMPLOYEES’ SUPPLEMENTAL RETIREMENT SYSTEM REGARDING THE CITY’S RETIREMENT ORDINANCE

1. Report from City Manager NOV27-07-648 CITY-WIDE
2. Ordinance No. 10483 relating to Pensions, Retirement and Group Insurance; amending the Tucson Code Chapter 22, Pensions, Retirement, Group Insurance, Leave Benefits and Other Insurance Benefits, Article III, Tucson Supplemental Retirement System, Division 2, Administration of the System by amending Section 22-53 End of Service Incentive, Section 22-51 End of Service Program, Section 22-50 Early Retirement Option; adding a new Section 22-55 Purchase of Permissive Service Credits; reserving Sections 22-56 through 22-77; establishing an effective date; and declaring an emergency.

I. FINANCE: COMMUNITY SUPPORT FUND TRANSFER FOR THE LAST ALARM FOUNDATION, INC.

1. Report from City Manager NOV27-07-653(2) WARD 1
2. Resolution No. 20834 relating to Finance; approving and authorizing the allocation of Two Thousand One Dollars (\$2001) from Ward 1 Community Support Fund, Account No. 001-183-1898-268, to Last Alarm Foundation, Inc. for rebuilding of the 1954 L Model Mack Sedan Fire Truck; and declaring an emergency.

This is a request by Council Member Ibarra. Allocation of funds is as follows: Council Member Ibarra - \$2001.00

J. FINANCE: COMMUNITY SUPPORT FUND TRANSFER FOR CASA PALOMA DROP-IN CENTER

1. Report from City Manager NOV27-07-652(2) WARD 1

2. Resolution No. 20835 relating to Finance; approving and authorizing the allocation of Five Hundred Dollars (\$500) from Ward 1 Community Support Fund, Account No. 001-183-1898-268, to Casa Paloma Drop-In Center for installation of a grey water system; and declaring an emergency.

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

It was moved by Council Member Trasoff, duly seconded, that Consent Agenda Items A through J, with the amendment to Item G, be passed and adopted and the proper action taken.

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

Upon roll call, the results were:

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

Nay: None

Consent Agenda items A through J, with the amendment to Item G, were declared passed and adopted by a roll call vote of 7 to 0.

8. PUBLIC HEARING: AMENDING TUCSON CODE (CHAPTER 3) ADOPTING A REVISED SIGN CODE, CITY MANAGER'S REPORT

Mayor Walkup announced City Manager's communication number 642, dated November 27, 2007, was received into and made a part of the record. He announced this was the time and place legally advertised for a public hearing on the Sign Code. He said the public hearing was scheduled to last no more than one hour and speakers would be limited to five-minute presentations. He asked for speakers to come forward when their names were called, to state their name and address, and whether they lived in the city or not.

Michael Rankin, City Attorney, announced changes to the Sign Code so that speakers would be aware of the changes before addressing the Council. He stated during the past week a series of comments, from both community advocates as well as a letter from representatives of outdoor advertising industry had been received. Based on those comments, corrections were identified to the Sign Code, which were read into the record as follows:

“Section 351, relating to generally permitted signs, strike what was currently in the proposed Subsection (b), relating to electronic message centers, and amend to a reserved Section.

Section 353, prohibited signs enumerated, correct a cross-reference to read ‘no person shall erect, alter, or relocate any sign of the type specified in this Section or of the types specified in Sections 354 and 355.’

Section 3-104, which in the proposed ordinance reads ‘prohibited signs’, strike the entire Section and list as a reserved Section as it is a duplicative of an earlier Section. Two other cross-references to correct Section 3-142, Authority in Subsection A, the first phrase corrects the cross-reference to ‘this Section 3-142 instead of 3-126’. And Section 3-145, Vacancies, another corrected cross-reference would be changed from Section 3-129 to accurately read Section 3-144(a).”

Evelyn Rick, with Munger, Chadwick PLC, was a speaker retained on behalf of Clear Channel Outdoor, Inc. She said she was sorry to stand there today. She was at the June 26, 2007 and July 10, 2007, public hearing on the Sign Code. Clear Channel had, at that time, submitted some written comments objecting to certain changes in the code that they felt would affect the rights of owners of existing signs. At that June 26, 2007, meeting, the Mayor and Council brought a motion and vote in which they directed staff to reformat the Sign Code and to bring it back with no substantive changes, including those that had been objected to. In the meantime there were a number of meetings with the Development Services Department (DSD) and staff. Ms. Rick said she attended several of those meetings and reiterated their same objections again several times and was not successful in getting those changes that they had objected to removed from the Sign Code.

Ms. Rick said that now staff had resubmitted a new proposed Sign Code to Mayor and Council that had been changed recently. They had submitted a short set of renewed comments and a new comment on some new changes that she said she believed the Mayor and Council received this morning.

Ms. Rick said there was a Supplement to that with more detail explaining why there were objections to those sections and she wanted to submit it for the public record. Although the bullet points were included, there were no new items, just more explanation. The staff had come up with the new Sign Code. They received a notice of this public hearing stating there were substantive changes to the Sign Code; it did not explain what they were. It just said that there were substantive changes. The notice listed the titles of the articles in the new Sign Code without explaining what was in the new Sign Code. The Arizona law stated that it was not sufficient notice of a public hearing when the Sign Code was changed, which needed to follow the zoning procedures.

Ms. Rick stated in the Committee’s opinion this public hearing had not been legally noticed and the Council could take no legal action on this Sign Code. Ms. Rick reiterated the comments and objections made back in June 2007. There were a few things

that the Committee commented on in June 2007 that staff changed. She said Mr. Rankin just read some of them into the record, so there was a recent change that had just happened. There were some new versions that had been produced just within the last couple of weeks without giving them the required fifteen-day notice as well. There was a change in this Code that was new and allowed the sign code enforcers to come and do a summary abatement and remove existing signs in the City. Billboards, or any type of sign, would not just be removed without notice, without a hearing, without an opportunity to cure and without any proper right to appeal. There was a provision that allowed the City to come through and remove discontinued signs which the sign code administrator felt had been discontinued, whether or not the sign owner intended that based on the sign code administrator criteria. Basically it was not in accordance with law.

Ms. Rick stated there was a change to the definition of what a non-conforming sign was. There were two definitions that conflicted with each other. They also conflicted with the *Land Use Code* and Arizona law and made it more restrictive. There was a replacement to the vacant lot provision for billboards that had been made unenforceable which imposed new restrictions to replace those which they believed were unenforceable under the law. There was a new change that came in just in the last two weeks where sections had been removed concerning the right of appeal from administrative decisions. So she again objected to those and urged the Mayor and Council not to act on the Sign Code now, but it was not ready to go. The reformatting had not been done. It needed to be returned to staff to have those changes taken out.

Dan Brocious of the Smithsonian Astrophysical Observatory said he wrote to Mayor and Council in June 2007 when this matter came up. The members of the Observatory expressed their concern about it at that time. He said that the Southern Arizona's astronomy industry was negatively effected by artificial light in the night sky. At that time, the Observatory thought the revisions in the Sign Code might allow wider use and placement of electronic signs without any regulation as to the light output of those signs. They worried that might open the door to even larger and brighter LED signs such as the casino sign on I-19. At that time, the Observatory was also concerned that the Sign Code cites the Outdoor Lighting Code as the ruling regulation for sign lighting. In June 2007, the Tucson Pima County Outdoor Lighting Code Committee had not heard of these changes and reviewed them. In the meantime, they tried to get some of their questions answered and found it somewhat difficult. He thanked Holly Lachowicz of Council Member Uhlich's office for seeing that their questions were answered and eventually putting them in touch with the City Attorney's office, who replied to some of their questions as well.

Mr. Brocious said that as the language now stood, as he understood it, there was nothing that currently was a problem for the astronomy community. The Observatory found participation in this process very difficult, in trying to find out what the current document was, what the changes were, what they meant, and whether they were substantive or not. This was not his first attempt to do this, yet he found it difficult to stay on top of this process. As this process proceeded, if there were substantive changes in future, they would like to be able to participate and it might be made easier for the

community in general to do so. In terms of these electronic signs, they might be regulated in the future with an eye to light trespass affecting neighbors and light trespass and glare affecting motorists and, in the end, to protect dark skies for the astronomy industry in Southern Arizona.

John Munger, of Munger, Chadwick PLC, said he was the retained counsel for Clear Channel. He said he would reserve his comments for later if there were any comments to be made.

Jude Cook, owner and operator of Cook & Co. Signmakers, said he was prepared to support this Sign Code a week ago. There were issues just raised, which made him a little concerned. He did not understand what was just read out a few minutes ago; it went by too fast. He said he thought the basic formatting had been fine and did not see any additional new signs allowed. He did not think there were any larger things. He could not in good faith endorse what he just heard about. If it passed, he would live with it; he had lived with it for twenty-four years here. It was a confusing thing, and he thought what Mayor and Council were trying to do was good. He did not understand what just happened. He wanted to say "go for it", but he was not sure he was behind Mayor and Council.

Mark Mayer, a resident of Tucson, said it had been a long five months since the reformatted Sign Code first came before the Mayor and Council in a public hearing on June 26, 2007. Many in the community from various sectors raised the issue that this was a big entire code change, but there were a lot of substantive issues within it; virtually all of which weakened the Code and provided for more and larger signs. With Mayor and Council's good graces, direction was given and there was a unanimous vote to separate out those changes and consider them at a later time. Since that time, this had been a difficult and arduous journey for the last five months and there had been a lot of difficulty with it. The Code before Mayor and Council complied with their direction from June 26, 2007, and did remove the substantive changes with the amendment provided by the City Attorney, namely the deletion of Section 351(b). They were just going back to the current language and Code on the electronic signs. Addressing this issue was part of the substantive process, so Mayor and Council were urged to proceed and get this multi-year process of reformatting the code behind everyone, with that amendment. Mr. Mayer said he looked forward to working on the substantive issues as far as the Code went. He said moving and looking forward, there was a great amount of concern in the community about the unequal access and participation in this process of the various neighborhood, environmental, social service, dark skies and other community based interests that had been heard a number of times.

Mr. Mayer said the people who spoke at the public hearing all spoke in terms of supporting strict sign controls or alternatively not to weaken the Sign Code. He heard that groups would be notified. For the most part, that had not happened at any point along the process. He said in particular, there was a draft code posted on the City web site on September 26, 2007. He did not know of anybody who was notified of that, including the Citizen Sign Code Committee, other than himself who received a courtesy

email from the City Attorney's office. If they fast-forwarded into the last week, Development Services Department sent out an email to a list it had maintained to two thousand recipients in the entire community. The recipients were composed largely of those who were in the construction and development industry and who had a lot of interface with Development Services. There were forty people that either appeared at the public hearing in favor of not weakening the Sign Code or sent emails to the entire Mayor and Council or letters on behalf of their organizations. Of those forty, virtually none had received any kind of notification, in particular, there were only six out of forty on this list for a meeting held last Monday, November 19, 2007.

Mr. Mayer stated people were very concerned in the community that these processes be balanced. The term, stakeholders, which the number of Mayor and Council had inquired about in past meetings, was the fact that the community interests were stakeholders in this as well. Not just the users or regulated industries, but all of the people in the community who were working to make their neighborhoods, streets and skies and other aspects so important to this community, a better place. As the issue moved forward, he urged Mayor and Council to pay a lot of attention to this to make sure there was a balanced process where the community voices were heard and recognized and notified of this whole issue.

Pat Martin, a resident of Tucson, said she was with the Myers Neighborhood Association and was the liaison for business and government. She also worked with the 29th Street Corridor Communities consisting of five neighborhoods south of 22nd Street between Country Club and Craycroft Roads. They were five neighborhoods that had become a family through working together since 2000, and they spoke with one voice; she was speaking for all of them. She attended the public hearing of the Citizens Sign Code Committee on May 31, 2007, and spoke against several proposed changes at that time. She was the only person from the citizenry there that evening. She also attended the July 10, 2007, Mayor and Council public hearing. She had not received any notice of any meetings later than that July 10, 2007, meeting. The 29th Street Corridor Communities and Myers Neighborhood wanted to be involved and included as they worked their way through these substantive issues which remained to be done.

Hyman Kaplan, a resident of Pima County and Chair of the City of Tucson/Pima County Outdoor Lighting Code Committee, spoke about the proper enforcement of the Outdoor Lighting Code. According to a survey conducted by Kitt Peak National Observatory the code had maintained the dark skies in their neighborhoods. The Committee had attempted to set up a joint working committee of members from that and the Sign Committee so that any substantive changes having to do with the electronic media could be worked out with the Outdoor Lighting Code in conjunction with the Sign Committee. He said he felt Mayor and Council should dictate that this be done, meaning that an active working committee of members of both committees to be set up to work out the problems and conditions with regard to electronic media.

Lee Oler, a volunteer from the Rincon group of the Sierra Club, thanked Council Members West and Ibarra for all their work. She had worked with them quite a bit and had really enjoyed it. She appreciated all they had done in the time they had been there and hoped to see them doing things in the community after leaving Mayor and Council.

Ms. Oler echoed some of the remarks made previously. She remembered in the July 10, 2007, hearing, that Council Member Trasoff specifically said to please inform the stakeholders such as the Sierra Club and others about the next meetings coming up. That had not happened either in the Sierra Club's case just as the Dark Skies and the other groups had said. She had been assured by Craig Gross, Deputy Director of DSD, that she would be on the email list and her mailbox would be full of things about the City meetings. She was looking forward to that and would be waiting for all these emails. She was looking forward to the next time she came before Mayor and Council.

Nasha (Stacey) Snider-Simon, representing Luz Southside Coalition who had been there before at the public hearings. They had written letters expressing their concern about sign codes. For the Coalition, much of the issue regarded the contents of the signs. They were initially concerned about a potential proliferation or size increase of signs because of the negative implication of messages for their community promoting alcohol, gambling, predatory lending and similar issues. They had been happy to see that the substantive changes to the Sign Code were removed and thanked Mayor and Council.

Ms. Snider-Simon stated that like many of the others, she was concerned about the way the process had taken place. The Coalition also had sent letters and attended but had received no communication from the City regarding the process. They hoped that as it moved forward and the substantive issues were addressed that they, too, would be included in that process.

Kathi McLaughlin, a member of the Citizens' Sign Code Committee and as a long standing citizen interested in sign issues, supported Mark Mayer's comments that Mayor and Council pass this Code as it is and then work through whatever committees were necessary to make the substantive changes. She, too, had suffered from the lack of communication from the Development Services Department, including an important email that was a response to an email she had sent to Susan Montes, DSD Secretary, who often sent her information. She did not receive an important email to which Craig Gross responded. She did not know what the problem was, but there were communication issues. It seemed as though everybody of interest, whether neighborhood or dark skies wise, received no information about the meetings. She was particularly concerned that no one from the Sign Code Committee was invited to any of what she called the faux Sign Committee meetings, which were all the sign interest meetings. There was no balance to those meetings; apparently there were several of them that none of her side was ever informed about. She, too, had a problem with the way the process had gone. She really did not want to see this amendment held up any further. She took a moment to thank Council Members Ibarra and West with whom she had chatted on occasion about sign issues. She also thanked Michael Rankin, City Attorney, who addressed some issues

she had brought to the attention of Mayor and Council this past summer. He personally chatted with her about those, and she said she felt they were taken care of. With that she thanked the Mayor and Council for their attention but also said she would like to see the process smoothed in some way for the future.

Elizabeth Alvarez, representing Kitt Peak National Observatory, said she was one of the lucky ones who heard about the meeting just before Thanksgiving and did get to review the proposed Code. After just hearing the proposed amendments, the Observatory actually felt satisfied that the substantive changes had been removed. They urged the Mayor and Council to go ahead and let the Sign Code Committee get on with their work with all these other things coming up over the years. Over six years ago, when Mayor and Council passed the current *Outdoor Lighting Code*, the Outdoor Lighting Code Committee sent some potential changes to the Sign Code Committee which, by their request, were not put in the *Outdoor Lighting Code*. There were important changes, so the Observatory strongly encouraged the Outdoor Lighting Code Committee and the Sign Code Committee to work effectively together. She understood there might be obstacles to appointing that Subcommittee and it might take some direction from Mayor and Council to allow the Sign Code Committee to appoint a subgroup. She said with good balance and good representation, obviously a very critical point that they heard from many speakers, a subgroup should be appointed that could work with the effective Outdoor Lighting Code Committee and start addressing the changes that were needed as they stepped forward.

Ms. Alvarez said the Observatory was eager to just see these basic administrative changes put to rest. She said the Observatory felt it was finally at a place where the substantive work was removed and they were ready to move forward.

Sarah Addis represented the Addisign Company. As heard from the other sign company, they hopefully came in favor of the sign code changes currently before the Mayor and Council. They had a few concerns they wanted to put before Mayor and Council, which wavered their support of the current draft before them. The first one had to do with notification of the companies and people affected by the Sign Code. She had spoken with Patty King, their representative from the Arizona Sign Association. She said Ms. King had not received notification of the latest draft, which Ms. Addis said she believed was on November 20, 2007. The second concern of the Addisign Company was also related to some of the changes that might be more substantive than requested by Mayor and Council. They certainly wanted to have the wording cleared up and would definitely be in favor of having a clearer Sign Code and something easier for them to understand and much more user-friendly for people. Unfortunately, reading through the most recent changes, she said the Addisign Company felt much of it was too open ended and not quite as clear as they hoped for. She asked the Mayor and Council to take a look at what was before them and make sure their decision was based on a Code, which could be in place for years. She expressed their desire was that the Code not need to be changed continually and would not need amendments. She hoped Mayor and Council would vote on something complete in terms of what everyone was looking for in a new Sign Code.

John Munger again addressed the Mayor and Council. He pointed out that despite the fact that on June 26, 2007, the Mayor and Council redirected Staff to return the draft and eliminate all substantive changes and simply reformat the draft so it was clearer, he agreed with the previous speaker that the draft was not clear. Instead, it was way open ended. Speaking as a lawyer, he said one could drive a truck through it. All the Mayor and Council asked for was a reformatting and a clarification. What they had were substantive changes. He stated a couple of individuals indicated that there were no substantive changes in this, but he said this was frankly incorrect. In fact, in the notice of the public hearing, the City Attorney said there were certain substantive changes to address the recently raised legal administrative and enforcement issues.

Mr. Munger's associate already indicated what some of those substantive issues were. He said Clear Channel felt the new code contained very serious substantive changes. He emphasized that Clear Channel was not looking in any way to weaken the Sign Code. One could not basically build new billboards in the City. Clear Channel was not arguing with that. There was no desire, on the part of Clear Channel, to weaken or in any way reduce the City's commitment to dark skies. They did not want substantive changes in this Code. They wanted clarification and reformatting. The substantive changes that were in this Code were serious and affected people's constitutional rights, the rights of owners of the billboards or the people that had the billboards on their property.

Mr. Munger said, as pointed out by his colleague, the new Sign Code had a summary abatement procedure which, without notice or time to cure or even a right to appeal, permitted the City Sign Code Administrators to summarily remove signs at their own discretion where they deemed those signs an appropriate hazard. It was a very broad base permission on behalf of the Mayor and Council given to the Sign Code Administrator that went far beyond anything that existed today. That was a very substantive change in his authority; it also occurred with no notice, no time to cure, and no appeal rights to anybody. There was absolutely nothing that the owner of that billboard could do for the sign. That was a serious constitutional issue and a serious substantive change.

Mr. Munger stated other serious changes, which existed in the draft, involved the new definition of discontinued signs by State law. Discontinued signs were to be determined by the activities of the billboard owner. In the new Sign Code, discontinued signs were to be determined solely by the Sign Administrator based on numerous factors that had nothing to do with the activities or omissions of the owner. Moreover, once there was a problem, notice would not be given to the Sign Code owner, but instead to the owner of the property, which created another problem. There were also new definitions of which kind of signs were prohibited and under what circumstances those signs could be removed. These were serious substantive changes and it was disingenuous to say that there were not substantive changes in this. They had not been thought through. They had not been heard out by the public nor heard this evening and these changes should be sent back. The City Administrator should be asked again to simply

reformat and clarify the Code, not to do anything that would weaken dark skies, or increase the number of billboards which was not the intent of Clear Channel. Certainly, people's rights should not be taken away as the new Sign Code clearly did. They had raised these issues with the City Attorney's office who simply said they were not going to deal with it. Mr. Munger asked Mayor and Council to defer this and have other public hearings and meetings to try to get the substantive changes taken out and the matter clarified.

Michael Toney, a resident of Tucson, said it did not look that bad to him from his perspective because he did not care for the billboards. He wished Clear Channel and others could find something else to get into, maybe buy stock in some high tech laser optic computer company if the Mayor and Council could get busy on that. He thought because of the summary change, and he and Michael Rankin, City Attorney, understood what he was talking about, the Sign Code contained inaccuracies, etc, or even variations at the State level; they had a committee that blended different laws together to do their new thing. From his perspective, he saw all of the stuff he did not like was just being kicked across the chasm. It did not mean that much for some clarifications going on but one would see what Mayor and Council did about it. His suspicion would be that they might be in court about this if Mayor and Council interfered with something; they or he did not write the Constitution or Arizona statutes and what was in there. What was in there was relative to the perspective they were on.

Mr. Toney commented he did not like the signs going up at the bus stops. It was because the City of Tucson did not get busy with what its best possibilities were and optimized things like industrial development authority or bringing in that optics company before this became an optics ghost town. There was a move to get rid of the billboards during the previous Mayor and Council. He wondered if someone was going to be looking at electronic billboards while driving a car and possibly having a wreck.

Luis Araiza said he was a former Vice President of the Sunnyside Neighborhood Association and a few other organizations, besides being a three-time former Chairman of Luz Southside Coalition. Members of the Coalition were very active in liquor license issues, issues of crime reduction in the City of Tucson and also trying to control the issues of the billboard industry. Mr. Araiza had been in Tucson his entire life. He was fifty-three years old, went to school and college in Tucson, and had worked here the vast majority of his career. He said he thought it was in the Life Magazine of 1970 that the one picture that came out at you was of Speedway Boulevard and El Rancho Market. The issue he wanted to bring into everyone's mind by that piece was to understand why they were all here; that it could be understood that the people representing Kitt Peak and the community were not just talking basically without any reason or understanding.

Mr. Araiza's concern was also because he had lived on the south side almost all his entire life. There was a proliferation of billboards, and it went from thirty-three percent in the South Tucson area to forty-six percent in the greater South Tucson area. His concern was that the community did not want any of this billboard industry to take over the City, just basically decide what the community would look like. It was very nice

that sometimes the billboard companies would put up something that said Sunnyside just won the state championship in football, and he hoped that all would support them when they went up this Friday, November 30, 2007, and took on their nemesis. The point was why they did it. In a way, it was nice to have some things like that. However in looking at liquor stores, he saw the amount of advertising that polluted the neighborhood. He said Council Member Leal had worked extremely hard in trying to make the south side look beautiful. Mr. Araiza was trying too, and was trying to work with Council Member Leal on this. He hoped that all of the Mayor and Council would work with them as neighborhood associates and as concerned citizens. Together they could make Tucson something proud of - a place the optics companies would come to and where other industries would show up and would not be driven away by proliferation, pollution, and other aspects.

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

Mayor Walkup asked the City Clerk to read Ordinance 10481 by number and title only.

Ordinance 10481 relating to advertising and outdoor signs, Chapter 3 of the Tucson Code, repealing Chapter 3 and adopting a new revised sign code including Article I, Introductory Provisions; Article II, Definitions; Article III, Permits, Fees and Inspections; Article IV, General Requirements; Article V, Signs Types and General Regulations; Article VI, Signs by District; Article VII, Sign Maintenance; Article VIII, Nonconforming Signs; Article IX, Violations; Enforcement; Penalties; Article X, Indemnification; Article XI, Sign Code Advisory and Appeals Board; Article XII, Citizen Sign Code Committee; and setting an effective date.

Before making a motion, Council Member West said she wanted staff to have the opportunity to respond to some of these concerns. Mayor and Council had received an eight-page document that neither she nor anyone else had a chance to read. There was a serious allegation that their noticing requirements were lacking. She asked the City Attorney to reply to that issue.

Mr. Rankin said his office had examined the notice they provided to the public both for this public hearing as well as the public hearings that had preceded the action, both here and prior to action by the Citizen Sign Code Committee. They felt very comfortable that the notice was adequate and if the Council chose to take action on the Code in front of everyone, then that action was valid.

Council Member West asked if anyone else wanted to respond to the serious concerns about the fact that many people did not know about the process. She inquired if there was a mailing list and wanted an explanation as to how this process worked.

Ernie Duarte, Director of Development Services, said that Mayor and Council recalled their direction was clear; Development Services Department (DSD) was to go back and get additional stakeholder input. The Development Services Department attempted to collect the names and contact information of everybody that spoke at those public hearings in June and July 2007. In addition to that, they created a list service through a subscription to Development Services. Anybody who wanted to know about anything related to sign, land or building codes and development standards and with any particular interest in any item related to development services was sent a direct email. They posted the latest versions of the Code on their web site. It had been a work in progress and had tried to work quickly to get the changes and concerns addressed in preparation for the Mayor and Council meeting.

Mr. Duarte thanked the City Attorney and his staff for engaging directly with many of the individuals who had come and spoken before the Mayor and Council. In hearing some of the concerns and reading into the record and changes that needed to be made, he wanted to thank his staff, including Craig Gross and Debbie Capple, who fielded a lot of those personal phone calls and clarified some of those questions which had been raised. Development Services attempted to be as open and as transparent as possible. It had not been perfect, but they believed they had a document in front of Mayor and Council that was a reformatted Sign Code that made dealing with the Sign Code much easier either from a user, sign code administration staff, or customer perspective. The direction they had was clear from the Mayor and Council that any subsequent substantive changes would go through a significant public hearing process. He said he believed Mayor and Council directed Development Services to bring those to the Citizen Sign Code Committee. Any changes from this Committee would then be forwarded to the appropriate Mayor and Council Subcommittee. It would also be brought forward to not only a public hearing, but also a Study Session in front of the Mayor and Council prior to the scheduling of a public hearing. A lot of these issues would be vetted publicly.

Council Member West said that, in moving forward, they needed to figure out a way to include everyone on the contact list. Council Member West reminded everyone that people could always call their Council offices to find out when these meetings were because Council Members should know when these meetings were occurring. As Mark Mayer said, it had been a long five months. As far as she was concerned, it had been a long seven years and she stated she was impatient with all of this.

It was moved by Council Member West, duly seconded, to approve the amended Ordinance 10481 as recommended by the Citizen Sign Code Committee.

Vice Mayor Scott asked that Development Services be given another opportunity. She said Mayor and Council were comfortable with the notification list they had; yet as heard from Clear Channel itself, a member of the Sierra Club, a neighborhood representative, and members of the Sign Code Committee, were not given sufficient

notice. She wanted to know if they were generally notified or if one person was notified and then, in turn, had to notify the others.

Mr. Duarte replied they attempted to notify as many people as possible. They had meetings with interested stakeholders on both August 16, 2007, and August 30, 2007, to talk about the direction of Mayor and Council to remove the substantive changes and work on the reformat. In the course of revising that document, it became apparent that an interested group, the Citizen Sign Code Committee, did not have an opportunity to weigh in or visit the latest version of the Code. There was a subsequent meeting on November 19, 2007, attended not only by members of the Citizen Sign Code Committee, but interested parties that had been engaged in the discussion regarding the Sign Code changes. That meeting itself was fairly well attended. Mr. Duarte believed his list indicated there were thirty-five to forty people who attended, both from neighborhood groups as well as the sign industry. They made an effort to get the word out as best they could.

Vice Mayor Scott asked if Mr. Duarte would say that the forty-five people who showed up would have represented a broad range of groups rather than more or less the majority and one constituency.

Mr. Duarte replied in the affirmative.

Vice Mayor Scott said she did not understand the criticism Mayor and Council had of the newest and latest version coming so late in the game. It would seem that during the process all the interested parties would have had more of an opportunity than they suggested they had. She asked if there was something that came up somewhat late, and people were saying they really had not had a chance to look at it yet.

Mr. Rankin responded that clearly there were some things that Mayor and Council even changed at the table that evening. He thought that part of that was the product of having provided so much notice to folks and responding to their comments. The changes that had occurred in the last two weeks and certainly any of the changes that were read in the record were changes to restore regulations and language to the existing language of the current Code. Those were changes brought about by people bringing them to the attention of the City Attorney, whether it was Mr. Mayer or Munger, Chadwick PLC, in their faxed letter that morning. Two of the changes were in response to a point they raised in their faxed letter. There was a pro and con in trying to be responsive and make the changes that people were asking for. They came late in the day but they were also trying to be responsive to their concerns.

Vice Mayor Scott asked the City Attorney if what they had before them represented a good and solid clarification of the language that was needed without substantial changes. Also she asked if they could look forward to non re-negotiation for half of these or some of them or that the amendments might be endless. She asked if he felt good about what was there before them.

Mr. Rankin replied that he certainly hoped they were never back there arguing over half of the same provisions again. He said this had been a mammoth undertaking. When one said reformat, it necessarily involved a huge number of changes. This process was not done. It was going back to the Citizen Sign Code Committee as Mayor and Council directed previously to address the issues pulled and there was much pulled out. This Code was not perfect. He said he bet if he spent the next two weeks reading it, he would have another sheet come back with cross reference, commas and language changes. Yet, this represented the best effort of many people to get it to this point and hopefully have a solid base. He thought they had a solid base to work forward onto the other issues they had pulled out and left for the second phase.

Vice Mayor Scott said that there was a comment made about the appeal process; whether or not a person who owned a sign would have that option. She asked the City Attorney to address that issue.

Mr. Rankin replied that he had looked at that topic in reviewing the reformatted Sign Code. The appeal rights remained in the Code. If there was a decision of the Sign Code Administrator, formerly referred to in the Code as the Building Official, there was an appeal right to the Sign Code Advisory and Appeals Board. From that determination, there was an appeal right to the Mayor and Council and/or to the Superior Court through special action. Mr. Rankin stated those rights were all there. Duplicative provisions were removed at the Mayor and Council direction which referenced other codes and appeal provisions that might be in those other codes. The Sign Code's appeal rights were still firm and solid in the document.

Vice Mayor Scott said the question regarding whether or not there was an appeal was not a real one. She inquired whether the language had to be specifically tied to one of these Articles in the Code or was it generally assumed that if it was in the Code, the appeal process also went with it even if it was not to a specific part of it.

Mr. Rankin said the appeal rights ran from the determination of the Sign Code Administrator so that would be from a Sign Code enforcement action. There were also appeal rights if an illegal action was taken by a sign user such as putting up an illegal sign. They could not access a fine. They had to go through the enforcement process, the procedural due process through the courts. What was raised here was the administrative appeal process as opposed to the court appeal process in response to citations. He pointed out that the process was still in place as well.

Vice Mayor Scott said that in the letter from Munger, Chadwick PLC, there was a question about the lack of industry representation. She found that a unique phrase to come up at this point. It affected their industry. She asked Mr. Rankin if he would say there had been a lack of quality representation by the Clear Channel people.

Mr. Rankin responded that from his perspective, certainly the Clear Channel people had been at all the public hearings and had submitted comments. They had participated in the meetings with staff and the review of the various drafts of the Code.

There were complaints from other folks that they had been too involved which he did not think was the case. He believed the comment in the letter from Munger, Chadwick PLC, was with respect to the makeup of the Sign Code Advisory and Appeals Board and their representation on that Board. That was an issue that, if the Sign Code Committee and/or the Mayor and Council wanted to take up in phase two, could be looked at. In terms of their involvement in this process and getting to this point, he said he thought they had been included.

Vice Mayor Scott wanted to make sure she understood Mr. Rankin correctly. She felt very confident there had been a broad spectrum of people who had ample opportunity to give their input into this portion of the Sign Code for the City of Tucson. This included neighborhood associations to various other people like the Sierra Club, to the industry including Addisign and to other people who made signs. She asked if Mr. Rankin felt certain at this point, that if this passed, this document at least has had their input sufficiently to color it the way they felt it was fair.

Mr. Rankin replied that he certainly felt that way whether their perspective was if it was fair or not.

Vice Mayor Scott said that might have been overstated on her part, just whether they have had ample opportunity to give good input at the highest level possible.

Mr. Rankin replied in the affirmative.

Council Member Uhlich said she was in support of the motion and was pleased they were considering action. Regarding the process question, one thing she thought would be critical in phase two, was the stakeholder process which she was not even sure needed to be stated. She appreciated the efforts that had been made. Council Member Uhlich said she thought maybe the Neighborhood Preservation Zone (NPZ) process offered some lessons on this to establish a balanced stakeholder group and make sure all of those meetings were open to the public. Any stakeholder, and she believed everybody, ought to be willing to state their arguments in full view so that the prospective being raised was understood. Perhaps having the final run through the Sign Code Committee and then brought to Mayor and Council so that at some point they would have to stop the dialogue and even if further input came in, Mayor and Council could receive that and ask for input as they received it. Integrating those changes in between a body's recommendation and it coming to Mayor and Council could be problematic. This was just a suggestion and certainly Council Member Uhlich knew all of the Council Members and their staff were available if Development Services wanted to talk more about the process. Clearly, Mayor and Council wanted the opportunity for full public input and transparency and how those recommendations would come forward.

Council Member Leal thanked everyone who had been involved over the many years. He said he thought what they had before them was going to be very helpful and that it was a really wise decision to separate the substantive issues from the document they had before them. He invited staff to use his Economic Development Subcommittee

in a similar vein to what Council Member Uhlich suggested to see if there were ways outreach could be improved so that the perception that things had been uneven could be shrunk. He thought it was difficult enough to deal with what Mayor and Council had before them. But he thought the pressures, the fight or the senses that would go into the substantive parts of the discussion would be loaded. He thought it was incumbent upon the Mayor and Council to try and remove any stones in their path in having those harder conversations, in a desire to do justice to them. Mayor and Council would need to create trust and good will in the second part of the process.

In particular, Mr. Leal wanted to go back to something the City Attorney said about his taking the phone calls and emails from people over time. He said he thought Mr. Rankin had acted as a kind of a gatekeeper, not just to facilitate inclusion but to include reason and judgment where appropriate in an effort to produce a better document. Mr. Leal did not want to diminish other staff members' involvement in this, but said he really did not think they would have been there in the same way without Mr. Rankin's efforts, and for which Mayor and Council owe him some gratitude. Mr. Leal said he was very happy with what they were doing and looked forward to the next stage where the substantive items will be more difficult.

Council Member Trasoff said her colleagues had touched on most of the subjects she wanted to, but there were a couple of points and questions she had. One question, directed to Ernie Duarte, the Director of DSD, was for those people who wanted to get on the list who were not currently on it. Ms. Trasoff asked if there was a way to figure out how people could email the City or give those people an email address now that would go out over the airwaves or that they could spread among their groups in order to get their names added to the list. She wanted to know how to go about that.

Ernie Duarte, the DSD Director said they could publish that email address right now.

Craig Gross, Deputy Director of Development Services, said if anyone would like to email him directly, the address is Craig.Gross@tucsonaz.gov. If anyone had access to the DSD web site, which he said he thought they had spread out to anybody they could find, the web site could be accessed and there was an easy click and subscribe or click and remove. They also had included the listserv subscription address on all of their information and pamphlets that were sent out. It also went out at the end of all their emails and letters that the Department sent out. They were trying to spread it out quickly to make it as easy as possible to subscribe. Mr. Gross said a button just needed to be clicked, and anyone could subscribe.

Council Member Trasoff thanked Mr. Gross for taking all those emails which, she presumed, would be coming in. She stated one person spoke about the continuity with the County, which was a point well taken. She did not want to complicate what Mayor and Council was doing by trying to do it in conjunction with the County, but she thought they would be well served to be informed by what the County was doing to try and have as much continuity as possible.

Mr. Duarte said that Mr. Kaplan already pointed out the need to engage the joint committee, which existed right now. This was the joint City/County Outdoor Lighting Code Committee, which would be able to review any proposed changes that came forward in the next round. His sense was that they were going to be actively engaged in those because the next consideration of Sign Code changes that that Committee would be involved in would include changes to the electronic message centers. He assured Council Member Trasoff that Development Services would guarantee that Committee was involved.

Council Member Trasoff said that was an important point. Her final question, addressed to City Attorney Michael Rankin was in reference to the difference of opinion as to whether there were any substantive changes and to which she deferred to his expertise on this matter. She wondered that even if there were substantive changes, in other people's opinions, did Mayor and Council still have the right to pass and adopt this. Mayor and Council simply gave him direction to come back, in his opinion, with something that was not substantive and as they deferred to his opinion, Mayor and Council, therefore could go ahead and pass this without problem.

Mr. Rankin told Council Member Trasoff she did have the authority ultimately whether something was deemed to be substantive or non-substantive so long as appropriate notice had been given to the people and that had been accomplished.

Council Member Trasoff thanked all those involved for their efforts.

Mayor Walkup summarized by saying that he thought all the right questions had been asked. One thing he was really concerned about was the remark that there were significant substantive issues that were included. To him, the far more important issue this evening was that Mayor and Council took action rather than delay to get a perfect document because he did not think they would get there. It was a commitment to take a look at those issues that had been highlighted. He said he thought they had that commitment as Mayor and Council to address those issues that had been specifically raised. It was time for them to move forward and sort it out. It had taken too long to get this far.

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

Upon roll call, the results were:

Aye:	Council Members Ibarra, West, Uhlich, Leal, and Trasoff; Vice Mayor Scott and Mayor Walkup
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Nay:	None
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Ordinance No. 10481, with the amendments read into the record by Mr. Rankin, was declared passed and adopted by a roll call vote of 7 of 0.

9. ZONING: (C9-07-09) BIRIN – 22ND STREET, SR TO R-1, CITY MANAGER’S REPORT

Mayor Walkup announced City Manager’s communication number 643, dated November 27, 2007, was received into and made a part of the record.

He also announced this was a request to rezone property located on 22nd Street at Bonanza Avenue and Houghton Road. Zoning Examiner and staff recommended authorization of the rezoning subject to certain conditions. He asked if the applicant or a representative was present. He asked they state their name and address for the record and state if they were agreeable to the proposed requirements.

Mike Grassinger, with the Planning Center, said before he answered the unasked question, he wanted to take a minute to extend his best wishes to Council Members West and Ibarra. They had been very helpful and supportive over the years and he appreciated that. Having said that, the Planning Center was agreeable to all the conditions and looked forward to Mayor and Council’s positive vote.

Council Member West said that this matter required a three-fourths majority vote to pass and adopt this ordinance. Drainage issues back in 1994 were considerably less attended to than they presently were and the nearby neighborhood had some discomfort with the drainage. They had this worked out and, in fact, some of the most vocal protesters had signed off on this development.

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

10. ZONING: (C9-98-34) GR PARTNERS – SPEEDWAY BOULEVARD, C-1 TO C-2, ORDINANCE ADOPTION

Mayor Walkup announced City Manager’s communication number 644, dated November 27, 2007, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10480 by number and title only.

Ordinance No. 10480 relating to zoning: amending zoning district boundaries in the area located on the north side of Speedway Boulevard, approximately two hundred feet west of Pantano Road in Case C9-98-34 GR Partners, Speedway Boulevard, C-1 to C-2 and setting an effective date.

Council Member West said she wanted Mayor and Council to know that the applicant had done a good job of designing this so it was more attractive. She said they

were putting a bit more detail into their design and she wanted to congratulate them on that.

It was moved by Council Member West, duly seconded, to pass and adopt Ordinance 10480.

Upon roll call, the results were:

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

Nay: None

Ordinance No. 10480 was declared passed and adopted by a roll call vote of 7 of 0.

11. ZONING: (C9-07-23) TOWN WEST – FRANKLIN STREET (EL MIRADOR), I-1 AND C-3 TO OCR-2 AND I-2, CITY MANAGER’S REPORT

Mayor Walkup announced City Manager’s communication number 634, dated November 27, 2007, was received into and made a part of the record. He also announced this was a request to rezone property located on the northwest corner of Stone Avenue and Franklin Street. Zoning Examiner and staff recommended authorization of the rezoning subject to certain conditions. He asked if the representative wanted to make a few comments before proceeding.

Robert Gugino, of Gugino & Mortimer PLC, said he thought Mayor and Council was familiar with this project. It had been in front of them a number of times over the last one and a half years. He understood rather than giving another presentation, he was simply happy to answer any questions that they might have.

Council Member Trasoff said there was one amendment she wanted to request. It was a minor one on the conditions, and she presumed Mr. Gugino was amenable to the conditions in the Zoning Report. This was Item forty-one, which was the establishment of an Advisory Development Board consisting of several neighborhoods. She asked if Mr. Gugino was amenable to adding the Downtown Tucson Partnership to the list of people who would be part of that development board.

Mr. Gugino replied in the affirmative.

It was moved by Council Member Trasoff, duly seconded, to authorize the request as recommended and now amended by the Zoning Examiner.

Council Member Leal said this project came out of the blue by surprise some time ago. No one had really been paying attention to this part of downtown. It was one of those happy events that just popped up. It had gone through a number of iterations, a number of people had come together; there were folks in the Presidio neighborhood,

Dunbar Springs, the Arts folks, City staff and the evolution had really been very impressive. He wanted to thank Staff, James Horvath, President of Town West Design Development, Robert Gugino of Gugino & Mortimer PLC, and the architect Raul Reyes. He said he thought the spirit that had come out of this showed that there was more interest than just profiting on the project, but it had this sense about strengthening a weak part of downtown. It had a sense about the creative economy, helping stabilize the Steinfeld Warehouse. Some people wanted it to be a part of the deal, as a possible gallery space. It became an economic and community infrastructure for the entire City. That spoke really well and told much about the developers and the kind of partnership in which they were willing to partake. He said he thought Council Member Trasoff's suggestion about having the committee was a good idea because it was a tool that would continue the conversation and the refinement with give and take creativity over time with this project. He had been grateful to have had an opportunity to work with all the different participants and looked forward to continuing to do that in the future.

Mayor Walkup asked if there was any further discussion.

Motion carried by a voice vote of 7 to 0.

12. DEVELOPMENT AND SALE AGREEMENT: WITH TOWN WEST DESIGN DEVELOPMENT, INC., FOR THE EL MIRADOR DEVELOPMENT PROJECT

Mayor Walkup announced City Manager's communication number 654, dated November 27, 2007, would be received into and made a part of the record. He asked the City Clerk to read Resolution 20839 by number and title only.

Resolution 20839 relating to development; approving and authorizing a Development and Sale Agreement with Town West Design Development, Inc., for the development of the El Mirador Development Project; and declaring an emergency.

Council Member Trasoff asked Mr. Gugino to speak again. She wanted first to thank Council Member Ibarra for deferring this to her. It was a project that Council Members Ibarra, Leal and she had worked on intensively over the last two years. There had been tremendous support from the entire Mayor and Council, but she wanted to specifically acknowledge these two council members. There was one thing particularly troubling to her in this. Therefore, she asked if one more amendment could be made. At a prior Mayor and Council meeting, they very strongly requested that the figure for the Affordable Housing Trust Fund in lieu fee be increased. In the documents delivered to them, it was kept the same. She asked Mr. Gugino if he and his client would be willing to raise the two thousand dollar per unit for the Affordable Housing Trust Fund to three thousand dollars per unit.

Robert Gugino, of Gugino & Mortimer PLC, said his client would be more than willing to do that and after numerous conversations they had with Council Members Trasoff and Uhlich, they were all in support of the Affordable Housing Fund. There was some need to persuade them and he thought they brought up all the points that needed to

be made. This was stated positively, and he wanted to tell them how important it was, not only for this project but in other projects to come in the future to establish an adequate contribution. They also had some language in that paragraph which Mr. Gugino had discussed with the City Attorney to clarify the timing of the payment that he would like amended. He was not sure if that had been distributed or how this needed to be handled.

Michael Rankin, City Attorney, said he could read the language which was very straightforward into the record. It would be adjusted for the three thousand dollars if that was ultimately the motion. He would make it very clear that the payment would occur automatically out of escrow upon the sale of each individual condominium unit at the time of the initial sale from the developer to the third party.

Council Member Trasoff thanked Mr. Rankin, and said she appreciated his willingness to step up. It was an important precedent when they were looking at the Affordable Housing Trust Fund being able to be built so that Mayor and Council could assure that there would be affordable and workforce housing available not just downtown but throughout the community.

It was moved by Council Member Trasoff, duly seconded, to pass and adopt Resolution 20839, as amended and with the information read into the record by Mr. Rankin.

Council Member West said one of the things that she started promoting about recently was how grateful she was to Jim Horvath, President of Town West Design Development, and Bob Gugino, of Gugino & Mortimer PLC, for agreeing to add this money to the Affordable Housing Trust Fund. The one thing she thought needed to be done was an inventory of the downtown area to see how many affordable units there already were.

Ms. West said she had spoken with people who lived downtown who believed there were sufficient affordable units. However, this Fund would make it possible to make some renovation to some of those if that was needed. If there were already units and there was just a need to renovate some of them, she thought that should be looked at. Council Member West was most grateful to this developer for being so willing to contribute; he was to be commended.

Council Member Trasoff said she was very positive and very supportive of this project and continued to be. She thanked Jim Horvath, President of Town West Design Development, for tremendous flexibility and patience along with the architect, Mr. Reyes. There had been a lot of give and take on this project and she was delighted they were going to be moving forward and it would be very good for downtown and the entire community.

Mayor Walkup thanked Council Members Ibarra, Leal and Trasoff on shepherding this forward. He said he had a chance to speak with Mr. Horvath a few days

ago pointing out how important this project was to the whole of downtown because it was in a part of the community which needed some assistance. It needed to come forward and he was looking forward to making sure that Mayor and Council paved the way to allow this project to move forward smoothly. It was important to take some of these key projects and be sure they were identifying all the issues so it could be moved smartly ahead. He said he looked forward to the ribbon cutting and congratulated everyone involved.

Before roll call was taken, Kathleen S. Detrick, City Clerk, asked for clarification from the City Attorney regarding the amendment to the Amendment and Sale Agreement regarding the affordable housing component.

Mr. Rankin said this was the only amendment. Exhibit 'A' to the Resolution would be amended such that Paragraph 3.16 would read as follows:

“Affordable Housing Component: The developers shall contribute three thousand dollars per residential condominium unit to the Affordable Housing Trust Fund. The above referenced contribution to the Affordable Housing Trust Fund shall be paid on a per unit basis and will be paid from escrow at the time of the closing of the initial sale of each unit by the developer to a third party. There shall only be one contribution due to for the sale of each residential condominium unit.”

Upon roll call, the results were:

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

Nay: None

Resolution 20839 was declared passed and adopted by a roll call vote of 7 of 0.

It was moved by Council Member Uhlich, duly seconded, to reaffirm the commitment of Mayor and Council to the Steinfeld Warehouse and the Warehouse District, specifically to redouble Mayor and Council's efforts to secure the Warehouse from Arizona Department of Transportation (ADOT). Regardless of whether this or another project moved forward, Mayor and Council had the intention to commit the sales tax revenues from this property to the renovation of the Steinfeld and the Warehouse District.

Motion carried by a voice vote of 7 to 0.

13. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 638, dated November 27, 2007, was received into and made a part of the record.

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

No appointments were made.

14. ADJOURNMENT: 8:08 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Monday, December 3, 2007. There would be an Inaugural Ceremony at 10:00 a.m. at the Fox Theater for the recently elected officers. The meeting would reconvene 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 27th day of November 2007, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:tl:kad