

MAYOR AND COUNCIL – STUDY SESSION

LEGAL ACTION REPORT

TUESDAY, DECEMBER 6, 2022

MAYOR AND COUNCIL CHAMBERS

CITY HALL, 255 W. ALAMEDA, TUCSON, AZ

Mayor Romero called the Study Session to order at 12:02 P.M. in the Mayor and Council Chambers, City Hall Tower, Tucson, Arizona.

OFFICIAL MEMBERS

PRESENT:

Mayor Regina Romero (electronic attendance)

Vice Mayor Lane Santa Cruz (Ward 1)

Council Member Paul Cunningham (Ward 2) (arrived at 12:28 p.m. via electronic attendance; arrived in-person at 2:42 p.m.)

Council Member Kevin Dahl (Ward 3)

Council Member Nikki Lee (Ward 4) (electronic attendance until 12:25 p.m.; in-person thereafter)

Council Member Richard G. Fimbres (Ward 5) (electronic attendance)

Council Member Steve Kozachik (Ward 6)

OFFICIAL MEMBERS

ABSENT/EXCUSED:

None

STAFF:

Michael J. Ortega, City Manager

Michael Rankin, City Attorney

Suzanne Mesich, City Clerk

Mayor Romero announced the meeting was being attended electronically by herself and Council Members Lee and Fimbres.

AGENDA ITEM / MAYOR AND COUNCIL ACTION

1. **Executive Session - Franchise Agreement with Tucson Electric Power Co. (TEP) (City Wide) SS/DEC06-22-216**

This item was taken out of order and considered after Item 15.

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2. **Mayor and Council Direction Regarding Executive Session - Franchise Agreement with Tucson Electric Power Co. (TEP) (City Wide) SS/DEC06-22-217**

This item was taken out of order and considered after Item 15.

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3. **City Manager's Report and Update on COVID-19, Monkeypox Virus, Ongoing City and County Mitigation Measures; Funding and Appropriations; and Related Legal Matters (City Wide) SS/DEC06-22-218**

Information was provided by Mayor Romero, Councilwoman Lee, and Council Member Fimbres regarding the community level of COVID-19 transmission, and availability of free tests.

No formal action was taken.

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4. **Consideration of text amendment to the Unified Development Code relating to applications for a Change of Zoning Condition(s) (City Wide) SS/DEC06-22-215**

Introductory comments were provided by Vice Mayor Santa Cruz and Mayor Romero.

Michael J. Ortega, City Manager, said this process was an initiation of an amendment to the Unified Development Code. A formal vote on the amendment would be required later, but Mayor and Council direction was needed to proceed at this time.

It was MOVED by Vice Mayor Santa Cruz, duly seconded, to initiate the process of a text amendment to the Unified Development Code regarding applications for a change of Zoning conditions.

Discussion ensued.

The motion was CARRIED by a vote of 6 to 0 (Council Member Cunningham absent/excused).

5. Mayor and Council Discussion and Direction Relating to the Reid Park Master Plan and the Randolph Golf Complex (Ward 6) SS/DEC06-22-225

Introductory comments were provided by Mayor Romero and Michael J. Ortega, City Manager.

Information was provided by Timothy Thomure, Assistant City Manager, regarding the Reid Park Master Plan, consideration of including the Randolph Golf Complex, and available funding for both properties.

Lara Hamwey, Parks and Recreation Director, provided information on the process to draft the Reid Park Master Plan, and efforts to date.

Discussion ensued.

It was MOVED by Council Member Kozachik, duly seconded, to direct staff to evaluate the opportunities to increase the connectivity of Reid Park and the Randolph Golf Complex, and reinvest and reimagine Randolph and Dell Ulrich as part of the reinvestment plan for the entire complex.

Discussion ensued regarding consideration of sports uses, such as baseball, in addition to golf.

Mr. Ortega said the process of continued public engagement would result in different ideas being brought back to the Mayor and Council for review prior to formal approval of the plan.

Note: Council Member Cunningham arrived at 12:28 p.m. via electronic attendance.

Discussion continued.

Mr. Ortega said future discussions of the Master Plan would include potential funding sources; investment strategies, and public-private partnerships.

The motion was CARRIED by a voice vote of 7 to 0.

6. **Sion Power Primary Jobs Incentive Economic Analysis Consideration (Ward 5)**
SS/DEC06-22-219

Information was provided by Mike Czechowski, Economic Initiatives, regarding Sion Power's request for a Primary Jobs Incentive development agreement.

Discussion ensued regarding the use of chemicals or solvents in an environmentally-sensitive manner, and meeting the associated requirements of the permitting process.

It was MOVED by Council Member Fimbres, duly seconded, to approve the City Manager's Recommendation as presented in the agenda material.

Discussion ensued.

The motion was CARRIED by a voice vote of 7 to 0.

7. **Project Flag Primary Jobs Incentive Economic Analysis Consideration (Ward 5)**
SS/DEC06-22-220

Information was provided by Mike Czechowski, Economic Initiatives, regarding Project Flag's request for a Primary Jobs Incentive development agreement.

Discussion ensued.

Information was provided by Paul Charles, CEO and President, American Battery Factory, regarding their product, their vision for the future, and the benefits of the proposed agreement.

It was MOVED by Council Member Fimbres, duly seconded, to approve the City Manager's Recommendation as presented in the agenda material.

Discussion continued.

The motion was CARRIED by a voice vote of 7 to 0.

8. Update and Discussion on Community Safety and Strategic Initiatives for Unsheltered (City Wide) SS/DEC06-22-221 (City Wide)

Introductory comments were provided by Mayor Romero and Michael J. Ortega, City Manager, regarding the efforts to support housing and unsheltered persons in Tucson, and how the City was addressing the concerns expressed by residents and business owners.

Brandi Champion, Housing First Program Director, provided information on current and potential shelter space and funding sources, and the of number of individuals and families served by the City's efforts.

Sarah Launius, Community Safety, Health, and Wellness Program Director, provided information on the City's internal resource navigators, coordination with social service providers, and the number of individuals who were connected with various services. She also provided an update on their care coordination team, and a pilot project partnering with medical professionals in response to "person down" calls so the Tucson Fire Department wasn't dispatched unnecessarily. Ms. Launius said her team would be working with the Tucson Police Department (TPD) on community-based violence prevention, which would be discussed later in the presentations.

Amaris Vasquez, Community Risk Reduction Manager, provided an update on the harm assessment tool, encampment reporting tool, and dashboard. She said one of their main goals was to allow law enforcement to have a role in addressing criminal activity related to encampments, without driving the entire process.

Chad Kasmar, Chief of Police, provided information on the Tucson Police Department's use of evidence-based strategies to address gun violence. He said, by working strategically with Ms. Launius's team, and using the data from the tools Ms. Vasquez mentioned, the community was better served by appropriate resources being deployed based on need.

Mr. Ortega provided additional information on the history and evolution of the City's efforts related to community safety. He spoke about making information more publicly available in the future, and utilizing partnerships with Pima County, Walmart at Grant Road and Alvernon Way, Sam's Club near the Tucson Mall; Pima Interfaith Council, and others.

Discussion ensued.

Mr. Ortega said an action plan would be prepared that outlined the work the City was doing. His goal was to have it ready for February.

Discussion continued.

Mr. Ortega provided information on a pilot project in Ward 4, where vouchers were provided to residents to encourage neighborhood cleanups by allowing them to make free deliveries to the sustainability campus (landfill).

Discussion continued.

Michael Rankin, City Attorney, confirmed various “specialty courts” were operating through City Court, including programs associated with the “homeless court.” He said more detailed information would be provided in the next update to the Mayor and Council.

Discussion continued.

Mr. Ortega said he would appreciate input from the Mayor and Council on three to four goals or metrics for the public-facing reporting tool. He said this recurring agenda item was scheduled for every two months, but he suggested increasing the frequency, as needed, to keep the Mayor and Council updated.

Mayor Romero agreed to monthly updates, with the item coming back in January.

No further action was taken.

RECESS: 2:16 p.m.

RECONVENE: 2:38 p.m.

MAYOR & COUNCIL: All present, except Council Members Cunningham and Kozachik

STAFF: All present

12. 2022 Ward Redistricting Recommendation from the Redistricting Advisory Committee (City Wide) SS/DEC06-22-226 (City Wide)

This item was taken out of order.

Note: Council Member Kozachik arrived at 2:40 p.m.

Information was provided by Suzanne Mesich, City Clerk, regarding the redistricting process and the Redistricting Advisory Committee's activities and final recommendation.

Note: Council Member Cunningham arrived at 2:42 p.m.

Mark Crum, Redistricting Advisory Committee Chairperson, provided an overview of the Committee's proceedings. He said the Mayor and Council's help was needed to reconcile conflicting rules and policies directing the Committee in future redistricting years.

Dr. Maribel Alvarez, Redistricting Advisory Committee member, explained some of the difficulties faced by the Committee in forming its recommendation. She said their guidelines canceled each other out, the distribution of minority populations was primarily limited to two Wards, political representation was being conflated with Ward boundaries, and the public did not want any disruption of established boundaries. An ideal solution would not be reached without reevaluation of the Committee's policy objectives, and a more lengthy process with extensive public education and engagement.

Discussion ensued regarding what the City could do to improve the process for the future, and to produce Wards with populations that were more representative of the City as a whole.

Michael Rankin, City Attorney, said the City Charter did not provide much direction to the Committee but the Tucson Code could be amended to make the policy objectives work together instead of against each other, and to allow more time for the redistricting process.

Discussion continued.

Council Member Lee said her team was working with the Arizona State Land Department on a project involving vacant State land in Precinct 275. She requested that the vacant State land in Precinct 275 remain in Ward 4.

Discussion continued.

Mr. Rankin said increasing the number of Wards would require voter approval of a ballot measure to amend the City Charter.

Mayor Romero suggested an agenda item in January related to “good government.”

Mr. Rankin addressed questions related to the timeline for the Mayor and Council’s action. He said a Public Hearing was on the agenda for that evening’s Regular Meeting. An agenda item was scheduled for the December 20, 2022 Regular Meeting for additional discussion and formal action by the Mayor and Council. Pursuant to the City Charter, the decision had to occur by December 31, 2022.

Discussion continued.

Vice Mayor Santa Cruz said a discussion should be scheduled for January 2023.

Mayor Romero asked if direction was needed at this time.

Mr. Rankin said no formal direction was needed. Direction could be provided to schedule a future Study Session item, or that direction could wait until after the process was finished on December 20, 2022.

Mayor Romero said direction would be provided after the Public Hearing scheduled for the Mayor and Council Regular Meeting on December 20, 2022.

**13. Consideration of the 2023 State Legislative Agenda (City Wide and Outside City)
SS/DEC06-22-212**

This item was taken out of order.

Introductory comments were provided by Andrew Greenhill, Intergovernmental Relations Manager.

Doug Cole, Chief Operating Officer, HighGround, Inc., provided an update on the 2022 General Election results, and anticipated outcomes related to housing, smoke shops, filling the new position of Lieutenant Governor, use of line-item vetoes on budget bills.

Michael Rankin, City Attorney, said the Arizona Supreme Court threw out several budget reconciliation bills because other, unrelated issues were attached to them.

Discussion ensued regarding preemptive language in new legislation related to the use of renewables in residential and commercial construction.

Mr. Greenhill reviewed the City's proposed 2023 State Legislative Agenda.

Discussion ensued regarding school district expenditure limits.

It was **MOVED** by Council Member Fimbres, duly seconded, to approve the 2023 State Legislative Agenda.

Discussion ensued.

The motion was **CARRIED** by a voice vote of 7 to 0.

No further action was taken.

RECESS: 4:06 p.m.

RECONVENE: 4:15 p.m.

MAYOR & COUNCIL: All present

STAFF: All present

**9. Regional Transportation Authority (RTA) Technical Management Committee
Recommendation to the RTA Board (City Wide) SS/DEC06-22-222**

This item was taken out of order and considered after Item 11.

10. Continuation of Discussion and Direction on Regional Transportation Authority (RTA) Next Plan Development (City Wide) SS/DEC06-22-223

This item was taken out of order and considered after Item 11.

11. Discussion Regarding Local Regulation of Towing Fees (City Wide) SS/DEC06-22-224

Introductory comments were provided by Council Member Dahl.

It was MOVED by Council Member Dahl, duly seconded, to direct City Attorney to prepare an Ordinance that referenced the points in his memorandum submitted with the agenda material, and return in February for consideration and adoption. It was further moved that staff conduct outreach to towing companies and the Tucson Police Department in advance of the item returning to the Mayor and Council.

Discussion ensued.

Michael Rankin, City Attorney, said state law allowed for some local regulation of business activity. In this case, the business activity was non-consensual tows, where a vehicle was removed from private property without the vehicle owner's consent. He provided some examples of other jurisdictions' regulations, and said the requested Ordinance would be modeled after those in the Phoenix area, including Phoenix and Tempe. Prior to bringing the item back for the Mayor and Council's consideration in February, towing carriers would be asked for feedback to avoid unintended consequences for those towing companies that were good actors. Staff would reach out to Homeowners Associations and businesses that contract with towing companies, along with any other stakeholders the Mayor and Council identified.

Mr. Rankin said the proposed Ordinance would not amend the Unified Development Code, so it would not proceed through the Planning Commission process. This was not regulating land use; it would be a business regulatory practice.

The motion was CARRIED by a vote of 7 to 0.

9. **Regional Transportation Authority (RTA) Technical Management Committee Recommendation to the RTA Board (City Wide) SS/DEC06-22-222**

This item was taken out of order.

Information was provided by Michael J. Ortega, City Manager, regarding the City's efforts to proceed with the RTA project to improve First Avenue from Grant Road to River Road, and actions taken by the RTA Board and the RTA's Technical Management Committee.

Discussion ensued regarding necessary floodplain improvements and funding sources to address flood control, increased safety for pedestrians and bicyclists.

Sam Credio, Director, Department of Transportation and Mobility, said the City conducted a needs assessment study of the four-lane cross-section. Significant outreach was done, and the four-lane cross-section was approved by Mayor and Council. Now, approval was needed from the RTA Board to move forward with the four-lane cross-section as studied. He said a 2006 study looked at the Navajo Wash, but that level of detail work had not been done for North First Avenue, which would typically come with a design concept report and more involved design engineering designs.

Discussion continued.

Michael Rankin, City Attorney, said the Mayor and Council already provided direction to move forward with the First Avenue project as modified, bringing down the cost while addressing safety concerns. He said he would help identify the authority for the expenditures as being eligible costs as part of the RTA project, instead of trying to shift those costs elsewhere.

Discussion continued.

Note: Council Member Cunningham departed at 4:44 p.m.

Mr. Ortega said he didn't think the cost of the floodplain work was included in the estimated project cost.

Mr. Credio said dollar amounts provided to the Mayor and Council at the last meeting were updated estimates in today's dollars.

Mr. Ortega said no additional action by the Mayor and Council was needed for this project.

Mayor Romero said the process had been public, there was no need for eight lanes on this roadway, but safety elements were necessary. She said no further direction was needed.

10. Continuation of Discussion and Direction on Regional Transportation Authority (RTA) Next Plan Development (City Wide) SS/DEC06-22-223

This item was taken out of order.

Information was provided by Michael J. Ortega, City Manager, regarding projects recommended for inclusion in RTA Next.

Note: Council Member Cunningham returned at 4:57 p.m.

Mayor Romero said she wanted to see if there was agreement on expanding the City's transit system to include bus rapid transit (BRT) and extending the streetcar route.

Note: Council Member Lee departed at 5:01 p.m.

Discussion ensued.

Mr. Ortega said funding for BRT or the streetcar, or both, could come from the Federal Transit Administration, RTA, the City, and possibly the State. If the Mayor and Council provided direction to pursue it, staff would go through the process of identifying associated costs and available funding options.

Discussion continued.

Note: Council Member Lee returned at 5:11 p.m.

Discussion ensued regarding conduct of the RTA Board and one of its Committees in their application of Robert's Rules of Order and the Arizona Open Meeting Law.

Michael Rankin, City Attorney, said he was only legal counsel for the Mayor and Council, not for the RTA or Pima Association of Governments (PAG).

Discussion continued; no formal action was taken.

12. 2022 Ward Redistricting Recommendation from the Redistricting Advisory Committee (City Wide) SS/DEC06-22-226 (City Wide)

This item was taken out of order and considered after Item 8.

13. Consideration of the 2023 State Legislative Agenda (City Wide and Outside City) SS/DEC06-22-212

This item was taken out of order and considered after Item 8.

14. Mayor and Council Discussion of Regular Agenda (City Wide) SS/DEC06-22-213

Mayor Romero requested to continue Regular Agenda Item 10 to the meeting of December 20, 2022.

Item 10: Mayor and Council: Selection of Vice Mayor (City Wide)
DEC06-22-329

15. Mayor and Council Discussion of Future Agendas (City Wide) SS/DEC06-22-214

No items were identified for future agendas.

RECESS: 5:27 p.m.

RECONVENE: 7:25 p.m.

MAYOR & COUNCIL: All present, except Mayor Romero

STAFF: All present

1. Executive Session - Franchise Agreement with Tucson Electric Power Co. (TEP) (City Wide) SS/DEC06-22-216

This item was taken out of order and considered after Item 15.

It was moved by Council Member Lee, duly seconded and CARRIED by a voice vote of 6 to 0 (Mayor Romero absent/excused), to enter into Executive Session for Item 2 as noticed in the agenda.

RECESS: 7:26 p.m.

RECONVENE: 8:28 p.m.

MAYOR & COUNCIL: All present, except Mayor Romero and Council Member Fimbres

STAFF: All present

Executive Session was held from 7:35 p.m. to 8:27 p.m.

It was moved by Council Member Lee, duly seconded, and CARRIED by a voice vote of 5 to 0 (Mayor Romero and Council Member Fimbres absent/excused), to return to open session.

2. Mayor and Council Direction Regarding Executive Session - Franchise Agreement with Tucson Electric Power Co. (TEP) (City Wide) SS/DEC06-22-217

It was moved by Council Member Cunningham, duly seconded and CARRIED by a voice vote of 5 to 0 (Mayor Romero and Council Member Fimbres absent/excused), to authorize and direct the City Manager and City Attorney to proceed as discussed in Executive Session and schedule an item on the December 20, 2022 Study Session for discussion and direction on the possible terms of a renewed Franchise Agreement with TEP.

ADJOURNMENT: 8:29 p.m.

AUDIO RECORDING AVAILABLE UPON REQUEST FROM THE CITY CLERK'S OFFICE FOR TEN YEARS FROM THE DATE OF THIS MEETING.



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