



MAYOR & COUNCIL MEETING NOTICE & AGENDA

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Mayor and Council and to the general public that the Mayor and Council will hold the following meeting, which will be open to the public:

REGULAR AGENDA

**TUESDAY, FEBRUARY 10, 2009 – 5:30 P.M.
MAYOR AND COUNCIL CHAMBERS
(CITY HALL, 255 W. ALAMEDA, TUCSON, AZ)**

1. ROLL CALL

2. INVOCATION AND PLEDGE OF ALLEGIANCE

INVOCATION – Monsignor Thomas Cahalane, Our Mother of Sorrows Parish

PLEDGE OF ALLEGIANCE – Mayor, Council and public in attendance

PRESENTATIONS:

- a. Presentation of certificates to Latin American Students as Honorary Citizens

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

- a. Report from City Manager FEB10-09-73 CITY-WIDE

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

- a. Report from City Manager FEB10-09-74 CITY-WIDE

5. LIQUOR LICENSE APPLICATIONS

- a. Report from City Manager FEB10-09-75 CITY-WIDE
- b. Liquor License Applications

New License(s)

- 1. Romano’s Macaroni Grill, Ward 6
5100 E. Broadway Blvd.
Applicant: Clare Hollie Abel
Series 12, City 91-08
Action must be taken by: February 15, 2009

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

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

- c. Special Event(s)

- 1. Philoptochos Society of Tucson, Ward 3
1145 E. Ft. Lowell Rd.
Applicant: Vasiliki J. Kyriakakis
City T111-08
Date of Event: February 21, 2009
(Fundraising for philanthropic efforts)

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

- 2. Tucson Museum of Art, Ward 1
140 N. Main Ave.
Applicant: Alison Lynn Sylvester
City T1-09
Date of Event: February 27, 2009
(Exhibition opening reception)

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

- 3. Southern Arizona Aids Foundation (SAAF), Ward 6
1303 E. University Blvd.
Applicant: Jessica Lynn Celentano
City T2-09
Date of Event: March 8, 2009
(Fundraiser)

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

4. Tucson's Young Professionals, Inc., Ward 1
140 N. Main Ave.
Applicant: Megan Leslee Courtney
City T5-09
Date of Event: March 6, 2009
(To promote community event in downtown Tucson)

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

d. Agent Change/Acquisition of Control/Restructure

1. Hideout, Ward 1
3000 S. Mission Rd.
Applicant: Ramiro Salazar Flores, Jr.
Series 6, City AC7-08
Action must be taken by: February 19, 2009

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

Tucson Police Department has indicated the applicant is not in compliance with city requirements.

NOTE: The local governing body of the city, town or county may protest the acquisition of control within sixty days based on the capability, reliability and qualification of the person acquiring control. (A.R.S. Section 4-203.F)

6. CALL TO THE AUDIENCE

At this time, any member of the public is allowed to address the Mayor and City Council on any issue except for items scheduled for a public hearing at the meeting. Speakers are limited to three minute presentations. Speakers must state their name, address, whether they reside in the City of Tucson, whom they represent, and the subject matter. Any person who is representing a person other than themselves and is receiving compensation to influence an action by the Mayor and Council, shall, before speaking, identify themselves as a "retained speaker." Pursuant to the Arizona Open Meeting Law, individual Council Members may ask the City Manager to review the matter, ask that the matter be placed on a future agenda, or respond to criticism made by speakers. However, the Mayor and Council may not discuss or take legal action on matters raised during "call to the audience."

7. CONSENT AGENDA – ITEMS A THROUGH I

FOR COMPLETE DESCRIPTION OF ITEMS
SEE ATTACHED CONSENT AGENDA

Matters listed under the Consent Agenda are considered to be routine and will be enacted by one motion and one vote. There will be no separate discussion of these items. If discussion is desired by members of the governing body, that item will be removed from the Consent Agenda and will be considered separately.

8. PUBLIC HEARING: INCREASE IN THE WATER SYSTEM EQUITY FEE

- a. Report from City Manager FEB10-09-86 CITY-WIDE & OUTSIDE CITY
- b. Hearing on a proposed increase in the Water System Equity Fee.

In compliance with State law pertaining to public notification and review procedures, the Mayor and Council will be asked to adopt the proposed fee at its March 24, 2009, meeting. If adopted, the fee increase will become effective on July 6, 2009.

9. PUBLIC HEARING: INCREASE IN THE CAP WATER RESOURCE FEE

- a. Report from City Manager FEB10-09-85 CITY-WIDE & OUTSIDE CITY
- b. Hearing on a proposed increase in the CAP Water Resources Fee.

In compliance with State law pertaining to public notification and review procedures, the Mayor and Council will be asked to adopt the proposed fee at its March 24, 2009, meeting. If adopted, the fee increase will become effective on July 6, 2009.

10. ZONING: (C9-08-09) LOWE’S – SPEEDWAY BOULEVARD, C-1 TO C-2, CITY MANAGER’S REPORT

- a. Report from City Manager FEB10-09-80 WARD 2
- b. Report from Zoning Examiner dated December 26, 2008
- c. Request to rezone approximately 0.19 acres from C-1 to C-2 zoning. The rezoning site is located on the northeast corner of Speedway Boulevard and Kolb Road. Applicant: Sunrise LG L.L.C.

The preliminary development plan proposes an 8,700 square-foot expansion to the Lowe's Home Improvement Store to be used as an open-air staging area not accessible to the general public.

The rezoning proposal is consistent with and supported by the policy direction in the *General Plan* and in substantial compliance with the intent of the design criteria for Large Retail Establishment enumerated in Section 3.5.9.7 of the *Land Use Code*.

The Zoning Examiner and staff recommend authorization of C-2 zoning subject to the following conditions:

PROCEDURAL

1. A development plan in substantial compliance with the preliminary development plan dated December 9, 2008, and the Design Compatibility Report, is to be submitted and approved in accordance with Section 5.3.8 of the *Land Use Code*.
2. The property owner shall execute a waiver of potential claims under A.R.S. Sec. 12-1134 for this zoning amendment as permitted by A.R.S. Sec. 12-1134 (I) in the form approved by the City Attorney and titled "Agreement to Waive Any Claims Against the City for Zoning Amendment".
3. Historic or prehistoric features or artifacts discovered during future ground disturbing activities should be reported to the City of Tucson Archaeologist. Pursuant to A.R.S. 41-865 the discovery of human remains and associated objects found on private lands in Arizona must be reported to the Director of Arizona State Museum.
4. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
5. "Safe by Design" concepts shall be incorporated in the development plan for review by the Tucson Police Department.
6. Owner/developer shall enter into a Sewer Service Agreement with Pima County that specifies the improvements to be made to Pima County's public sewerage system, and the timing of said improvements.
7. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning.

LAND USE COMPATABILITY

8. The proposed expansion shall employ the same colors as those used on the existing Garden Center located on southwest corner of the Lowe's building.
9. Loading or unloading materials for the staging area shall be done only from the existing loading zone at the northeast corner of the Lowe's building.
10. The walls of the staging area shall be composed of solid "scored" stucco walls having reveals similar to those on the existing Lowe's building. Painted concrete masonry shall be provided at the base of the walls.
11. Trees shall be planted along the north wall of the staging area.
12. A vine with new irrigation lines to support it shall be installed along the south side of the masonry/tube steel fence between the Lowe's site and the property to the north.
13. Items in the staging area shall not be stacked higher than the staging area walls.

One written approval was received prior to the Zoning Examiner's public hearing, at that time requiring a three-fourths majority vote of the Mayor and Council to adopt a rezoning ordinance. On December 10, 2008, the protesting individual reached agreement with the applicant and withdrew his protest. Currently, there are no protests or approvals on file.

A simple majority vote will be necessary to adopt an ordinance rezoning the subject property once the conditions of rezoning are met.

11. TUCSON CODE: AMENDING (CHAPTER 28) REGARDING THE MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE PROGRAM

- a. Report from City Manager FEB10-09-88 CITY-WIDE
- b. Ordinance No. 10634 relating to procurement; providing for the award of contracts in professional design, construction and construction services, and goods and services, to certified small business enterprises and significantly underutilized minority and women-owned business enterprises by repealing Chapter 28, Article XIII, Minority and Women-Owned Business Enterprise Program, and adopting a new Chapter 28, Article XIII, Small, Minority and Women-Owned Business Enterprise Program; and declaring an emergency.

12. WATER: AMENDING TUCSON WATER'S FINANCIAL PLAN FOR FISCAL YEAR 2009 (CONTINUED FROM THE MEETING OF FEBRUARY 3, 2009)

- a. Report from City Manager FEB10-09-87 CITY-WIDE AND OUTSIDE CITY
- b. Resolution No. 21211 relating to water; approving amendments to the Tucson Water adopted Financial Plan for Fiscal Year 2009 and related facilities; and declaring an emergency.

13. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

- a. Report from City Manager FEB10-09-76 CITY-WIDE

14. ADJOURNMENT

The next regularly scheduled meeting of the Mayor and Council will be held on Wednesday, February 18, 2009, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.