



---

## Minutes of MAYOR AND COUNCIL Meeting

---

Approved by Mayor and Council  
on February 13, 2007

Date of Meeting: December 19, 2006

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:36 p.m. on Tuesday, December 19, 2006 all members having been notified of the time and place thereof.

### 1. ROLL CALL

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

Present:

José J. Ibarra  
Karin Uhlich  
Shirley C. Scott  
Steve Leal  
Nina J. Trasoff  
Robert E. Walkup

Council Member Ward 1  
Council Member Ward 3  
Council Member Ward 4  
Council Member Ward 5  
Council Member Ward 6  
Mayor

Absent:

Carol W. West, Vice Mayor  
Council Member Ward 2

Staff Members Present:

Mike Hein  
Michael Rankin  
Kathleen S. Detrick  
Mike Letcher

City Manager  
City Attorney  
City Clerk  
Deputy City Manager

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

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

The invocation was given by Pastor Ben Shunko, Beginnings Church, after which the pledge of allegiance was presented by the entire assembly.

Presentations:

- a. Mayor Walkup presented a certificate to Ed Taczanowsky in honor of the first graduating class of the Southern Arizona Home Builders Association's Institute of Construction. He also presented a certificate of recognition and appreciation to Les Wolf for his work as the Program Administrator and Instructor.
- b. Mayor Walkup presented "Certificates of Achievement for Excellence in Financial Reporting" to Scott Douthitt, Finance Director, and "Awards of Financial Reporting Achievement" to Mike Hermanson and Joyce Garland, Finance Department.

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

Mayor Walkup announced City Manager's communication number 702, dated December 19, 2006, would be received into and made a part of the record. He also announced this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

- a. Council Member Scott wished everyone a happy holiday and a safe and prosperous New Year.
- b. Council Member Leal spoke about a shooting that occurred at a south side establishment, and stated the incident reinforced the reasons why the Council and other interested parties successfully opposed a liquor license the establishment requested.

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

Mayor Walkup announced City Manager's communication number 703, dated December 19, 2006, would be received into and made a part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

There was no report.

## 5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 704, dated December 19, 2006, would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

### b. New License(s)

1. Quick Gas Mart, Ward 6  
550 N. Alvernon  
Applicant: Nishit K. Patel  
Series 10, City 119-06  
Action must be taken by: January 6, 2007  
Staff has indicated the applicant is in compliance with city requirements.  
Public Opinion: Written Arguments Opposed Filed
2. Best Western Las Brisas Hotel-Tucson Airport, Ward 5  
7060 S. Tucson Blvd.  
Applicant: Jill Leola Ward  
Series 11, City 121-06  
Action must be taken by: January 13, 2007  
Staff has indicated the applicant is in compliance with city requirements.

### Person Transfer(s)

3. Chile Con Sol, Ward 6  
1628 E. 6th St.  
Applicant: Maritza Cruz  
Series 7, City 115-06  
Action must be taken by: December 31, 2006  
Development Services Department has indicated the applicant is not in compliance with city requirements.  
(Continued from Mayor and Council Meeting of December 12, 2006)  
Application withdrawn by the applicant.
4. AmeriSuites, Ward 5  
6885 S. Tucson Blvd.  
Applicant: H. J. Lewkowitz  
Series 6, City 118-06  
Action must be taken by: January 6, 2007  
Staff has indicated the applicant is in compliance with city requirements.
5. ICE, Ward 2  
6350 E. Tanque Verde Rd.  
Applicant: Bradley Peter Miller  
Series 6, City 120-06  
Action must be taken by: January 13, 2007

Staff has indicated the applicant is in compliance with city requirements

c. Special Event

NOTE: There were no applications for special events scheduled for this meeting.

d. Agent Change

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

Kathleen S. Detrick, City Clerk, announced liquor license application 5b3, a Person Transfer for Chile Con Sol, City 115-06, had been withdrawn by the applicant.

Council Member Trasoff asked to comment and ask a few questions on Liquor License Application 5b1, Quick Gas Mart, City 119-06. She said it was listed as a new license, but the establishment already had the same license and was really a transfer. She asked why it was listed as a new license, when there was already an existing license, although Quick Gas Mart was now known as C&T Oil.

Geoff Gonzales, Management Assistant, City Clerk's Office, explained this series of license was not transferable.

Council Member Trasoff then asked for clarification. Since it was a non-transferable license and therefore called a new license; however, it was the same series of license currently held. Her concern was that there had been a few complaints from neighbors, and they were based on it being a new license. She clarified that it was not a new license, but instead it was a new license for the new owner of the business, but it was the same series of license, which currently existed.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 6 to 0 (Vice Mayor West absent/excused), to forward liquor license applications 5b1, 5b2, 5b4, and 5b5, 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, and the Call to the Audience was scheduled to last for twenty minutes.

- a. Donovan Durban, representing the Tucson Downtown Alliance, spoke about Rio Nuevo and the principles that should guide the Council on Rio Nuevo projects, and also presented some preliminary economic modeling and project planning that the Tucson Downtown Alliance has been working on. He also presented a list of seven TIF Investment Principles for 2006-2025.

- b. Roger Karber expressed his support for funding the Tucson Origins projects and also the efforts to work with stakeholders for future planning of Rio Nuevo projects.
- c. Sammie Parker said he represented the Western Buffalo Soldiers Association, Inc., and the Tucson Buffalo Soldier Monument Committee. He asked the City to provide his group a small plot of land so his group could erect a monument to the Buffalo Soldiers, and the contributions of African American soldiers in the development of Tucson and the American West.
- d. Josefina Cardenas thanked the Council for their support of the Rio Nuevo cultural projects, and asked the City to work more with Barrio Kroeger Lane residents on those projects. She also requested a timeline for Rio Nuevo projects.
- e. Michael Toney felt money allotted to the Clark Street overpass bridge was not enough to complete the project, and Rio Nuevo funds would be better spent on the Arena or an Interpretive Center than on the University of Arizona Science Center.
- f. James Jordan spoke about Barrio Kroeger Lane being adversely affected by rising property taxes due to the development of Rio Nuevo projects, without any beneficial reinvestments into their neighborhood. He requested that City and County freeze or subsidize property taxes for homeowners during the Rio Nuevo development phase and invest in revitalizing the surrounding neighborhoods.
- g. Russell Dove suggested that the City monitor the money market and the “Ameri-Euro”, and to be prepared for it. He also supported creating a monument to the Buffalo Soldiers.
- h. Michael Keith thanked the Council and City Manager for the discussions on Rio Nuevo and the work with communities on cultural projects. He felt the infrastructure analysis was crucial for moving forward with planning future Rio Nuevo projects.
- i. Mack Hudson, President of the Menlo Park Neighborhood Association, commended Burns and Wald-Hopkins, the Rio Nuevo staff, and the Community design teams for their efforts to plan the West Side Cultural projects. He felt it provided a model for how to work with the community in the future.

## **7. CONSENT AGENDA ITEMS A THROUGH Q**

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

- A. FINAL PLAT: (S06-169) SPEEDTANO CORPORATE CENTER CONDOMINIUM, UNITS 1 TO 17 AND COMMON ELEMENTS “A” & “B” AND LIMITED COMMON ELEMENTS
1. Report from City Manager DEC19-06-706 WARD 2
  2. City Manager recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- B. ASSURANCE AGREEMENT: (S05-022) SONORAN BLOSSOM SUBDIVISION (RCP), LOTS 1 TO 10 AND COMMON AREAS “A” AND “B”
1. Report from City Manager DEC19-06-707 WARD 1
  2. Resolution No. 20532 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S05-022 of a final plat for the Sonoran Blossom Subdivision, Lots 1 to 10 and Common Areas “A” and “B”; and declaring an emergency.
- C. FINAL PLAT: (S05-022) SONORAN BLOSSOM SUBDIVISION (RCP), LOTS 1 TO 10 AND COMMON AREAS “A” AND “B”
1. Report from City Manager DEC19-06-708 WARD 1
  2. City Manager recommends that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- D. FINANCE: WRITE-OFF OF UNCOLLECTIBLE ACCOUNTS RECEIVABLE
1. Report from City Manager DEC19-06-709 CITY-WIDE
  2. Resolution No. 20533 relating to finance; authorizing the write-off of certain uncollectible accounts, and declaring an emergency.
- E. TUCSON CODE: AMENDING (CHAPTER 10) CITY OF TUCSON POSITION COMPENSATION PLAN REGARDING COMPLIANCE WITH THE MINIMUM WAGE INCREASE
1. Report from City Manager DEC19-06-710 CITY-WIDE

2. Ordinance No. 10364 relating to annual compensation plan; amending salary schedule adopted by Ordinance No. 10289 to comply with the minimum wage law effective January 1, 2007; implementing Tucson Code Section 10-31; and declaring an emergency.

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

F. TUCSON CODE: AMENDING (CHAPTER 10) CITY OF TUCSON POSITION COMPENSATION PLAN REGARDING INSPECTOR TRAINEE POSITION

1. Report from City Manager DEC19-06-711 CITY-WIDE
2. Ordinance No. 10365 relating to compensation plan; amending Tucson Code Section 10-31(7) providing compensation for new assignment position of Code Inspector Trainee as part of the FY 2007 compensation plan; providing subparagraphs for section and clarifying that section is subject to yearly readoption and reenactment as part of the annual compensation plan; and declaring an emergency.

G. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR JOINT ADMINISTRATION OF CONSTRUCTION PROJECTS AND PERSONNEL BALANCING

1. Report from City Manager DEC19-06-712 CITY-WIDE
2. Resolution No. 20534 relating to Intergovernmental Agreements; approving and authorizing execution of an Intergovernmental Agreement between the City of Tucson and Pima County for Joint Administration of construction projects and personnel balancing; and declaring an emergency.

H. FINANCE: COMMUNITY SUPPORT FUND TRANSFER TO SPORTS EXTRAVAGANZA FOR THE SPORTS CLINIC AT FLOWING WELLS HIGH SCHOOL

1. Report from City Manager DEC19-06-715 MAYOR
2. Resolution No. 20535 relating to Finance; approving and authorizing the allocation of seven hundred fifty dollars (\$750) from the Community Support Fund, Account No. 001-183-1898-268, to Sports Extravaganza, Inc., for the sports clinic at Flowing Wells High School on March 3, 2007; and declaring an emergency.

This is a request by Mayor Walkup. Allocation of funds was as follows:  
Mayor Walkup - \$750.00.

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

- I. REAL PROPERTY: EXECUTION OF A PRESERVATION AND CONSERVATION EASEMENT WITH ARIZONA STATE PARKS – CASA CORDOVA (TUCSON MUSEUM OF ART)
  - 1. Report from City Manager DEC19-06-713 WARD 1
  - 2. Ordinance No. 10366 relating to real property; authorizing and approving the execution of a preservation and conservation easement with the Arizona State Parks Board for certain City-owned real property located at 171 through 177 North Meyer; and declaring an emergency.
- J. FINAL PLAT: (S06-136) VISTA POINTE CONDOMINIUMS, UNITS 101 TO 168, UNITS 201 TO 268, EXCLUSIVE USE ELEMENTS Y101 TO Y168 AND COMMON AREA “A”
  - 1. Report from City Manager DEC19-06-701 WARD 2
  - 2. City Manager recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- K. INTERGOVERNMENTAL AGREEMENT: WITH THE TUCSON AIRPORT AUTHORITY FOR MUTUAL AID IN LAW ENFORCEMENT
  - 1. Report from City Manager DEC19-06-720 CITY-WIDE
  - 2. Resolution No. 20536 relating to Intergovernmental Agreement; authorizing and approving an Intergovernmental Agreement between the City of Tucson and the Tucson Airport Authority for mutual aid in law enforcement; and declaring an emergency.
- L. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY FOR THE SANTA RITA PARK NEIGHBORHOOD REINVESTMENT PROJECT
  - 1. Report from City Manager DEC19-06-719 WARD 5
  - 2. Resolution No. 20537 relating to Intergovernmental Agreements; authorizing and approving the amendment to the Intergovernmental Agreement between the City of Tucson and Pima County for the Santa Rita Neighborhood Skate Park; and declaring an emergency



- M. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE THIRD MINORITY AND WOMAN OWNED ENTERPRISE PROGRAM DISPARITY STUDY
1. Report from City Manager DEC19-06-718 CITY-WIDE
  2. Resolution No. 20538 relating to Intergovernmental Agreements; approving and authorizing execution of an Intergovernmental Agreement between the City of Tucson and Pima County for the Cooperative Procurement and Funding of the Third Minority-and-Woman-Owned Business Enterprise Program Disparity Study; and declaring an emergency.
- N. RIO NUEVO: APPROVING AN EXPENDITURE OF FUNDS BY THE RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT FOR THE MISSION SAN AGUSTIN, TUCSON ORIGINS HERITAGE PARK, AND WEST SIDE INFRASTRUCTURE PROJECTS
1. Report from City Manager DEC19-06-721 WARD 1
  2. Resolution No. 20539 relating to the Rio Nuevo; approving an expenditure of \$53.7 million by the Rio Nuevo Multipurpose Facilities District for the construction of the Mission San Agustin, Tucson Origins Heritage Park, and West Side Infrastructure Projects; and declaring an emergency.
- O. APPROVAL OF MINUTES
1. Report from City Manager DEC19-06-722 CITY-WIDE
  2. Approval of minutes for the regular meetings of the Mayor and Council held on November 14 and November 21, 2006.
- P. BOARDS, COMMITTEES, AND COMMISSIONS: CREATING THE ENVIRONMENTAL ACCORDS/GREEN CITIES DECLARATION AND SUSTAINABILITY COMMITTEE
1. Report from City Manager DEC19-06-725 CITY-WIDE
  2. Ordinance No. 10367 relating to Boards and Commissions; amending the Tucson Code, Chapter 10(A), Community Affairs, by adding a new Article XXII, Environmental Accords/Green Cities Declaration and Sustainability Committee; and declaring an emergency.

**Q. FINANCE: COMMUNITY SUPPORT FUND TRANSFER FOR THE 11TH ANNUAL GRAND CHRISTMAS PARTY**

1. Report from City Manager DEC19-06-726 WARD 3
2. Resolution No. 20541 relating to Finance; approving and authorizing the allocation of one hundred five dollars (\$105) from the Community Support Fund, Account No. 001-183-1898-268, to the 11<sup>th</sup> Annual Grand Christmas Party c/o Lugo and Associates to assist in covering costs for new bicycles; and declaring an emergency.

This is a request by Council Member Uhlich. Allocation of funds is as follows: Council Member Uhlich - \$105.00

Item Q was considered separately at the request of Mayor Walkup.

It was moved by Council Member Scott, duly seconded, that Consent Agenda Items A through Q, with the exception of Consent Agenda Items E, H, and Q, which would be considered separately, be passed and adopted and the proper action taken.

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

Upon roll call, the results were:

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

Nay: None

Absent: Vice Mayor West

Consent Agenda Items A through Q, with the exception of Consent Agenda Items E, H, and Q, which would be considered separately, were declared passed and adopted by a roll call vote of 6 to 0.

**7. CONSENT AGENDA ITEM E**

**E. TUCSON CODE: AMENDING (CHAPTER 10) CITY OF TUCSON POSITION COMPENSATION PLAN REGARDING COMPLIANCE WITH THE MINIMUM WAGE INCREASE**

1. Report from City Manager DEC19-06-710 CITY-WIDE

2. Ordinance No. 10364 relating to annual compensation plan; amending salary schedule adopted by Ordinance No. 10289 to comply with the minimum wage law effective January 1, 2007; implementing Tucson Code Section 10-31; and declaring an emergency.

Kathleen S. Detrick, City Clerk, announced the first item to be considered separately was Consent Agenda Item E, and it was removed at the request of Council Member Uhlich.

Council Member Uhlich asked the indulgence of her colleagues on the Council to mark what she considered to be an additional very significant item on the Consent Agenda, which was to amend the Tucson Code to come into compliance with the new State Statute to raise the minimum wage. She said she realized she did not want the moment to pass, and felt it was perhaps because she spent most of her twenty years in professional and community service working with impoverished people. It was a moving thing and quite a privilege to implement it. She said the voters of Tucson and Pima County and the State of Arizona voted to give their lowest paid neighbors a raise, and the Council was implementing that action.

Council Member Uhlich said in Tucson there were well over twenty thousand households and families who lived on less than fifteen thousand dollars a year. She said if just one fulltime wage earner in that household raised from five dollars and seventy five cents to six dollars and seventy five cents an hour, they would see an additional two thousand dollars of income next year. She knew many people who would be tremendously impacted by the voters' action in the past election.

Council Member Uhlich acknowledged friends and colleagues who were in service industries and restaurant work, who expressed concerns over the minimum wage initiative. She referred to a recent quote in the newspaper by Laura Olguin, from Jack in the Box, who openly anticipated the need to raise the average menu item price by twenty or thirty cents. Council Member Uhlich admitted she was an occasional fast food drive through customer, and she would gladly search her console and car floor for an extra quarter, knowing that quarter would very likely go to the very person serving her that meal. She hoped some of those twenty thousand households would join her in the occasional luxury of a drive through meal, even as they spend those new dollars on shoes for their kids or simply to come closer to making ends meet.

It was moved by Council Member Scott, duly seconded that Consent Agenda Item E be passed and adopted and the proper action taken.

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

Nay: None

Absent: Vice Mayor West

Consent Agenda Item E was declared passed and adopted by a roll call vote of 6 to 0.

## **7. CONSENT AGENDA ITEM H**

### **H. FINANCE: COMMUNITY SUPPORT FUND TRANSFER TO SPORTS EXTRAVAGANZA FOR THE SPORTS CLINIC AT FLOWING WELLS HIGH SCHOOL**

1. Report from City Manager DEC19-06-715 MAYOR
2. Resolution No. 20535 relating to Finance; approving and authorizing the allocation of seven hundred fifty dollars (\$750) from the Community Support Fund, Account No. 001-183-1898-268, to Sports Extravaganza, Inc., for the sports clinic at Flowing Wells High School on March 3, 2007; and declaring an emergency.

This is a request by Mayor Walkup. Allocation of funds was as follows:  
Mayor Walkup - \$750.00.

Kathleen S. Detrick, City Clerk, announced the next item to be considered separately was Consent Agenda Item H, which was removed from the Consent Agenda at the request of Council Member Uhlich.

Council Member Uhlich thanked Mayor Walkup for his leadership in contributing seven hundred fifty dollars to support the Flowing Wells High School Sports Extravaganza, and said she would joined him by making the same contribution from the Ward 3 fund.

It was moved by Council Member Scott, duly seconded, that Consent Agenda Item H be passed and adopted and the proper action taken.

Ms. Detrick clarified the motion was to pass and adopt Consent Agenda Item H, as amended, and the new amount would be one thousand five hundred dollars.

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

Nay: None

Absent: Vice Mayor West

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

## **7. CONSENT AGENDA ITEM Q**

Q. FINANCE: COMMUNITY SUPPORT FUND TRANSFER FOR THE 11TH ANNUAL GRAND CHRISTMAS PARTY

1. Report from City Manager DEC19-06-726 WARD 3
2. Resolution No. 20541 relating to Finance; approving and authorizing the allocation of one hundred five dollars (\$105) from the Community Support Fund, Account No. 001-183-1898-268, to the 11<sup>th</sup> Annual Grand Christmas Party c/o Lugo and Associates to assist in covering costs for new bicycles; and declaring an emergency.

This is a request by Council Member Uhlich. Allocation of funds is as follows: Council Member Uhlich - \$105.00

Kathleen S. Detrick, City Clerk, announced the final item to be considered separately was Consent Agenda Item Q, and it was removed from the Consent Agenda at the request of Mayor Walkup.

Mayor Walkup announced this was the Community Support Fund Transfer for the 11<sup>th</sup> Annual Grand Christmas Party. He stated Council Member Uhlich was contributing one hundred five dollars, and he would also be contributing one hundred five dollars. This community event provided more than eight hundred bicycles for children in the southside. He acknowledged there were many volunteers who put the event together, and this was the best year they ever had. The bicycles ranged from very small bicycles with trainers, to very large bicycles for a very needy group of kids. He thanked Council Member Uhlich for her contribution, with his contribution raising the total to two hundred and ten dollars.

It was moved by Council Member Scott, duly seconded, that Consent Agenda Item Q, as amended, be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any further discussion.

Council Member Leal added that in two and one-half hours on Saturday, seven hundred fifty two bicycles were assembled at the El Casino Ballroom. He said it was a sight to see.

Mayor Walkup commented it was a Jesse Lugo special program and Mr. Lugo had done a magnificent job over the last four or five years.

Upon roll call, the results were:

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

Nay: None

Absent: Vice Mayor West

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

**8. PUBLIC HEARING: TUCSON CODE (CHAPTER 19) AMENDING THE MODEL CITY TAX CODE**

Mayor Walkup announced City Manager's communication number 714, dated December 19, 2006, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on the proposed changes to the Model City Tax Code. The public hearing was scheduled to last for no more than one hour, and speakers would be limited to five-minute presentations.

Robert Reus said he was very disappointed that his request to speak at Call to the Audience was ignored. He tried to save the City of Tucson a nickel by putting down Call to the Audience and the Public Hearing under the same card, and he was not allowed to speak. He said it was kind of sad, because all he had to say to the Mayor and Council was thank you for standing up for Access Tucson last week. He added this was an example why the City Manager form of government and the Mayor's administration was not working for the City.

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

Mayor Walkup asked the City Clerk to read Ordinance No. 10360, by number and title only.

Ordinance No. 10360 relating to the Occupational License Tax; amending Tucson Code, Chapter 19, Article I, Divisions 1 and 4 relating to the hotel and motel industry providing uniformity with other municipalities and repealing certain regulations thereunder; and declaring an emergency

It was moved by Council Member Ibarra, duly seconded, to pass and adopt Ordinance 10360.

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Vice Mayor West

Ordinance 10360 was declared passed and adopted by a roll call vote of 6 to 0.

Mayor Walkup asked the City Clerk to read Ordinance 10361 by number and title only.

Ordinance No. 10361 relating to the Business Privilege Tax; amending Tucson Code, Chapter 19, Article II, Divisions 4 and 6 and the regulations thereunder relating to the exemption of development and impact fees from construction sales tax, adopting uniform privilege tax provisions on the hotel and motel industry, and making certain changes to conform to the Arizona Privilege Tax Code; and declaring an emergency.

It was moved by Council Member Ibarra, duly seconded, to pass and adopt Ordinance 10361.

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Vice Mayor West

Ordinance 10361 was declared passed and adopted by a roll call vote of 6 to 0.

**9. PUBLIC HEARING: GREATER SOUTH PARK PLAN AMENDMENT – I-10/PARK AVENUE – SUBAREA 6**

Mayor Walkup announced City Manager's communication number 723, dated December 19, 2006, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on a request to amend the *Greater South Park Plan*. He asked if the applicant or representative was present and if they had any brief comments before beginning the public hearing.

Jim Portner, Projects International, said they had no objections to the resolution as written. He thanked the City Manager for his work in bringing the project forward so expeditiously. He stated staff from Development Services Department and Department of Urban Planning and Design were excellent to work with in getting them to this point. He also thanked Council Member Leal for his guidance and leadership.

Mayor Walkup announced the public hearing was scheduled to last for no more than one hour, and speakers would be limited to five-minute presentations.

Douglas Cohen, representing Tucson Art and Metal, said they were a large scrap recycling yard, employing about fifty people, all in the south Tucson area. They were in support of the project, except that there were some homes being built just south of the location of the scrap recycling yard. They were looking for some protection from the initial buyers and future buyers of those homes, because of the type of business they were in. They were concerned that the proximity of the residential uses and salvage operations could eventually result in legal efforts to a nuisance for their property, and they would be removed from that property. He said it had happened in other parts of the country. He asked that a deed of restriction be written concerning what they do. There was a lot of dust; they had a lot of machines. They knew there was a seventy-five foot restriction where they would not build towards their property. A noise study had been done. He felt it should be more like one hundred fifty feet, instead of seventy-five feet.

Mr. Cohen said they have supported south Tucson since they moved there ten years ago. They had rail running just to the west of their property, which was imperative to their business. They just wanted the people who move into that area to realize that it was an industrial area, not a residential area as of yet; and there were issues out there they wanted initial and future buyers to know about.

Michael Toney commented about the seventy-five foot versus one hundred fifty feet buffer area. He said a riparian buffer would be very interesting to have there. He felt it would be a way to incorporate green space into the plan. He was not against seeing residential going into the area, as long as there was an effective and aesthetic mitigation process put into play.

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



Mayor Walkup asked the City Clerk to read Resolution 20540 by number and title only.

Resolution No. 20540 relating to planning and zoning; amending the *Greater South Park Plan (Plan)*; and declaring an emergency.

Council Member Leal asked Mr. Portner to come forward. He said it was his understanding the concerns of the scrap metal yard would be acted on in some appropriate way.

Jim Portner replied they would be. He thanked Council Member Leal for giving him the opportunity to respond to the comments made. The comments were not new to them. The owner of the yard, Mr. Kipper, had been to all of their neighborhood meetings. They have had ongoing discussions with him and those discussions would continue. Mr. Portner said it was important to stress that there were two components to addressing the concerns raised. One was the public policy component. What they were doing at the Mayor and Council meeting was very important toward that, as well as the Planned Area Development, which would come before the Council in two to three months. He stated that would go a step further than the language that was already in this resolution, to specifically address and give policy direction to the salvage yard's presence.

Mr. Portner stated the Planned Area Development would give very detailed design criteria, as well as mechanisms for ensuring proper notice to homebuyers. That would handle those systems together, along with the public policy portion. They would continue the discussions with them to make sure their concerns were handled with proper mechanisms to make both parties happy. In the end, their concern was just as great to all parties. It was in no one's interest that the homebuyers be upset for any reason. Mr. Portner stated they would make sure the homebuyers concerns were also addressed.

Council Member Leal said he understood that those types of mitigations were going to be dealt in the Planned Area Development. He wanted to bring it up in the context of the evening's discussion, so those watching the meeting at home who did not understand the project as intimately as Mr. Portner did, could understand that the Mayor and Council were not sidestepping their concerns, but actually pursuing it in the next step. He stated it would be dealt with, and would not be ignored. Council Member Leal said it mattered because the entire Sinclair Project, the whole three hundred fifty acres that it was part of, was such an important project. This amendment would facilitate the project in a very important way, because without the change, the overall composition between commercial, university, and residential simply would not work.

Council Member Leal said it would be a very important step to change the area plan so that the forty acres were no longer commercial, but residential. He understood it was close to the railroad tracks. He said the buffer was one thing, but it was important for all to know that some twelve to fourteen foot high system would be placed by the property line to temper the sound from the train so it did not affect the homeowners. He added it did not have to be a twelve or fourteen foot high wall. It could be a six or eight-

foot wall on top of a six foot berm, something that was aesthetically pleasing, but also had enough height to deal with the height of a train.

It was moved by Council Member Leal, duly seconded, that Resolution 20540, be passed and adopted and the proper action taken.

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, Uhlich, Scott, Leal and Trasoff;  
Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor West

Resolution 20540 was declared passed and adopted by a roll call vote of 6 to 0.

**10. PUBLIC HEARING: 2007 CITY OF TUCSON ELECTIONS (CONTINUED FROM THE MEETING OF DECEMBER 12, 2006)**

Mayor Walkup announced City Manager's communication number 724, dated December 19, 2006, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on whether the 2007 elections would be conducted as mail-ballot elections or as polling place elections. The public hearing was scheduled to last for no more than one hour, and speakers would be limited to five-minute presentations.

Ronald Manzi spoke in opposition to all mail ballot elections. He commented that having worked the elections as an inspector for the last three years, it was very important to continue to offer voters the opportunity to go to the polls. One of the most important elements was interaction, and for many people that was probably, except for getting speeding tickets, the only actual process where the public sees government at work. He told the Council they were aware of the impact television had in destroying relationships, and he said the Internet came down and finished it off. By allowing the continuation of polling places, it would keep the action alive where citizens interrelate with the board workers and other people they would meet at the polls.

Mr. Manzi stated Council Member Leal was very aware of the efficiency of the polls, and very aware of seeing Mr. Manzi and his brother working at the polls. Even at the last election, with the ridiculous issue of all those ordinances and resolutions, which were put on by wonderful folks in Phoenix, who he hoped to enjoy when he is elected State Representative in 2008. He said he thought it was absurd to humiliate people to read everything supposedly to cause a real fine movement. Yet, Mr. Manzi said he and his brother did it, voters were moving in and out of the polls.

Mr. Manzi stated the polls were accessible for the handicapped. The disabled community had the option to use the mail ballots, and it worked. He asked the Council not to kill the interaction of voting citizens any more than what had already happened across the Country, with the Internet.

Peri Jude Radecic, Acting Executive Director for the Arizona Center for Disability Law, explained she resided outside the City limits, but worked downtown. She thanked the Council for looking at the issue. She stated people with disabilities took the right to vote very seriously. She said going to an all mail ballot would be a problem for the City, as an all mail ballot was not an accessible alternative for many people with disabilities. She said for those who had dexterity and sight problems, an all mail ballot would not solve all their problems, in terms of accessibility.

Ms. Radecic stated people with disabilities, as well as other members of the public, liked to go to the polls and participating in their civic duty publicly like other people. She said having a knee jerk reaction of just going to an all mail ballot would not make any sense. She asked what if some of the City buildings were not accessible and the City decided to close them down to everybody, because they did not want to spend the time and resources to retrofit those buildings. She said it did not make any sense, and that was what it sounded like the Council was doing. The City was rushing to a decision to shut down all polling places because they were not accessible, instead of fixing the problem. She said it was important for the City to fix the problem and comply with the law, not abandon the traditional polling sites that were so important to so many people.

Ms. Radecic urged the Council to think about moving the issue forward in terms of fixing the problem with some resources, and find alternative available sites. She referred to Council Member Leal's three point plan to address the problem, and said it sounded fine to them in terms of encouraging people to vote at home if that was what they preferred. As the Council thought about schools and the three-point plan, she said she had surveyed polling sites in the City of Tucson, Pima County, Coconino County, Maricopa County and Pinal County. She found that schools were some of the worst offenders in terms of accessibility. One would think government buildings would be the best place, but as they have seen through the ADA audit, the government buildings were not the most accessible buildings.

Ms. Radecic urged the Council to be careful. She complemented the City's Equal Opportunity Office staff, but asked them to make sure they were out there looking at those sites with the City's Election Department. She urged them to make sure they did not violate the law. She encouraged the City to fix the problem instead of abandoning the public opportunity to cast ballots with the rest of the citizens within the City of Tucson.

Russ Dove asked if the meeting was going to be another piece of evidence, asking if this was the Mayor and Council of free people of the City of Tucson, or was this the king and court of a little serfdom that would do what they pleased irrelevant of what the

people said. He felt that was what was at stake, tough choices and tough decisions. Last week at the Mayor and Council meeting, he brought this issue up; he brought up the history on how the votes have gone. The motor voter laws made it easier, yet nobody was voting, and now they did not know who was voting. He said there were all kinds of problems, and the City was going to exacerbate it by mailing in. Whoever the recorder happened to be, and whatever job he or she did, they would be who decides who votes. He did not think any person should have that kind of power.

Mr. Dove said the reason the ordinance was brought up was to comply with a Federal mandate or Federal law. He said the City was going to steal the right for Americans to vote in their precincts. He had never voted by mail and he did not believe he ever would. He recognized the value of the right to vote in a free society. He recognized there were countries in the world where people were dying for that right. He said it broke his heart that so many Americans treated it as if it had less value than a five-cent piece of candy.

Mr. Dove said what bothered him most was that the City was using the excuse of ADA compliance as the reason for stealing this right from Americans, but there was a set of Federal laws that the City of Tucson did not feel it was obligated to enforce. He said there were other Federal laws, which the City did enforce. He gave the example of walking into City Hall with a fully automatic weapon, Tucson Police Department and the Federal Bureau of Investigations would be on top of him, and he might never see a day of sunlight again, because the City of Tucson chose to enforce Federal laws. At the same time, Federal Immigration laws were regularly not enforced. Yet, he kept hearing that those laws could not be enforced because they were a Federal problem.

Mr. Dove commented if the Federal Government was demanding that the City's polling places meet certain requirements, then the City should tell the Federal Government to pay for it. When they do, we would have them there. Otherwise, as was already recommended to the Council, there were other ways than going to the all mail ballot elections. Mr. Dove stated that to enforce the rights of a few, to steal from the rights of everyone else, was wrong. He referred to his closing statement last week, and told the Council that as a body, he hoped the Council found the mind to make good choices on this issue.

Mr. Dove added that identification theft was a massive employment opportunity in Southern Arizona. It was a nationwide problem. It was one hundred sixty-five dollars in a couple of places in Tucson and many other major cities, to buy a driver's license and registration card. All were fraudulent documents and all looked good. It would only cost one hundred sixty-five dollars to buy the appearance of a citizen. With everything the way it was going, under-funded, under-worked, he said no one was checking. It would just pass through. Instead of making it easier, he thought it should be made tougher. Resistance was good. He thanked the Council for their time and urged them to vote 'no' on all mail ballots.

Joan Danforth told this Council this issue had already been addressed at the November 7, 2006 Election. Proposition 205 was overwhelmingly defeated by the voters, seventy one percent against it. She questioned why it was coming up again. She stated the ADA argument was a red herring. The *Americans with Disability Act* was passed in 1990, so she questioned why seventeen years later the City was worrying about building accessibility. She thought that was strange. She asked what had changed since the last election and asked if stairs had been installed and doors narrowed. She asked why it was not raised at the last election. Ms. Danforth stated the ADA argument was entirely moot, because the disabled could already vote by mail.

Ms. Danforth said voting by mail exclusively opened the doors to fraud. The Florida Department of Law Enforcement said the absentee ballot was the tool of choice for those engaging in election fraud. Not only was identification not required, but after people moved, ballots would be sent to their last address in the database. If there was not a current address, they would never get their ballot, and other people would. She asked what would stop unscrupulous mail carriers from dumping ballots mailed from zip codes that were traditionally Democratic or Republican districts.

Ms. Danforth referred to an article from ArizonaCentral.com, "Proposition 205 Con", from October 18, 2006. She read that "mail ballots subvert our traditions. Automatically mailing unsolicited ballots to all registered voters, in a state afflicted by rampant mail and identity theft, and whose population was constantly churning represents an unacceptable risk to our electoral process." She also referred to an article from ArizonaNetRoots.com, which stated "there would be no exit polls to verify the results." She said another flaw with the plan was an audit; SB1557 would be cut in half, since polling places were audited at two percent, and mail in only at one percent.

In closing, Ms. Danforth brought up the issue of money. She referred again to ArizonaCentral.com, "Will voting by mail save oodles of taxpayers dollars as its boosters alledge?" She stated according to the Joint Legislative Budget Committee, the JLBC, this was quote "difficult to determine" end quote. She asked if this was a dictatorship, or a republic, because the voters had already spoken. The voters made their desires quite clear, yet here they were discussing this again.

Ms. Danforth told the Council that tax dollars paid their salaries. The Council worked for them. She said if they vote for this, it would be political suicide. Anyone who voted for this would be recalled, as people were furious about this.

Dean Miller said he was a long time watcher of Channel 12, but a first time speaker and visitor to the Council. He said the people who spoke before him were a hard act to follow, so he would just summarize his notes. He urged the Council to vote 'no' for the vote by mail ballot. He said people already had the option to request a mail in ballot through the Pima County Recorder's Office. Secondly, mailing ballots to all voters could result in ballot theft and voter fraud. His mailbox was one of those big gray community mailboxes, and if it took thirty seconds for a car to get stolen, he told the Council to imagine someone breaking into one of those mailboxes and stealing ballots.

He stated that would result in identify theft. People might throw away a ballot as it was, and said some people might not care about politics and voting any more, because of the way things have been happening the last four years; or they did not want to be called for jury duty anymore, and there was no way around it any more. Many people were upset with their politicians and were just not interested any more.

Mr. Miller said he preferred going to the polls, which was a traditional American pastime. He hoped the Council would not take away their choice of how to vote. He stated the United States was a nation with freedom of choice brought on by the Constitution. He reminded the Council that the voters made their choice. He took a statement from the newspaper that quoted the Mayor saying approximately seventy percent of Pima County voters rejected the statewide Vote by Mail Ballot Initiative, and voted "no."

Robert Reus asked everyone to raise their hand if they supported the all mail ballot system. In response to his question, he said they just got a good example of why no one called a public hearing last week when they should have. He said he felt he was beating the issue to death. He made a presentation last week during Call to the Audience, and spoke for thirty minutes on his Saturday evening episode of A New City Government for Tucson, on the issue. He felt he covered the issue from every angle, except for one. He told any viewers that if they missed Saturday night's episode, it would be replayed on Thursday morning on Channel 98 at eleven o'clock. He said he would not reiterate what he said before or what other people had said, but said he would cover the political aspect.

Mr. Reus said they just had a good example why he did not support the City Manager form of Government and why he did not support Mayor Walkup. He stated Mayor Walkup ignored his request to speak to the Call to the Audience, adding that someone should have actually looked at the card to see it was checked for two things. He was trying to save a nickel for the City and he was ignored for the Call to the Audience, even if he raised his hand. He also said he was cut off at three minutes, mostly by the Mayor; and he noted there were two connected people who were allowed to continue to speak for seven minutes. He did not feel he was getting he was getting equal protection for the Mayor or the City Manager form of government. That was why he was not supporting Mayor Walkup for re-election next year.

Mr. Reus stated on the other hand, Council Member Leal, who he wanted to support because he appeared to be more of a Jeffersonian, or had been for the last six years, was rushing through an ordinance that would deny them the right to vote in precincts against their objections. He told Council Member Leal he wanted to support him, but he was making it difficult for him. He urged the Council to table the issue or forget about it, and move on with the job of making as many precincts handicap accessible between now and election time this year in September and in November. He also urged the Council to continue to for the next couple years to make polling places handicap accessible so everyone could have the best of everything.

Dean Phillips commented he felt everyone had made their points very clear and the Council understood them. The idea that the City would not put money into making facilities accessible for people with handicaps was ludicrous. For the Council to just jump to the conclusion to have all mail ballots defied logic and would lead to problems that would corrupt the voting systems. He asked to read from an article in the *Tucson Citizen*, "The City Council and Mayor Bob Walkup are concerned that an all mail ballot election would fly in the face of a decision made by voters earlier this year, when they defeated the same proposition mandating the practice."

Mr. Phillips said when he spoke to people about this, it never came up that it was about disabilities. He said it was about the City and the Federal Government, and who they would side with. He asked if the City would side with the Federal Government when they said things must be done one way or side with the people who had already decided. He said it was amazing to him that everyone understood that, and that was the point of the entire argument. He told the Council if they went ahead and voted in support of an all mail ballot, people would be very angry. It would be a very clear sign that the Council was not listening to the people, and just listening to bureaucratic systems. He said he believed they still lived in a democracy and hoped the Council would not prove him wrong.

Walter W. Haessner said he was a resident outside the City limits, so the Council would not lose his vote, but he felt it was necessary to attend the meeting and add his voice to all the people who came before him and covered everything. He did not have anything to add. He said he had been a resident of Tucson in the past and had been a deputy registrar. He stressed to the Council that he thought this would open it up to fraud by going completely to an all mail ballot. He stated there was a problem with voter fraud and it did exist. He urged the Council to vote no.

Joseph Sweeney told the Council if they had any eyewitness experience about what was going on in the southside of Tucson, they would be alarmed. He urged the Council, as a body, to create a resolution to insist the Federal Government examine the voter registration rolls in Arizona, especially Tucson, and to see that those people have been qualified by naturalization to vote in our elections. Right now, he stated there was a whole underground railroad of expectation that those people were going to get amnesty. He said that was a shock, because he knew and the Council knew they had to be qualified to count.

Mr. Sweeney said he had witnessed experiences in the southside of the community where churches which were 501(c)(3)s were giving out voter registration documents based on residence alone. They knew they had to go through naturalization and it was time to step up and make the Federal Government make sure they have gone through naturalization before voting in the City's elections. He said there were between thirty and fifty thousand of those characters in Congressional District 7 alone. He said that was a lot of people and the Federal Government should be receiving a resolution from the City, and even a lawsuit if necessary, to make sure those people have gone

through naturalization. He said that would not stop. It would continue to go on, as long as they had the expectation of amnesty, rather than the responsibilities of naturalization.

Mr. Sweeney concluded by saying they had a couple of reports from Nogales that they were not getting accurate news about what was going on in Nogales, Mexico. He said two months ago they had a report that seven gang members were killed on one night on the Mexican side of the border. That was also reported on this side of the border. There have been reports that over seven hundred voter documents have been mailed to people who were dead in Santa Cruz County. The City had a major responsibility along the borderline. This was a border county and they should step up and take on that responsibility.

Jim March said he was a Tucson resident and was not being paid for his appearance. He was a member of the Board of Directors for a group called Black Box Voting.org. He had been brought to Arizona by the Arizona Democratic Party to help monitor elections this season across the entire state. He said he could summarize why the City did not want to switch to all mail voting, by telling a story of a gentleman by the name of Jeffrey Dean. Jeffrey Dean was working for a law firm in the 1980's, where he was both the bookkeeper and ran their computer programs. He was convicted for over four hundred thousand dollars embezzlement from that firm, in which he rigged their computer systems to divert money out and into his own pocket. He told the Council the reason they should care about him was that by 1996 he landed a ballot printing contract with King County, in Washington State – the City of Seattle area. By 1998, he was consulting on voting systems written by a company called Global Election Systems, out of Vancouver British Columbia. By 2000, his ballot printing company, Spectrum Print and Mail, had been bought by Global, he was made Vice President of Global and he went to work as the primary project manager for a piece of software called Global Elections Management Software (GEMS). In 2002, the Global Elections Systems; was bought by a company called Diebold.

Mr. March continued that Pima County's election officials on Mission Street, currently run the Global Elections Management Software that Jeffrey Dean had a hand in, to count votes in Pima County. That was the software that counts all the City's votes, whether it was mailing, precinct optical scan or precinct touch screen. He explained to the Council how that related to mail in votes. If precinct scanning machines that scanned a piece of paper that was controlled by the people at the precinct where there was a chain of custody for that document, that scanner, while it was a Diebold product, produced an individual paper trail at the end of the day, a ticker tape about three feet long typically in a long election, listing how many votes were taken in for each candidate and in each issue. It would have something like four hundred fifty votes for John Kerry, two hundred ninety three for Bush, etc., down the line. That data was then carried, either through phone lines or hand carried, on a memory card over to the GEMS System where it was counted. However, the paper ballots that come by mail come over to the County Elections building and they are scanned by a scanner that was mechanically similar to the precinct optical scanner, but it had a software difference. It did not keep a ticker record of what went through that mail in ballot scanner. Instead, that data came off that piece of



paper and got sucked over a wire straight into GEMS. He stated that the GEMS database was a security mess. It was a nightmare the Council could not believe. It was a database written in a program called Microsoft Access. He added some of the geeks in the room might be shuttering at this point, because Microsoft Access was known for poor security. It was a consumer grade database, and had no business being anywhere near our votes.

Mr. March stated there was no proper tracking of those votes, once they have entered the electronic form of that machine. They would be open to manipulation. The optical scanners that scan the mail in ballots straight into that system used to keep an individual paper record of what they did. That feature was deleted by Global/Diebold circa late 2002 or early 2003. They knew the version changed, but were not exactly sure when it shipped. Mr. March said right now with the vote split between mail in and precinct voting, at least the precinct voting would act as a sanity check against the mail in vote. It would not eliminate fraud, but it would limit it. There was a lot of work to be done on the elections system in Pima County, and a lot of work to be done with Diebold in particular. However, for the moment, the Mayor and Council could avoid making the situation significantly worse by going to a mail in ballot, open to other types of fraud involving postal mail, and keep at least some precinct voting controlled by citizen observers, and managers at that polling place.

Michael Toney commented on the Diebold system. He stated Chuck Huckelberry, County Administrator, said there was no modem attached to the system. Therefore, if it was not going out of the system, it should not be a problem. Mr. Toney said it would be extremely hard for the person who ripped off the funds through the GEMS, and to be able to manipulate an election. He said a great deal of the paranoia seemed to have left after the public hearing held by the Board of Supervisors.

Mr. Toney said he thought he knew what the Council was going to do. He felt the Council was going to make a compromise and he just wanted to throw in his two cents. He preferred to come downtown and vote at the Pima County Recorder's Office, saying it was simple and easy. He said he was interested in seeing what the Council would do.

John Brakey said he represented a group called Audit-AZ, and was also a special task force leader for the Arizona Democratic Party when it came to election integrity. First of all, he wanted to apologize to a couple of Council Members, as he said he gave the impression a long time ago that he was in support of vote by mail. He said he did that because he saw positive points.

Mr. Brakey said he looked at the issue very hard, along with Dr. Tom Ryan, a very noted person, and many others; and they debated this issue with their colleagues at Election Integrity. After looking into it, they saw a lot of problems, and he thought a lot of people who spoke already mentioned those problems. He did not want to repeat them. He said he brought in Jim March, his partner, to work on this and help them in Arizona with their elections systems, because they had a very big problem and Diebold was part of it. Mr. Brakey added it was not just Diebold; it was also Sequoia in Phoenix. He said two weeks ago they were in Phoenix on a case and they found they had Microsoft Office

2003 on their central tabulator, which was the hacking tool. Today he said they spent five hours working with the County, looking at the problems, trying to figure out if there was the possibility of a couple of summary reports slipping out of there several days before the election.

Mr. Brakey stated mail in voting called for processing ballots sooner, and there were all sorts of problems with it. He urged the Council to vote no on this. He added handicap issues were important, and they worked for all the community. Mr. Brakey thanked the Mayor and Council and said he hoped they would make the right decision.

Mayor Walkup asked if there was anyone else wishing to address the Council on this issue. Hearing none, he asked for a motion to close the public hearing.

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

Council Member Leal thanked everyone who came to address the Council and everyone who had communicated with the Council in other ways about the issue. He said when the Council first started considering this, it was well before the last election. He did not want anyone to think they started considering this after getting the data on how many people voted against the State initiative. Council Member Leal said it was also important to say that what the City of Tucson was considering doing was also very different from what the State was considering doing. The City never considered going to a mail only ballot. They wanted a hybrid system where there would be a collection in each Ward of polling places for people who wanted to be able to come down and vote traditionally, or lost their mail in ballot and needed to come in and vote at a polling place.

Council Member Leal said one of the problems they discovered was that in the last election there were about nine thousand provisional ballots in the County. It took four to five days to verify signatures. It was not inconceivable, in the City's discussions with the Pima County Recorder and the City Clerk, that in a City election they could conceivably have twenty to forty thousand provisional ballots. That could easily take two weeks to verify signatures. One could argue that was untenable, because people expected to find out the outcome of an election sooner than that.

Council Member Leal said other important issues that came up were brought up at the meeting, for example the gentleman who spoke about the GEMS system and the problem with the scanners. He said that was a real issue. The City wanted to do a hybrid system because when the Federal Government came and basically said seventy-five percent of the City's polling places were not acceptable and there was no latitude. They really felt they needed to figure out something that was user friendly that would allow people to participate, but also still maintain choice. That was what the Council was trying to do. Now they found out from the Federal Government last week that it was not a big hammer, just make the best effort. So, as the Council spoke with people who really understood the issue of provisional ballots, the GEMS system, etc., they felt there was

something they could do. Their goal was to enhance participation in the franchise, but also facilitate access in other ways that access was about.

Council Member Leal stated they have come up with an idea he felt would really work, and which was honorable and would really matter. First, that they modify where they could many of the locations that the Federal Government took issue with on the Americans with Disability Act (ADA). Secondly, the Tucson Unified School District had been forthcoming and was willing to make available certain school sites that were hopefully in places that plugged holes geographically. They would also ask the City Clerk to contact other school districts to see if they would also make school sites available. He added ADA issues, if need be, would have to be dealt with in those places, and also security issues for the children.

Council Member Leal stated the County currently mails out a request for a vote by mail to everybody. He said instead of mailing voters a ballot they could just mail voters a request. That way voters could choose how they wanted to participate in the franchise. Would they vote at polling place or would they do it at a coffee table. He felt that would be the best of both worlds. He said the application would be mailed so they could choose themselves how they wanted to participate in the franchise. The City would pay for the postage both ways, so it would be as simple as they could make it. They would also try to participate with the school districts and respond to the polling place issues mentioned, and do that kind of a system for both the upcoming Primary and General elections.

Council Member Leal referred to earlier comments made in the discussions by Council Member Trasoff, that given the great range of imbedded issues, whether it was the GEMS system, the scanner, ADA, etc., it probably begged the question that the City create some kind of a working group to chew through the whole issue. They could find the embedded issues and come up with pros and cons and then make some recommendations to the Council about the future. That way, the City as a community would stand a better chance of being in charge of our own lives, as opposed to having the Federal Government attempt to dictate things to the City. He offered that as an alternative that tried to focus on participation, choice, and access, yet kept control in the community. It would allow the City to move forward and be responsive to the legitimate things, which were heard from a great range of people. Council Member Leal offered that as a motion, and it was duly seconded.

Mayor Walkup announced they had a motion and it had been seconded, and asked if there were any further comments.

Council Member Trasoff thanked Council Member Leal for mentioning they began the process last April, which was well before the election, before any vote had been taken, and before there was any outcome. She stated it was part of the Council's ongoing process to creatively try to find ways to include more people in the process. She felt the multi-faceted suggestion which Council Member Leal offered, that did offer the ease of mailing requests to people, as well as offering the traditional, was a good balance.

She said she would support that. She asked not as an amendment, but just as a note to the City Clerk, that she really would like the Council to have further discussion or examination to the issue that Jim March raised about the machines counting the ballots. There were so many people who did send in mail in ballots, and if the City did not have the redundancy, the trail, they had a responsibility to make the request that something be done. She asked that as an addendum, but not as part of the motion, that they ask the City Clerk to follow up on that and get the Council more information in the coming weeks or months, as appropriate.

Ms. Detrick replied, stating the City had safeguards in place for the central counting of the ballots, which was the process used for early balloting and would also be used for mail ballots. She said she would be happy to put together something to share what the safeguards were, and how they addressed the issues which had been raised.

Council Member Scott asked if she understood correctly that only schools would be polling sites. She said they were talking about the offer of schools and wanted to assure the public what they were saying, with clarifying language, what the Council was saying about where the public could vote.

Ms. Detrick said what they were saying was they would coordinate with schools to see if there were more facilities that could be used as polling places. Of course, they would continue to rely on not only City owned facilities, but also privately owned facilities. As the Council knew, they had to have locations throughout the City, not just in certain areas, and of course that would not always be a school.

Council Member Scott thanked the City Clerk. She said she just wanted that to be clear, that the normal polling place would more than likely still be the place, and eligible voters would receive a piece of mail that said if you wish to vote at home, you may.

Council Member Ibarra said he had a question for Council Member Leal, who made the motion. Over sixty percent of the State said they were against ballots by mail. The community spoke loud and clear. The Council had been inundated with e-mails and phone calls, and now they were changing course from putting it on the agenda saying they were not going to do it; they were going to go back to a version of the vote they used to have. He asked if it was not ingenuous to say that they were still going to set up a task force to look into the future of this issue, so would they be dealing with this next year. He thought if the Council wanted to say this was really something they were not ready for right now, and suggested taking the whole idea off the table. That way the Council would not be saying it was not ready for this election and it probably would not be ready for the next couple elections either. The Council would not give anybody the false hope that this issue was dead, then they walk away, and then it was brought back in six to eight months from now. Council Member Ibarra said he just wanted to make sure they did not give anybody any false ideas that the task force was going to come back.

Council Member Leal replied the goal of the task force was not to figure out how to do vote by mail. The goal of the task force was to look at the issues of voting in

general, the GEMS issue, the scanner issue, the software issues, and how the City held elections. It was not to try to figure out how to do something. He said the Council would just decide tonight that it was not a good idea. What the City was considering doing was not what the State proposed. It was a hybrid that always intended to have polling places, but again from the larger issues that emerged in terms of character, provisional ballots, how they were counted, time delays, software, they learned the task force really would need to look at those issues. There were other problems with the integrity of voting; the Council really needed to make it incumbent upon themselves to figure out how to remedy and safeguard for the future, not to figure how to do vote by mail. He added if that was not clear, it was now.

Council Member Ibarra apologized and asked for clarification that the vote by mail idea was dead.

Council Member Leal replied the only thing that was vote by mail was if the eligible voter themselves wanted it; they would tell the City. It would come from that direction, not this direction.

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

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Vice Mayor West

Mayor Walkup said this issue started some time ago and told the audience the Council was listening to what the people said. As close as a couple of weeks ago, the Council was talking about what the issues were, but the public spoke, almost about seventy percent. He said he felt the compromise was a good one.

Mayor Walkup also said he appreciated what Roger Pfeifer did, by saying they would work with the Council to see if they could figure it out. Mayor Walkup felt the will of the public was met by the Council and he was very pleased.

The motion was declared passed and adopted by a roll call vote of 6 to 0.

**11. ZONING: (C9-02-10) TETRA CORPORATION – GLENN STREET, O-3 TO C-2, ORDINANCE ADOPTION**

Mayor Walkup announced City Manager's communication number 717, dated December 19, 2006, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10363 by number and title only.

Ordinance No. 10363 relating to zoning; amending zoning district boundaries in the area located at the southwest corner of Laguna Street and Balboa Avenue in Case C9-02-10, Tetra Corporation – Glenn Street, O-3 to C-2; and setting an effective date.

Council Member Uhlich said in the viewing materials, and noting the length of the process to date, and also the Zoning Examiner's recommendation for approval, she was prepared to make a motion to approve this. She wanted to give an opportunity to the representative of the developer to come forward and speak.

Mark Simon, Snell and Wilmer, on behalf of TETRA, said they had reviewed the staff report, the ordinance and the conditions, and found everything acceptable. He said he hoped the Council could support it.

Council Member Uhlich said she wanted to make sure there was no one else present, who wanted to comment or speak, stating they had good interaction and a healthy process on the issue.

It was moved by Council Member Uhlich, duly seconded, to pass and adopt Ordinance 10363.

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

Nay: None

Absent/Excused: Vice Mayor West

Ordinance 10363 was declared passed and adopted by a roll call vote of 6 to 0.

**12. ZONING: (SE-06-41) T-MOBILE – BROADWAY BOULEVARD, C-1, SPECIAL EXCEPTION LAND USE, CITY MANAGER'S REPORT, ORDINANCE ADOPTION**

Kathleen S. Detrick, City Clerk, stated this item included a Zoning Examiner's Report.

Mayor Walkup announced City Manager's communication number 716, dated December 19, 2006, would be received into and made a part of the record. This was a Special Exemption Land Use request for property located at Broadway and Tucson Boulevard. The Zoning Examiner and Development Services recommended approval

subject to certain conditions. He asked if the applicant or representative were present and if they were agreeable to the proposed requirements.

Steve Ciolek said they had looked over the stipulations and they were in agreement with the proposed requirements.

Mayor Walkup asked the City Clerk to read Ordinance 10362 by number and title only.

Ordinance No. 10362 relating to zoning; a special exception land use – communications use – SE-06-41 T-Mobile – Broadway Boulevard – north side of Broadway Boulevard approximately 300 feet east of Tucson Boulevard; approving with conditions the installation of a 40 foot tall cellular communications antenna on a 40 foot tall Tucson Electric Power pole in the C-1 zone – Case SE-06-41; and setting an effective date.

It was moved by Council Member Trasoff, duly seconded, to approve the request as recommended by the Zoning Examiner, and to pass and adopt Ordinance 10362.

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

Upon roll call, the results were:

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

Nay: None

Absent/Excused: Vice Mayor West

Ordinance 10362 was declared passed and adopted by a roll call vote of 6 to 0.

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

Mayor Walkup announced City Manager's communication number 705, dated December 19, 2006, would be received into and made a part of the record. He asked if there were any personal appointments to be made.

There were no appointments.

**14. ADJOURNMENT:** 7:44 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, January 9, 2007, 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 19<sup>th</sup> day of December 2006, and do hereby certify that it is an accurate transcription.

---

DEPUTY CITY CLERK

KSD:sac:kad